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Definition of the Figh [Jurisprudence]

The word "Fiqh" in the Arabic language, means "understanding", and the jurisprudent is called "Faqih" because he understands the Glorious Qur'an and the Pure Sunnah [sayings and practices of the prophet (s), and derives Islamic precepts and laws therefrom.

Having known the linguistic meaning of *Fiqh*, let us now understand what the "science of *Fiqh*" means. It means the science which studies different Islamic precepts and laws by reasoning and deduction, such as, the precepts concerning family, State, work, trade, companies and banks, as well as the precepts concerning the *Salat*, the *Sawm*, the *Hajj* and the *Zakah*, for the purpose of applying or practising them. The science of *Fiqh* is of great importance to Islam. That is why the Messenger of Allah (s) said, "When Allah wants a servant to be good, He makes him understand the religion".

The Primary Fundamental Sources of the Islamic Precepts:

We have said that this science (i.e. jurisprudence) teaches us different Islamic precepts and laws. In this lesson we want to know the basic sources from which the *Faqih* derives the Islamic precepts and laws, that is, where does he deduce the Islamic precepts and laws from?

To answer this question, we say: There are two fundamental sources for the different Islamic precepts and laws, the precepts and laws which regulate the actions of the individual, the life of the society and the state, such as the precepts of the *Salat*, *Sawm*, *Hajj*, *Zakat*, purification, family rules, land, judicature, *Jihad*, economy, wealth, politics, etc. These two main sources are:

- 1. The Holy Qur'an.
- 2. The Pure *Sunnah* of the Prophet (s).

So, we take all these precepts from the Holy Qur'an and the Pure Sunnah of the Prophet (s).

The Holy Qur'an

It is the constitution of the Muslims, the source of knowledge, law, ethics, and Islamic manners, which regulate the life of human beings, and show them the way to happiness. Muslims take the precepts of their religion, and the laws of their life, from it. It contains hundreds of verses which talk about diverse precepts and rules, and are regarded as the basic source on which the expert jurisprudents base their studies of the Islamic jurisprudence, taking from it, many of the laws and precepts, besides other concepts covering all the laws and systems of life.

The Pure Sunnah of the Prophet (s)

The second source of the Islamic *Shari'ah* from which we take the Islamic precepts and laws are the Traditions of the Prophet (s). Allah, the Most High, said: "And whatever the Messenger gives you, take it, and whatever he forbids you, abstain (from it)". The Traditions of the Prophet (s) are composed of his sayings, deeds and consents below we explain these three parts:

- a. The Sayings: They are a collection of the oral sayings, speeches and statements uttered by the Prophet (s). The true sayings and statements which have reached us, are thousands in number, all of which form the legislative bases and rules. They supply us with the needed precepts and laws, such as, the precepts of purification (*Taharah*), worshipping, the social rules and regulations, such as the rules pertaining to property, trade, marriage, divorce, family affairs, land, work, judicature, government, etc.
- b. Deeds: They are the actions done by the Prophet (s) and regarded as part of the *Sunnah*. They show us the religious precepts which we are to observe. Therefore, we take his deeds as examples from which we derive the precepts:
- c. Consents: The Prophet (S.A) had often observed the people acting in the markets, gatherings, congregations, etc., but he said nothing against them. His silence in respect of such acts is regarded as his consent and, therefore, part of the *Sunnah*. Had these actions been contrary to Islam, he would have objected them. So, consent means, the Messenger's approval of, and consent to the actions which he witnessed and did not reject.

Hence, the Prophetic Traditions are all the sayings, deeds, and the consents, which have reliably reached us from the Messenger of Allah (s)

Explanation

The scholars following the path of *Ahlul–Bayt* regard whatever [activities] had issued by the twelve *Imams* 1 of *Ahlul–Bayt* [*Imam* Ali and his descendants (a.s.) whether a saying, a deed or a consent, as to be a continuation of the Traditions [*Sunnah*] of the Prophet (s), and as a source of the Islamic precepts, the opinion which is backed by Almighty Allah's saying:

"....Allah only wants to keep away from you (uncleanliness), O Ahlul-Bayt and purify you a (thorough) purifying." (33:33)

With reference to a *Hadith* from the Messenger of Allah (s), who advised and enjoined us to refer to the Book of Allah, and to his, *Ahlul–Bayt* (a.s.), and depend on their instructions for taking precepts, his, the honourable Companion, Jabir Ibn Abdullah Al–Ansari, quoting the Prophet (s), said: "O people! I have left with you that which will not let you go astray if you have recourse to it: The Book of Allah, and my offspring, my *AhlulBayt*."2

Therefore the *Imami* jurisprudents broadened the scope of the term *Sunnah*, to include the sayings, conduct, and consents (approvals) of every one of the *Ahlul–Bayt* infallible *Imams* (a.s.). Because they are not regarded as merely confident narrators of the Prophet (s) to consider their sayings as an authentic proof for their being trustworthy in narration, but they have been appointed by Almighty Allah by means of the Prophet (s) to convey the actual Islamic precepts.

And they did not give their religious verdicts, except with their accordance to the actual Divine principles and teachings, perfectly as they are. They have received their teachings through Divine inspiration, like the case of the prophet (s) through revelation: or through the reception from the former infallible one. *Imam* "Ali (a.s.) in this regard said: 'The Messenger of Allah (s) taught me a thousand fields of knowledge, and every field opens to a thousand gateways of knowledge."

For this reason, their expounding of the Islamic precepts is not considered as mere narration of the Prophetic *Sunnah*, or relating it, nor is a kind of exerting of the personal opinion, or inferring the precepts from the textual sources of the *Shari'ah*. But they themselves are considered as an authoritative source for Islamic legislation. So their saying or utterance is *Sunnah*, and not mere narration of the *Sunnah*.

How to Ascertain a True Tradition (Hadith)?

Many hypocrites, intrigants and enemies of Islam, especially the Jews, intentionally fabricated false traditions, and ascribed them to the Messenger (s), or to the *Imams* of Ahlul–Bayt (a.s.), so as to divert Islam, corrupt the *Shari'ah* and disunite the Islamic *Ummah* (community). But the *Ulama* and the experts in studying the traditions began to scrutinize them, sorting out the false, interpolated and doubted ones. They collected the true traditions and narratives as a dependable basis for knowing the precepts of the *Shari'ah*.

In order to obtain a true *Hadith*, the *Ulama* follow two principal methods:

Making sure of the truthfulness of the narrators through whom the *Hadith* has reached us, i.e. ascertaining the truthfulness of the source. A *Hadith* usually reaches us through people who are called "the narrators", or "the sources" of *Hadith*. If they were found to be honest and truthful, and we became certain of their trustworthiness their *Ahadith* would be accepted as to be true. If they were considered liars, the *Ahadith* (traditions) which they narrated would be rejected.

2. Making sure of the vocabulary and the phrasing of the *Hadith* and of the soundness of its meaning, that is making sure of the soundness of the text of the *Hadith* and its conformity with the Holy Qur'an and the narrations proved to be true and authentic.

Having assured ourselves of the truthfulness of the narrators, their faith and loyalty, and of the soundness of the meaning of the tradition, we must believe in it as being correct, take it as a foundation for our acts, and derive from it our Islamic concepts and precepts.

The generous Messenger, Muhammad (s), the guiding *Imams*, (a.s.) after him, commanded us to compare the traditions and the narrations with the Holy Qur'an, to make sure of their being correct and true. He was quoted to have said: "Above every truth there is a reality, and above every rightness there is a light. Therefore, accept what conforms to the Book of Allah, and leave what does not conform to it."3

The *Imam* Jafar Sadiq (a.s.) had directed us likewise by saying: "Everything should be referred to the Book of Allah and the Prophetic *Sunnah*. Every tradition which is not in agreement with the Book of Allah is [but] a forgery."4

Consequently, we are not to believe every *Hadith* or tradition we read or hear, unless its truthful ness has been proved, and it does not contradict the Book of Allah. Accordingly, the *Ulama* subject all the *Ahadith* that are mentioned in the books of *Hadith* and other sources to examination, criticism and discussion. They take the trusted and truthful *Ahadith* and leave the untruthful ones.

Discussion

Question 1:

- a. Define the Figh
- b. What do we learn from the *Figh* lessons? Talk about it briefly.

Question 2:

- a. Define the Prophetic Sunnah.
- b. What are the divisions of the *Sunnah*?
- c. Why do the *Ulama* following and committed to the path of *Ahlul–Bayt* regard the sayings, deeds and consents of *Ahlul–Bayt* (a.s.) as sources of the precepts?

Question 3:

- a. Define the following: The text, the source.
- b. Explain the *Imam* Sadiq (a.s.)'s saying: "Every tradition which is not in agreement with the Book of Allah is [but] a forgery."

- c. Explain: whether we have the right to take any tradition ascribed to the Holy Prophet (s), or we should ascertain its truthfulness first? Why?
 - <u>1.</u> It is worth mentioning that the jurisprudents of the Islamic sects regard whatever [activities] had issued by the Prophet's Companions to be of the Sunnah.
 - 2. "Sahihut-Thirmidhi", vol. 2, "Sahih Muslim", on "The merits of the Imam Ali Ibn Abi Talib (a.s.)
 - 3. "Usul-Kafi", vol. I, Kitabu Fadil-Ilm, Balul-Akhdh Bis-Sunnah Wa Shwahidul Kitab, 3rd ed., 1388 A.H., p. 69.
 - 4. Ibid.

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