

Interrelationship Between Fiqh And Other Disciplines

SELAHATTİN EROĞLU

DOÇ. DR. ANKARA Ü. İLAHİYAT FAKÜLTESİ

Abstract

The nature of the science of *Fiqh* necessitates to take into account of the data of all existent sciences and employ them. with their comprehensiveness, in its task of expounding and systematizing the will of Allah for the man in the forms of comprehensive and integrated systems of the code of life. For example, the science of *Fiqh* deal with the science of history, sociology and psychology, economics, philosophy, linguistics, education. *Fiqh* as being the central knot of the spider's web, establishes in a unique way the integrated unity of the Divine code of life. The sciences mentioned above take hold of the life of human being's one aspect, but *Fiqh* pay attention to all aspects of his life, and so *Fiqh* guide to understanding the Divine code of life.

Özet

Fıkıh ve Diğer Disiplinler Arasındaki İlişki

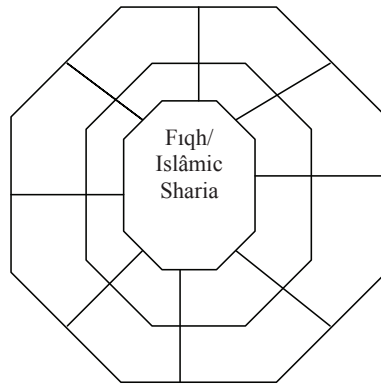
Fıkıh bilimi doğası gereği diğer bilim dallarının verilerini de göz önüne almayı ve onları kullanmayı gerektirir. Çünkü fıkıh insana bütüncül bir evren anlayışı ve hayat görüşünü sistematik olarak vermek ister. Bu nedenle tarih, sosyoloji, psikoloji, ekonomi, felsefe, dilbilim ve eğitim onun ilgi alanına girer. Diğer bilimler insan hayatının tek bir boyutunu ele lırken fıkıh bütün boyutlarıyla insan hayatına bakar ve en önemlisi hayatın ilahi boyutunu anlamaya rehberlik eder.

In Islamic standpoint, we think, all sciences¹ that human mind has ever produced and developed are first expected to acknowledge and appreciate the

1 The disciplines through which the Message of Allah can be understood, and which are already integrated and systematized in *Fiqh*. These disciplines are, usually and apparently for the sake of categorization, labelled as Islamic Sciences (العلوم الإسلامية) while the others are called human (or social) sciences (العلوم الاجتماعية والبشرية) and Technical Sciences (العلوم الفنية); however, this classification- even if it is merely for the sake of classification or of distinction- gradually led to an understanding that as if the former ones were pertaining to individual and inner experience of the Religion and the Hereafter, whereas the latter (ones) pertaining to this world and therefore, have nothing to do with Religion nor with the Hereafter.

existence, unity and supremacy of Allah, Who created man with the unique gift: intelligence; and second to develop further their methodologies in such a way that the requirements of being the vicegerents of Allah on Earth are carried out by translating His Divine Message into the disciplines concerned; so that external and internal aspects of Islam are exhibited in its totality; and are integrated and systematized in *Fiqh* together with its methodology and philosophy (*usul al-Fiqh*), thus, *Fiqh* has a direct connection with the subject matter of all other sciences when we took into account of the concept of vicegerency of man on Earth; the aftermath of this inherently identical starting point with regard to the cause of man's creation, leads us to the opinion that there is a close relationship between all other sciences and the disciplines for expounding Islam particularly *Fiqh*. The nature of the science of *Fiqh* necessitates to take into account of the data of all existent sciences and employ them, with their comprehensiveness, in its task of expounding and systematizing the will of Allah for the man in the forms of comprehensive and integrated systems of the code of life; and some aspects of this system may be translated into the rules and regulations of law in its technical sense and other aspects of this very system, which constitute its greater portion, though may not be appropriately expressed in the technical meaning of the law, nevertheless, make the foundations and buttresses of its legal system altogether.

If we have to illustrate the nature of relationship between *Fiqh* and other sciences, a spiderweb² may be given as an interesting example.



² It is thought that spiders make their network in order to hunt insects for their own survival.

In this fine network of single thread, the central or starting point represents *Fiqh*; and other complementing threads of network show all other sciences. As the unfinished web does not help the spider to achieve its goal, likewise, *Fiqh*, devoid of other sciences, and the other sciences entirely independent of *Fiqh* (and even within amongst themselves), fall short in expounding and executing the *Divine network of injunctions*.

HISTORY

The addresses of the Divine Message are men; the first man Adam (according to the Qur'an and other Divine Scriptures) established the smallest, and yet the most significant unit of communal life by forming the family (institution) with Eve. Since then men have lived (almost always) in communities. The Qur'an states this phenomenon in the most concise manner:

‘يا أيها الناس إنا خلقناكم من ذكر و أنثى وجعلناكم شعوبا وقبائل لتعارفوا.’

“O Mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that ye may know each other ...”

History, in its broader sense, is the science that deals with the civilizations of the Past in the light of available data, and scrutinizes all the elements that shape the said civilization and culture. History attempts to draw conclusions, which enable us to understand the past; furthermore, it endeavours to establish bridges that connect the past with the present, and thus, ensures the continuity of the development process of mankind. It appears to us that the role of History, as the science that treats, with all its comprehensiveness, what mankind has brought until the present, does not come to an end but goes one important step further; that is to say, having established the links between the past and present, it postulates theories with regard to the future.

General history takes up all the components of the civilization and culture of mankind comprehensively. However, in the restricted meaning, every science of the present has its past and background which may be conceived as the roots of a tree, upon which it stands, and through which, it gets the nourishment, and altogether looks forward to the future.

The *Qur'an* records the significance of history. In fact, the *Qur'an* is the Book that gives a comprehensive history of *Tawhid* (i.e. the unity of God)

from the time of Adam, the first man and the Prophet. It takes the essence of Divine Message (i.e. *Tawhid*), since then, as the central theme of human history³ as a whole and establishes strong bonds with the time of its revelation, in its completeness, upon the Prophet Muhammad. The *Qur'an* frequently refers to the incidents with regard to the previous Messengers and their own people; derives precise conclusions and brings them into the time of its revelation. The way the *Qur'an* makes references to the previous Messengers, incidents, people and particular individuals (like Pharaoh, Pharaoh's wife, Maryam, the spouses of Ibrahim and of Lut, sons of Nuh, Luqman and Ya'qub, and so on) carries the past, together with its salient characteristics into the time of its revelation, and thus, determines the commonness and inherent characteristics of the good (*al-ma'ruf*) and of the bad (*al-munkar*) for mankind. Since the *Qur'an* presents itself as the final and complete form of Divine Message, and is valid for all times to come until the Doomsday, it may be concluded that injunctions of the *Qur'an* make it imperative for the believers to maintain the continuity and consistency of the past until the time of Revelation and carry it further in such a way that the *Qur'an* is scrutinized and made as the prime source of inspiration for the smooth and consistent course of history in its unity from the commencement of the concept of *Tawhid*.

The history of Islam or, in fact, the history of Islam and of Muslims, studies, in the light of its broad methodology, all components of Muslim Civilization, in whose establishment and development, Islam has played an invaluable role and, in spite of all odds, its rather imposing impacts are still felt by the people and the societies. Therefore, any happening in Muslim societies noteworthy to be taken into consideration in the context of history, bears beneath itself some expressions of dominant elements (i.e. injunctions of Islam). The history of Islam and Muslims, while examining the civilization of Muslim people, will undoubtedly pay a particular attention to the most influential dominant factors in the said societies; And as the opinion, which has already been put forward, that *Fiqh* is the most dominating system of code of conduct in the lives of Muslims, one may, therefore, draw a conclusion from this stand

3 The Qur'an, in this regard, goes even further to the time of the creation of Allah of the souls prior to physical creation of man, and thus, starts the beginning of the history of Tawhid from the creation of the souls.

that *Fiqh* stands as an abundant source of data for the science of the History of Islam and of Muslims. As far as the subject matter is concerned, general history studies the civilizations of man as a whole, of which the civilization of Islam and of Muslims is constituent part of it. Whereas, in a relatively narrower sense, the History of Islam and of Muslims treats the civilization of Islam and of Muslims as its central theme in relation to other civilizations. However, both kinds of history have direct relations with *Fiqh* as it is the most influential source of the civilization of Islam and of Muslims, nevertheless, it is treated superficially in the former but fairly in detail in the latter. As it has been pointed out above that for every science there is ahistorical background and *Fiqh* is no exception to this principle. The History of *Fiqh*, even in further restricted sense, as compared to the kinds of History mentioned above, studies in profundity, the science of *Fiqh*, its nature, sources, methodology, its objectives, main issues, leading jurists (i.e. *fuqaha*) and their roles and places in their scholarly environments, and amongst their respective societies; their contributions to the development of the science of *Fiqh* in particular, and to the intellectual field in general. It takes up all the relevant data and scrutinizes them in chronological order, with a systematic approach within the contexts of Muslim society and of their civilization.

History of *Fiqh* should enable us to get an overall and inside picture of its stand so that it may be taken as a solid ground and nourishing channels of information, as well as inspiration for contemporary researchers, particularly the jurists (*fuqaha*). The History of *Fiqh*, as it stands, may be conceived as the *micro (level) history* as it focuses on a particular component of the relevant civilization of Islam and of Muslims; nevertheless, other kinds of History, which, as compared to the History of *Fiqh*, may be called *macro (level) history*, facilitate a broader picture or a panorama of the civilization of Islam and of Muslims so that it may be used as a complementary source of information which sheds light to the shadowy sides of the matters and issues of *Fiqh*. It should not be noted here that, because Islam is the final and complete form of Divine Message, emanating from the time of the creation of Adam, its injunctions, principles, integrated and cemented with its fundamentals of belief; prevail over the lives of its adherents; and give shape to their way of living and ultimately create its unique culture and civilization; and this very civilization

is bound to remain alive until the Dooms-Day; and it is *Fiqh*, that undertakes the task of steering the machinery of Divine Message through systematizing, translating and instilling it as the system of code of life for the believers. This is why, it is inconceivable to presume that the civilization which Islam created and moulded would one day disappear on Earth. However, the lack of enthusiasm and of determination on the part of its adherents towards Islam have consequently caused inherently activating spiritual motivating force of its message to fade away from both in the minds of individuals and of the societies. This gradual process of downfall of Muslim societies brought them, in spite of general resentment, (and) yet based not on intellectual grounds and reasoning but on sentimentality, under the influence of other dominant civilizations. This phenomenon, in the long run, especially from 18th to 19th centuries onwards put Muslim societies into a dilemma. On the one side the Religion of Islam which they believe and have full trust that it will, as once it had proven, carry them into prosperity and salvation; and on the other side other prevailing civilization, into which, they were driven. Out of such a long-lasting period of decline and humiliation some Muslim scholars, under the influence of non-Muslim theories, even in this field, have asserted that Islam and its epitome of the system of life: *Fiqh* do not have the potential capability of uplifting and bringing Muslim societies in salvation any more and therefore, have concluded their argument, of course apparently without taking the history into account, that the civilization of Islam and of Muslims, if it had ever been alive, is now already dead.

SOCIOLOGY-PSYCHOLOGY

Sociology is the science of nature and growth of societies and human behaviour in groups. With this precise and concise definition sociology states its position as one of the most relevant science of Islam and subsequently that of Fiqh. Fiqh as being the central knot of the spider's web, establishes in a unique way the integrated unity of the Divine code of life. Individuals are the ones who form societies. Nature of the society and its salient characteristics may be observed, in the micro-sense of the word, in its individuals. The behaviours of individuals, upon the formation of societies become, though not in their entirety and simplicity, collective behaviours of the society. In this context, one

cannot consider to separate psychology and sociology and treat them, even for the sake of classification, as if they were independent sciences.

Sociological and psychological characteristics of *Fiqh*, due to their inseparable unity may however only be expressed in an hyphenated way, that is: Psycho-Sociological aspects of *Fiqh*. Thus, *Fiqh* may be viewed as the science of nature of believing men and of the society they form. It aims; first, at producing an individual whose balanced relationship with his own self is based on his sound relationship with Allah.

In Islamic standpoint, establishment of one's relationship with Allah is the safeguard against behavioral disorder (and this aspect constitutes the very subject matter of the science of psychology). Attainment of individual peace is the natural outcomes of the performance of worship particularly those of formal obligatory fundamentals of Islam, which make the essential part of *Fiqh* (i.e. prayer, fasting, almsgiving and pilgrimage to *Ka'ba* at *Makka*). The individuals of unimpaired personalities thus form the seeds of societies; such societies may be thought to have already solved (in the highest possible level) their psycho-sociological problems; as those problems are usually echoed in the societies to the extent that they may become formidable threat for their prosperity. The innate characteristics of worship first appear to be solely a concern of individuals; however, a closer look at the kinds of worship which are formally carried out, reveal the fact that they have universally valid social objectives to achieve. Individual behaviors and actions in a societal life are, to a certain extent monitored and controlled by the binding and influencing elements of the said society, namely: law, religion, ethics, philosophy, education, tradition and custom etc. In other words, through these and other similar binding and influencing elements, societies form, to a great extent what we may call a common type of individuals who are anticipated to behave, as much as possible, in line with the prevailing elements of the society. It should be noted here however, that civilizations are the products of societies, and the sciences that have emerged in those civilizations, while enabling the emergence, growth and continuity of the civilizations, fall, simultaneously, under the influence of the prevailing values, norms and concepts, rooted in the depth of the past of the relevant societies; after all, the scholars and researchers of these fields are the products of their own societies. Therefore, when we endeavor

to illustrate the relationship of all other sciences with *Fiqh* in particular, we do not at all take the sciences, chosen here, in their present identity; nor do we propose to adopt them with their methodology and the philosophy behind, which are thought to have influenced, ultimately, the civilizations and equally are thought to have been influenced by them; we, in fact, have sufficed with taking into consideration of the subject matters of the relevant fields of those sciences, and put forward the view that, as far as the fields of the sciences are concerned, all sciences have direct and close relationship with *Fiqh*. As we have made an attempt to show the relationship of history and of sociology and psychology, we have already pointed out the basic differences of the standpoint of Islam and of *Fiqh* towards those sciences only in the context of their fields of interest. In a further attempt to clarify this matter, it should be underlined that the binding and influencing elements which have been pointed above are the products of societies and of the civilizations themselves; Whereas these very elements, according to the standpoint of Islam (and of *Fiqh*), are given shape, primarily, by the Religion (*Fiqh* as being the most influencing element) of Islam itself. Therefore, uniqueness of *fiqh*, through the integrated wholeness with all other sciences, presents itself with this essential difference and distinctive feature; and this standpoint, in fact, is the core and kernel of this present work.

On the other hand, in our endeavour to determine the links between *Fiqh* and other sciences, we do not take *Fiqh* as an independent science with some loose relationship with other sciences, that is to say in its classical sense.

Man, by nature, is a weak creature; vulnerable to behave irresponsibly due to various characteristics that potentially exist in his conscious; and reflections of such behaviors in the societies would, to a great extent, disturb social harmony; even legally binding preventive measures would not be effective enough to ease the problem. However, The *Quran* and *Sunna* contain rich information and guidelines as to these issues and point out the ways and means of achieving salvation and equilibrium in this world as well as in the Hereafter; Belief in the absolute Unity of Allah and in the Hereafter, as being the most influential elements to abide by the law of Allah (*Fiqh*), that is to say, integral unity of *iman* and *amal* (i.e. theory and practice) in the spirit of submission and servitude to Allah. Thus it may be concluded that psychological and so-

ciological data and informations in Muslim individuals' behaviors and in the Muslim societies, as they were to be based on the task of examining through their relevant methods that were developed, the behaviors and actions of man in individual context and in the context of society as a whole, in fact, constitute the subject matter of *Fiqh* in the context of its particular methodology.

ECONOMICS

Economics is an essential element and a natural phenomenon of a communal life. The material condition of a society, production, goods, money, distribution, control or management of these and other resources constitute the areas of interest of economics.

However, economic systems vary in their ultimate objectives as they are integral constituents of different civilizations and cultures; thus every economic system carries salient characteristics of the theoretical and ideological implications of the system of life concerned. The economics of countries whose worldviews are based on materialism, even though their methods of approach and ways of management may be different, their goals, however, remain to be the same; that is, material welfare of the said societies. Individuals in such economic systems exert their energy, apparently in compliance with the injunctions of the relevant legal system, yet, in situations where they feel they were unable to evade the law, do not pay much attention to ethical, moral or religious norms and values, as they, unlike the legal system, do not have binding force in the conscious of the individuals who were brought up in materialistic societies. The law appears to be the only effective binding element in restricting economic lust of individuals in such a way that the less successful or unsuccessful ones, who also have the same objective to reach material welfare, are protected in a way that in the end the society as a whole reaches to a relatively high level of material welfare and standard of economic life. On the other hand, materialistic economic systems, when carried out as political economies of the states, their affects become so formidable that they end up in exploitation of the resources of weaker countries. Unlike the case of an individual who, to a certain extent, may be controlled by the legal system of his own country, in this situation there does not exist any binding force that may refrain the political economies of those countries from trans-

gressing the rights of other countries and exploiting their resources. The existing (in contemporary world) international organizations and pacts or charters may, however, be having, to a certain extent, some power of deterrence against direct or indirect practice of military interventions; but in the struggle of achieving the objectives, political economies of industrialized countries have developed every possible means and methods of gaining and increasing their level of material welfare.

In this struggle individual entrepreneurs abroad are backed by their states as part of their political economy, and the states are backed by the people concerned, merely for the unrestricted lust of so called material prosperity and economic upliftment. The dominant Western Civilization in contemporary world is essentially a materialist civilization; All its institutions are designed to maintain and secure the existing material welfare and to develop further means, through which the existing level of material welfare, at the expense of the misery of other nations, would be upgraded higher and higher. Contemporary Muslim countries, all of which fall, according to the criteria of materialist viewpoint of Western political economy, under the category of underdeveloped or developing countries, are like the satellites of a planet moving round its orbit, and thus, have been destined to be a part of the prevailing political economy, and constituting potentially rich sources of exploitation through agreements, carried out, apparently in compliance with bilateral or international rules; however, in its true sense, even though they are aware of being exploited, they are, on the other hand, left no alternative but to face the fact in order to be able to stand on their feet.

However, Islam has its unique concept of economics, which is the most significant subject matter of *Fiqh*. It differs with the economics of materialism though not in its subject but in its ultimate objective. Islamic economics has some far-reaching key concepts. These concepts should be studied and evaluated within the context of overall objective of Al-Din. Islam, as the all governing religion of the deeds and actions of the believers, aims at a high objective; that is prosperity and absolute state of equilibrium. (نفس المطمئنة and قد أفلح المؤمنون) One of the important means of attaining the state of prosperity is the material well being. However, the believers in the strive of eaming their livelihood are encircled by. Various religious obligations that were laid down

in the Texts. Individuals in Muslim societies are thought to have been brought up to have grasped the essential concepts of Islam that:

(A) one of the ninety-nine (99) attributes of Allah is *Al- Razzaq*; (The provider; The Sustainer). Although, as Allah enjoins:

‘وَأَنْ لَيْسَ لِلْإِنْسَانِ إِلَّا مَا سَعَى.’

«**Man can have nothing but he strives for.**» (Al-Najm(53)/39) and

‘فَابْتَغُوا عِنْدَ اللَّهِ الرِّزْقَ وَاعْبُدُوهُ وَاشْكُرُوا لَهُ وَإِلَيْهِ تُرْجَعُونَ.’

“Then seek ye sustenance from Allah, serve Him, and be grateful to Him; to Him will be your return.” (Al-Ankabut (29) / 17)

In the strive for (material) livelihood He, as the Provider, bestows upon man the amount He deems appropriate:

‘إِنْ رِبْكَ يَبْسُطُ الرِّزْقَ لِمَنْ يَشَاءُ وَيَقْدِرُ إِنَّهُ كَانَ بِعِبَادِهِ خَبِيرًا بَصِيرًا.’

“Verily thy Lord doth provide sustenance in abundance for whom He pleaseth. And He provideth in a just measure, for He doth know and regard all His servants.” (Al-Isra (17) / 30)⁴:

(B) that the means and ways of earning are bound with lawful means and good in nature:

‘فَكُلُوا مِمَّا رَزَقَكُمُ اللَّهُ حَلالًا طَيِّبًا وَاشْكُرُوا نِعْمَةَ اللَّهِ إِنْ كُنْتُمْ إِيَّاهُ تَعْبُدُونَ.’

“So eat of the sustenance which Allah has provided for you, lawful and good, and be grateful for the favours of Allah, if it is He whom ye serve. (Al-Nahl (16) /114): “ It should be noted here, however, that the context of the verse by the usage of the word *tayyib* might be interpreted to indicate that lawful, not merely in its external sense, but also in its inner meaning that is, the inherent quality of being lawful is its state of goodness and pleasantness;

(C) The wealth that was obtained through efforts and hardwork, but by the grace of Allah is to be spent in the spirit of worship to Allah as a token of gratefulness and thankfulness. *Zakah* or *Sadaqa* of (when it is used as to mean zakah), which is one of the pillars of Islam, the concept of *infaq* and *sadaqa*

4 See also: Al-Ra'd (13) / 26, and Al-Nahl (16) / 71.

(when the latter is used to mean giving away of one's wealth to the poor apart from *zakah*) impose upon the believers and make them aware of the fact that the individuals who were blessed by Allah with wealth are expected to be the champions of social and communal welfare by attempting to eradicate poverty in their respective societies. As for the utilization of wealth the *Qur'an* lays down a general principle that even in the acts of generosity one has to bear same balanced measures:

‘ولا تجعل يدك مغلولة إلى عنقك ولا تبسطها كل البسط فتتعد ملوما محسورا.’

“Make not thy hand tied (like a niggard's) to thy neck nor stretch it forth to its utmost reach, so that thou become blame worthy and destitute.” (Al-Isrâ(17)/29)⁵

(D) In the widest context the term *israf* (i.e. spending lavishly, exceeding all bounds) has been mentioned in the *Qur'an* which may be conceived as an abundant source of developing and systematizing the concept of utilization of wealth or principles of management in the economic structure of Islam; since this term has also been used in the *Quran* to connote transgression, misappropriation (of the goods, money and other resources-and even environment-in the context of economics).

(E) Thereupon, as Allah has given everything at man's disposal, it should be the task of all believers individually and as a part of their political economy to manage and utilize the sources of material welfare in the most appropriate manner:

‘الم تروا أن الله سخر لكم ما في السموات وما في الأرض وأسبغ عليكم نعمه ظاهرة وباطنة...’

“Do ye not see that Allah has subjected to your (use) all things in the heavens and on earth, and has made His flow to you exceeding measure, (both) seen and unseen...» (Luqman (31) / 20);

(F) Believers in Allah are made clear of the fact that the status of economic welfare is not an insatiable lust, but allurements of the worldly life:

5 For the interpretation of the verse, see the translator's footnote (n: 2212 and 2213)

‘المال والبنون زينة الحياة الدنيا والباقيات الصالحات خير عند ربك ثوابا وخير أملا.’

“Wealth and sons are allurements of the life of this world; but the things that endure, Good deeds, are best in the sight of thy Lord, as rewards, and best as (the foundation for) hopes.” (Al-Kahf (18) / 46); And the struggle for material welfare is channelled to be a meaningful means of strive for the sake of Allah; (i.e. *jihad* through wealth) so much so that no attraction of economic well-being can induce an average believer who is thought to have been brought up and educated in a Muslim society where the theory and ideology of Islamic economics prevail; as the *Quran* states:

‘رجال لا تلهيهم تجارة ولا بيع عن ذكر الله وإقام الصلاة وإيتاء الزكاة يخافون يوما تتقلب فيه القلوب والأبصار.’

“By men whom neither traffic nor merchandise can divert from the remembrance of Allah, nor from regular prayer, nor from practice of the regular charity Their only fear is for the Day when hearts and eyes will be transformed (in a worldly wholly new).” (A I-Nur (24) / 37)

The core of economic relations in Islam is understood to be the principle of ~ mutual consent, not only in its periphery but also with its inner and mostly inexpressible connotations; as for the concept of mutual consent appears to exist formally in ordinary trade relationship, and yet does not, in so many instances, reflect its real presence; in other words, in daily trade activities, in small scales or larger, we may witness outwardly and therefore, legally valid contracts which were concluded upon mutual consent, that is *ijâb* and *qabûl* [offer (of contract) and consent]; Whereas, in their essence, in fact, mutual consent does not exist, and it is this very state of absence of genuine mutual consent makes, as far as its ideal meaning in Fiqh is concerned, the relevant contract invalid in religious sense:

‘يا أيها الذين آمنوا لا تأكلوا أموالكم بينكم بالباطل إلا أن تكون تجارة عن تراض منكم.’

«O ye who believe! Eat not up your property among yourselves in vanities: but let there be wrongst you traffic and trade by mutual good will...» (Al-Nisa (4) / 29)

It should be the common responsibility (*wujub kifai*) of all members of the Muslim societies to provide means and methods of establishing potentially

convenient source from which rules of economics and of the relevant law (*Fiqh*) are enhanced and buttressed with religious zeal; in other words, the concept of genuine mutual consent, in its external and internal qualities, is to be translated, as effectively as possible, into the legal sphere. Economics of Islam, due to its essentially different characteristics and objectives, differs from the other well-known economic systems; and therefore, constitutes to be an alternative contemporary outlet of Islam and its civilization (as it had once proven itself in the course of history). It is this economic system that has direct access with *Fiqh*, complementing one another in the integral complexity of the Divine code of life.

PHILOSOPHY

Allah has created man with intellect. This is the most salient characteristics of man in relation to other creatures. The Quran points out:

‘وعلم آدم الأسماء كلها...’

“And He thought Adam the nature of all things.” (*Al-Baqara* (2) / 31)

This verse may be understood to mean that Adam and his offsprings are inherently capable of attaining knowledge by means of the faculty to think, to consider and to contemplate. If philosophy might be defined as the science of the nature and meaning of existence, knowledge, reality, goodness, evil, love, life, man's destiny, the Universe, God, the Hereafter etc., we may conclude that *Fiqh*, in its overall connotation, Presents itself as the applied or practical aspect of philosophy; In other words, it is true that *Fiqh* does not treat those major concepts and issues of philosophy in the way that they are treated in the said science; however, it utilizes the methodology of philosophy in examining and expounding the Divine Message. The concepts and issues that constitute the subject matter(s) of philosophy have been taken up by celebrated philosophers of every generation throughout the history; and those long lasting issues remain, still, to be the subject matters of the relevant science, and it will continue to be so as long as man exists. However, In Islamic context, although the subject matter is identical with that of philosophy, all major issues, which the philosophical schools and theories have been making attempts to find solutions, have already been categorically and everlastingly solved by the declara-

tion of the statement of *Tawhid*: the essence of the message of Allah, Thus any believer in Islam finds himself not to have been bothered by the philosophical theories, issues, questions and arguments; but instead, uses the methodology of philosophy in his attempts to scrutiny similar concepts, issues and questions as laid down in the *Quran* and the *Sunna*. Such efforts eventually led to the emergence of the philosophy of Islam, which, in the works of prominent Muslim philosophers, namely, Al-Kindi, Al-Farabi, Ibn Sina, Ibn Rushd, Al-Ghazali, it reached its pinnacle, These philosophers and so many others, having gained the mastery of ancient Mediterranean philosophy, they took those major themes of philosophy and applied them with necessary amendments, though not necessarily in drastic degrees, into the similar issues and problems that might have necessary arisen in the interpretation of the Divine Texts and helped, considerably, in consolidating theoretical and ideological basis of the science of *Tawhid* (*Kalam* or *Aqida*). In this context Muslim theologians (*mutakallimun*) and Muslim philosophers shared a common stand and responsibility. The Relationship between Islamic philosophy and Islamic Jurisprudence is even more evident as it has resulted in the development of the Methodology and philosophy of Islamic jurisprudence (*Usul-al-Fiqh*).

Al-Hikma, (the wisdom behind the injunctions of Allah) on the other hand, is essentially an important concept in *usul al-Fiqh*. Through *al-hikma*, overall meanings and *raison d'être* of the injunctions of the Texts are shed light. Philosophy of Islam in this regard has a significant role. As we have put forward, emphatically, that *Fiqh* should not be confined (like any of those man-made systems of law) to mere statements of rules and regulations, divorced from their cause(s) (*sabab*), pretext (*illa*) and the wisdom behind (*al-hikma*), that is inside constituents of the Will of Allah, the Supreme Lawgiver; The study and analysis of these matters should be treated as the constituents of the subject matter of Philosophy. The unique qualities that the works of those jurist-philosophers contain, namely the works of Imam al-Ghazali (at-Mustasfa), of Ibn Rushd al-Hafid (*Bidaya al-Mujtahid wa Nihaya al-Muqtasid*) and of Al-Shatibi (*Al-Muwafaqat*) reveal the fact that the science of Philosophy, together with the science of linguistics constitute the major ingredients that make the cement to be used to construct the arch which represents the Religion as a whole and the keystone of the arch represents *Fiqh*.

Furthermore, the Qur'an contains various terms which have wider connotations beyond their literal meanings, namely; al-*Maruf* (Fairness, good)

al- <i>Munkar</i>	(detestable, acknowledged)	al- <i>Adl</i>	(justice, fairness)
al- <i>Ihsan</i>	(good, beauty)	al- <i>Fahsha'</i>	(monstrosity, crime)
al- <i>Falah</i>	(prosperity, salvation)	al- <i>Birr</i>	(righteousness, kindness)
al- <i>Khusr</i>	(loss, damage)	al- <i>Khayr</i>	(good, admirable)
al- <i>Sharr</i>	(evil, bad) and the like.		

Thorough and meticulous considerations are required to interpret and determine, as comprehensively as possible, the explicit and implicit connotations of these concepts; and the philosophical methodology may intercept at such occasions to elucidate all possible implications of the words so that these key concepts of the *Qur'an* and of the *Sunna* are arnply understood (by common people with common sense); whereupon an average level of Muslims' awareness and appreciation of the Divine message and of its legal system is elevated. The Methodology of Philosophy, in this juncture, reveals its indispensability more than ever

LINGUISTICS

Differences of languages are described in the *Qur'an* as a sign of the existence of Allah:

‘ومن آياته خلق السموات والأرض واختلاف ألسنتكم وألوانكم إن في ذلك لآيات للعالمين.’

“And among His Signs is the creation of the heavens and the Earth, and the variations in your languages and your colours; verily in that are signs for those who know.” (Al-*Rum* (30) / 22)

All mankind were created of a single pair, and yet they have developed different languages.

Languages are like living beings, they are born, develop and even die. Whatever the human mind produces, they are naturally conveyed through languages that are different from one another. It appears that it is hardly ever possible to find out the real causes of the mosaic nature of languages; therefore, it might be, because of this plain truth that it is considered to be a sign, amongst others, of Allah's existence and His absolute power.

Allah has sent down His Prophets from within their own societies so that the injunctions of Allah could easily be expounded. In this context Arabic language gains a special prominence as being the language of the *Qur'an*, the perfected form of Divine Message since Adam. It should be pointed out here that although languages may even die, this natural phenomenon cannot be thought to happen for Arabic as it is the language of the revelation of Islam; and Islam is the final and everlasting Religion for all mankind, therefore, the eternity of the *Qur'an* until the Doomsday constitutes a guarantee of the eternity of Arabic Language. In fact the Arabic language has enjoyed this unique status and even over its consistency to the *Qur'an*.⁶ It could be argued that due to the consistency of Arabic, it has always been learnt by non-Arabic speaking Muslim nations, or at least, by the scholars concerned. Arabic literature embodies rich heritage of the works of non-Arabs, and some of them have been accepted as the masterpieces of Arabic literature. Therefore, one concludes from this fact that, unlike other literatures, Arabic literature is not an entirely all Arab works but it is an all-Muslims' work. The Religious consciousness and zeal of non-Arabic speaking Muslims made them learn Arabic, primarily for the sake of understanding the sources of Islam, to be translated and conveyed into the relevant native languages. So far as the non-Arabic – speaking people are concerned, therefore, there arises, equally importantly, the necessity of the mastery of the relevant mother tongue, we may put forward the idea that in this matter mother tongue gains slightly more importance than Arabic because unless one is competent in the native language, no matter how good in Arabic one may be, one would not be able, in the best way, to translate the Message of Allah into entirely different language in which necessary level of mastery has not yet been attained, because, with the exception of Arabic, (as we have pointed out above) all other languages, like living beings, experience developments, changes, deterioration and even obsolescence and extinction. Nevertheless, we do not suggest that Arabic has not gone through what other

6 In view of the natural development of languages and consequent new words and expressions in the English language (and other major European languages), The New Testament is revised and updated in contemporary language so that the adherents would understand; Of course, it has always been a difficult task to translate the message with obsolete expressions into contemporary expressions, as it has been argued that during this process some distortion of meaning and loss of emphasis might have been unavoidable.

languages had. Indeed, Arabic has had a vast experience of changes especially in spoken and colloquial field. It has been so effective that well-established classical Arabic, which is also called as *lughā al-Qur'an* (language of the *Qur'an*) has, in view of drastic changes: new words, obsolete words etc. in everyday language, already been looked up to as if it was almost a foreign language. In fact, lack of due importance to the language of the *Qur'an* in the course of educational process, is thought to have played a negative role. The ever-widening gap between well-established classical Arabic and its everyday usage, has forced particularly Arabic Speaking. Scholars to translate the Message of Allah into contemporary colloquial Arabic, and this task may even be viewed as difficult as its translation from Arabic into other languages; as for the *Qur'an* is accepted by the authorities as the master piece of Arabic language for all times; it contains the minutest characteristics and peculiarities of the language of Arabic; and its message is understood best, only through its translation, in the best manner, into the same contemporary language and into other languages. After al, the role of precision is particularly significant in the field of law; since *Fiqh* is the all-embracing body of Muslims, linguistics may be entrusted the task of expounding the Divine injunctions and carrying the will of Allah, as far as possible, into the legal statements, which is consolidated by the inculcation of the spirit of the *Qur'an* and *Sunna*, achieved through appropriate education.

EDUCATION

It is stated in the *Qur'an*:

‘إنما يخشى الله من عباده العلماء.’

“Those truly fear God, among His servants who have knowledge “(Fâtir (38) / 28)

Appreciation of the Message of Allah and of His injunctions may be attained only through proper knowledge of them. The knowledge enables the believers to grasp the external and internal meanings and further implications of the Divine injunctions, together with their wisdom at the *background*, and lead them to genuine submission in true love and sheer affection of Allah. Seeking knowledge, therefore, is an individual obligation (*wujub 'ayni*).

This becomes even more evident in the following tradition ascribed to the Prophet Muhammad:

‘طلب العلم فريضة على كل مسلم ومسلمة.’

«Seeking knowledge is obligatory upon every Muslim man and woman.»⁷ Based on this individual responsibility there arises further responsibility to transform the individuals into a society with the ability and capability to ascertain the right and the wrong; good and bad. This has been laid down in the *Qur'an*.

‘ولتكن منكم أمة يدعون إلى الخير ويأمرون بالمعروف وينهون عن المنكر وأولئك هم المفلحون.’

“Let there arise out of you a band of people inviting to all that is good, enjoining what is right, and forbidding what is wrong: They are the ones to attain felicity.” (Al-Imran (3) / 104)⁸

This and other Quranic verses, however, make the matter of seeking knowledge a collective obligation (*wujub kifai*), so much so that, a group of people within the Muslim societies should arise, after having thorough and in depth knowledge of the principles and injunctions of Divine Message, and carry out the duty of guidance and leadership for the society as a whole. It should be underlined here that the performance of collective obligation (*wujub kifai*) is the further step of the individual obligation (*wujub 'ayni*); in other words the religious consciousness and zeal of the individuals to execute the collective obligation keeps them to move and go further in their endeavours to attain knowledge to the extent that their physical and spiritual means allow them to do so. Therefore, seeking knowledge presents itself in Islam as an act of “worship”, which appears to be peculiar to Islam. Thus, every Muslim, having exerted all his energy and means for the execution of his individual responsibility, naturally out of religious considerations, remembers his further responsibility towards his society, because of the fact that in the collective obligation every accountable believer is equally addressed, and is expected

7 Ibn Mace, *es-Sunen*, (Thk.: M. Fuad Abdulbaki, İstanbul 1992) Mukaddime 17, I/81, no: 224; Ibn Abdi'l-Berr, *Câmiu Beyani'l-İlm*, (Thk.: Ebu'l-Eşbal ez-Züheyri, Riyad 1422) I/ no: 20, 22, 29.

8 See also: Al-Tawba (9) / 112.

to carry out the responsibility; and upon the execution of this obligation by a group, lifts the said responsibility from the rest of the community. However, individual efforts to attain knowledge is bound to be limited; therefore, relevant authorities of the Muslim societies have to undertake the responsibility of education in its entirety, starting from the primary level up to the university and postgraduate levels. It is through such a systematic educational process that the governments concerned are expected to have helped their people to attain knowledge for the sake of carrying out their religious obligations.⁹ Since Islam governs all activities of the believers throughout their lives, it becomes imperative that the generations of Muslims, well equipped with the knowledge and appreciation of its injunctions, to be brought up so that when these specialists in religious matters, namely Muslim jurists, from within the relevant Muslim societies, come forward with their explanations, interpretations and opinions with regard to the solutions of the contemporary problems and issues and formulate them particularly in legal terms, These specialists, will, as their addressees, find societies whose knowledge of Islam is generally high enough to understand and appreciate the connotations of Divine injunctions; therefore, we come to the conclusion that it is not alone sufficient to have specialists in *Fiqh* who are able to expound and transfer the possible will of Allah into legal norms, without communities whose members are not well-equipped with required level of knowledge to understand and appreciate their values and the wisdom at the background of those injunctions. Since the aim of education is to bring up new generations in Muslim societies, Islamic values and concepts must be taken as the central elements of this long and consistent process of education, keeping up, of course, with contemporary needs and issues. Islam views the believing man as the noblest of all creatures; thus all necessary measures for the betterment of generations must be adopted and financial restraints should not be put forward as an excuse to reduce educational expenditures to the extent that it undermines positive improvements and developments. . Institutions of higher education, on the other hand, should proceed the continuous and consistent education within sound and appropriate

9 For the nature of education in the context of Islam vide: Syed Muhammad al-Naqib al-Attas, *The Concept of Education in Islam, A framework For an Islamic Philosophy of Education*, (Kuala Lumpur, The Muslim Youth Movement of Malaysia (ABM, 1980).

educational environment so that the institutions of higher education and training may play a significant role in moulding new generations, whose members are already conscious that the attainment of knowledge is an individual obligation first and collective obligation second. It should be reiterated here that the process of education is an integrated phenomenon; it involves all relevant factors and elements. Thus, formal education through schools, though indispensable, should not be conceived independent of other integral elements of the whole process of the 'bringing up' the generations. The family institution therefore, particularly prior to and during early stages of formal school education becomes extremely important, and the significance of this institution continues with varying degrees, to make itself felt throughout the process of overall education of the people in accordance with Islamic teachings and values. Islamic values flourish in the minds and hearts of the believers by means of consistent educational process: formal and informal. Islam, as the driving force of Muslim societies, introduces its principles of education usually in broad outlines; the detailed scrutiny of these outlines is a religious obligation, very much alike to the obligation of formal worship: i.e. prayer, fasting, almsgiving and pilgrimage to *Ka'ba*. The frequent mentioning, in the *Qur'an*, of all the relevant expressions with regard to knowledge, thought, contemplation and the like¹⁰ implies that having sound mind is not sufficient to be accountable (*mukallaf*); but to have fully- functioning sound mind, that is, the critical mind; and, indeed, the functioning sound mind, that is, the critical mind. And, indeed, the functioning minds or critical minds are the direct products of the convenient social environment where the freedom of speech and of thought is not at all restricted at the expense of the truth. Therefore, the objective of education in Islamic context should be to achieve not only instilling knowledge but also, and more importantly, help create and develop critical and ever-functioning sound minds, through which all technically inexpressible concepts, norms and values in legal formula of Islamic law together with their wisdom are understood and acknowledged. Hence they are adopted as natural effective values of everyday life, and thus are complementary to the 'forum externum' of the legal system. In the other words, appreciation of 'fo-

10 See: Al-Imran (3) / 191; Al-An'am (6) / 98; Al-Nahl (16) / 44; Yusuf (12) / 1-2.

rum internum' of the injunctions of Islam can be attained only through proper and comprehensive education.

In well-established Islamic societies, whose individuals have been brought up in genuine Islamic environments, provided and shaped principally through an all-rounded education; injunctions of Divine Guidance are thought to have permeated effectively not only in the minds and hearts but also in actual deeds of the individual [i.e. integration of theory (îmân) and practice ('amel)] in carrying out their relevant social duties and responsibilities. These also emanate from the sources of Religion, ranging from the most religious duties to the most complex social and legal fields, and yet maintaining interrelationship in their entirety.

KAYNAKÇA

İbn Abdi'l-Berr, *Câmiu Beyani'l-İlm*, (Thk.: Ebu'l-Eşbal ez-Züheyri, Riyad 1422) I/ no: 20, 22, 29.

İbn Mace, *es-Sunen*, (Thk.: M. Fuad Abdalbaki, İstanbul 1992) Mukaddime 17, I/81, no: 224; Syed Muhammad al-Naquib al-Attas, *The Concept of Education in Islam, A framework For an Islamic Philosophy of Education*, (Kuala Lumpur, The Muslim Youth Movement of Malaysia (ABM, 1980).

Kuran-ı Kerim, Al-Ra'd (13) / 26; Al-Nahl (16) / 71; Al-Tawba (9) / 112; Al-Imran (3) / 191; Al-An'am (6) / 98; Al-Nahl (16) / 44; Yusuf (12) / 1-2.