

THE IDEA: The sources of shari'a

The shari'a first and foremost is God's law. It is based on the Qur'an, hadith and sunna as primary sources, and reasoning, consensus and analogy as secondary sources. Shari'a is formed through the application of these sources and the principles contained within them to all aspects of human life. God's law has absolute primacy and timeless authority because its basis is the word of God and exemplified by the life of Muhammad. It is therefore Holy Law, leading to justice. It leads to the straight path and humanity is rewarded for following the will of Allah. Shari'a covers both the sacred and the secular. As God's law it is a reminder that God is omnipotent and omniscient. God's will must be obeyed.

Quotes

- Of the whole melange, only the Qur'an can claim to be divine, and even then, in comparison with the other two components, its direct contribution to the direct body of Islamic law is minimal. (Colin Turner)
- The life of a prophet is a beacon light for the rest of humanity. (Mashuq ibn Ally)
- This is the Book; in it is guidance sure, without doubt. (Sura 2)
- The law finally embraced two broad sets of relationships, the first being the spiritual relationship between Allah and humankind (ibadat) and the second, the normative relationship between one human being and another (mu'amalat). Both were believed to be governed by the guiding will of Allah. (David Waines)

References, Further Explanations and Examples

- For example, the Qur'an directs the path that the other sources take but also enables them to elaborate on God's will for humanity and therefore highlight the importance of both sources of shari'a.
- Therefore, shari'a is best understood as the 'way' or 'path' towards which Allah guides Muslims and incorporates all aspects of life. The first Sura declares 'Show us the straight way' or alternatively translated 'Guide us to and in the straight path' referring to the holistic nature of Islam.
- Shari'a then, is used to refer to Islam itself, the religion of peace and to the behaviour of a muslim, that is, one who submits to Allah. Allah is the source of all in creation. Therefore, Allah has to be the originator of shari'a precepts. The shari'a is divine and instructs behaviour directed towards God as well as other human beings.

Answer:

The shari'a first and foremost is God's law. It is based on the Qur'an, hadith and sunna as primary sources, and reasoning, consensus and analogy as secondary sources. However, as Turner observes,

'Of the whole melange, only the Koran [Qur'an] can claim to be divine, and even then, in comparison with the other two components, its direct contribution to the direct body of Islamic law is minimal'. For example, the Qur'an directs the path that the other sources take but also enables them to elaborate on God's will for humanity and therefore highlight the importance of both sources of shari'a.

Shari'a is formed through the application of these sources and the principles contained within them to all aspects of human life. Therefore, shari'a is best understood as the 'way' or 'path' towards which Allah guides Muslims and incorporates all aspects of life. Sura 2 states 'This is the Book; In it is guidance sure without doubt'. The first Sura declares 'Show us the straight way' or alternatively translated 'Guide us to and in the straight path' referring to the holistic nature of Islam.

God's law has absolute primacy and timeless authority because its basis is the word of God and exemplified by the life of Muhammad. As Mashuq ibn Ally writes, 'The life of a prophet is a beacon light for the rest of humanity'.

It is therefore Holy Law, leading to justice. The Qur'an leads to the straight path and humanity is rewarded for following the will of Allah. David Waines confirms this when he states, 'The law finally embraced two broad sets of relationships, the first being the spiritual relationship between Allah and humankind (ibadat) and the second, the normative relationship between one human being and another (mu'amalat). Both were believed to be governed by the guiding will of Allah'. Shari'a then, is used to refer to Islam itself, the religion of peace and to the behaviour of a Muslim, that is, one who submits to Allah. Allah is the source of all in creation. Therefore, Allah has to be the originator of shari'a precepts. The shari'a is divine and instructs behaviour directed towards God as well as other human beings.

Shari'a covers both the sacred and the secular. As God's law it is a reminder that God is omnipotent and omniscient. God's will must be obeyed.

THE IDEA: Working out the will of God

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How is God's will defined? It is extrapolated through the ruling of the ulama (group of religious scholars) and muftis (legal experts). Over time, Muslim scholars developed two methods of establishing what Muslims should do in given situations which needed addressing. These were the methods of ijma (consensus of scholars) and qiyas (method of analogy).

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An ulama council or group of muftis (muftiat or diyanet) have a general role of advisor to Muslim state governments, acting as points of reference for Muslim matters regarding application of the shari'a in any given context.

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They are scholars who base their views solely upon precedents and the application of tried and tested Muslim principles for working out and applying Muslim law.

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A mufti or ulama requires no formal qualifications but their authority is recognised by other scholars through virtue of belief, character, maturity and intellect.

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Although a mufti or ulama may have no official, legal authority it is common for a muftiat or ulama to influence a government. Individual muftis and scholars have also been known to contradict state proclamations that are seen to be un-Islamic.

Quotes

- With the death of Muhammad, divine revelation ceased; however, the Muslim vocation to follow God's law did not. (John Esposito)
- The Qur'an and hadith are the primary sources for shari'a, and can never be over-ruled by secondary sources ijma and qiyas. This is because the first two sources originate with Allah and His messenger. Human beings can make mistakes and are not directly in contact with Allah, so they cannot overrule what has been revealed. (Idris Morar)
- Often this process resulted in a number of differing legal opinions. (John Esposito)
- Over time, perhaps several generations, certain interpretations were accepted by more and more scholars, endured the test of time, while others disappeared. Looking back upon the evolving consensus of scholars, it was concluded that an authoritative consensus had been reached on the issue. Thus consensus served as a brake on the vast array of individual interpretations of legal scholars and contributed to the creation of a relatively fixed body of laws. (John Esposito)

References, Further Explanations and Examples

- What did shari'a mean for the first Muslim community? According to Professor John Esposito it meant "obedience to God's continuing revelation and to His Prophet". Any early problems with 'what shall we do?' were referred to Muhammad for guidance and adjudication.
- At first, judges, overseen by the caliphs, tended to rely upon prevailing Arab customs, the Qur'an and their own personal judgement. This practice soon led to dissatisfaction.
- According to Professor John Esposito between 750-900CE a new class of scholars (ulama) and legal experts (muftis) sought to discover, interpret and apply God's will to life's situations. This is the ideal of ijihad (struggle intellectually) 'to set out a religious ideal, to develop a comprehensive law based on the Qur'an'.
- Despite this, differences arose - the local practice, used in elaborating the shari'a, in Medina was associated or equated with the practice of Muhammad; in the much younger community of Kufa, followers tended to rely on jurist opinion and their own local law.