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Introduction to Evolution of Fiqh

A. Evolution of Fiqh

1. Study about Thareeq at Tashree'ah - History of Legislation
2. This course reveals about the mystery of Madh-hab

B. Different approaches in following the Fiqh

Approach 1: All Madh-hab are correct and you can follow any one - Impossible

Sample:

1. Hanafee: Touching a women does not break Wudoo
2. Shaafi'ee: Touching a women does break Wudoo
3. If you accept all the Madh-hab to be correct as the case above, it means you are turning off your intellect like that Christians when they accepted Trinity
4. This kind of differences cannot co exist

Approach 2: Madh-hab is divine and should follow it as faith

1. If you are the one who says Madh-hab is divine and we should follow it as faith
2. It means you are violating the second half of faith.
3. Muhammad Rasoolullaah means you only follow him

Approach 3: Reject all Madh-hab. Take directly follow Qur'aan and Sunnah

Dangerous from two perspectives:

1. It needs comprehensive knowledge of both but you have limited knowledge
2. Rejecting the works of the 3 best generations

Approach 4: Follow Madh-hab of Muhammad Rasoolullaah

1. If Abu hanifa is not a hanafee and Imam Shaafi'ee is not a Shaafi'ee. Then what are they?
2. Go back to the first generation
3. Neither Abu hurairah nor Abu bakr is Hanafee or Shaafi'ee
4. They just followed the Madh-hab of Muhammad ﷺ

Some Sahaabahs followed Abu bakr رضي الله عنه. Why can't you follow Madh-hab of Abu Bakr رضي الله عنه?

C. Why Madh-habism is Harmful?

1. From 13th century, Ahnaaf ruled that Hanafee cannot marry a Shaafi'ee
After 100 years, another Hanafee scholar said, give Shaafi'ee the status of the people of the book. Hanafee man can marry Shaafi'ee woman but it is not allowed to Hanafee woman to marry Shaafi'ee woman
2. Real blind following started by 13th century

Until 1925, there were 4 canopies: Maqam Shaafi'ee, Maqam Hanafee, etc in Masjidul Haram

King Saud's army, after conquest of Makkah, tore down these 4 canopies and said one Imam will lead the Salah



Refer "Madh-hab Fanaticism" by Shaykh Abbasi speaking on this kind of harmful effects of Madh-habism

D. Enlightened Scholar who never deceived like Muqallids of today

1. Imam Abu Haneefa is not a Hanafee - Evidences

S.No	Abu hanifa's position	Later day's Hanafee's Position (His Students like Muhammad as Shaybaane overturned)
1	Can drink Alcohol extracted outside of grapes as long as it does not intoxicates	Alcohol in general is Haram
2	Wiping of socks is illegitimate	Wiping of socks is allowed

2. Imam Tahawi : Put your hands before knees when going to Sujood. This position is opposing the position of Abu Haneefa

3. Muhammad ash Shaybani, even though being prominent Hanafee scholar, studied under Imam Maalik has memorized Muwatta and taught it to others



Gem: If we have to study under the scholar of Hanafee or Shaafi'ee, our intention should be to follow the Madh-hab of Rasoolullaah

E. Difference between Fiqh and Sharee'ah

1. Definition of Fiqh :

a. Linguistic:

True understanding of what is intended

"Many yuridullahu bi khayran, yufaqihu fideen "

b. Technical:

Science of deducing Islamic law from the evidences found in sources of Islamic laws

c. Source of Fiqh:

i. Qur'aan

ii. Sunnah

iii. Ijmaa'a'

iv. Qiyaas

2. Usoolul Fiqh: Deduction of principles from which laws are derived

3. How it come down to us?

From Sources

Principle deduced - Usoolul fiqh

Application - Fiqh

4. Definition of Sharee'ah

- a. Linguistic: waterhole (where animals gather daily to drink), Straight path

Then We have put you (O Muhammad SAW) on a plain way of (Our) commandment [like the one which We commanded Our Messengers before you (i.e. legal ways and laws of the Islamic Monotheism)]. So follow you that (Islamic Monotheism and its laws), and follow not the desires of those who know not. [Qur'aan 45:18]

- b. Technical: Sum total of Islamic laws which were revealed to in the Qur'aan as well as deducible from the Prophet 's ﷺ divinely guided lifestyle (called Sunnah)

S.No	Sharee'ah	Fiqh
1.	Body of Laws that are revealed	Product of human reasoning based on the revelation (Deduced Laws)
2.	Fixed and unchangeable (eg.: Homosexuality is haram)	Specific to the case for which direct law is not available Will change according to situation
3.	Sharee'ah may be suspended, if we don't have control over the system (eg.: No punishment for theft during the famine)	Fiqh is changeable and try to apply according to the situation based on our understanding. When understanding changes, Fiqh law changes
4.	Sharee'ah laws are General	Fiqh laws are Specific (How to apply)
5.	Sources limited Qur'an and Sunnah	Unlimited

⇒ In reality, Fiqh Law is not equal to the Sharee'ah law but Madh-hab try to see both as equal

⇒ . Muqallid's try to make the sources of Fiqh limited. Eg.: Ijtihad is closed

Stage I: FOUNDATION

Era of Prophet Muhammad ﷺ [609 - 632 CE]

A. How the revelation came? (Legal Perspective)

1. Qur'aan

- a. Gradual format (23 years)
- b. Revealed as a result of questions
- c. To solve problems which confronted the Prophet ﷺ and his followers in both Makkah and Madeenah
Hence, many verse starts with "They ask you..." (yasalunaka) [eg: Alcohol 2:217 | 2:219,222]
- d. Revealed as a result of addressing the problems
Hilaal ibn Ummayyah ﷺ complaining her wife of adultery and revelation of 24:6-9

2. Sunnah

- a. Problems to be solved
- b. Direct answers to questions
A Sahaabah asked Prophet ﷺ whether we can make wudoo with sea water
Prophet ﷺ replied "Sea water is pure and its dead are halal" [Abu Dawood]
You cannot eat the dead animal in the land but you can eat dead animal (naturally dies) in the sea (eg.: Fish)
All in the foods of the Sea is Halal including Shark, Whale
- c. Revealed during particular incidents

3. Gradual legislation made them easier to understand

- a. Salah during Makkan period is twice a day (Morning and Evening)
- b. Salah just before Hijrah is 5 times a day and each one is 2 rakah except Maghrib (3 rakah)
- c. Salah after Hijrah is as present

B. Qur'aanic Contents

1. **Makkan period (609 - 622 CE)** : Beginning of Prophethood and until Hijrah

2. **Madeenan period (622 - 632 CE)** : After Hijrah until his death

3. Difference:

- a. State of Muslim community in Makkan period is different from the Madinan Period
- b. In Makkan period, Muslims lived under the non Muslim state
- c. In Madeenan period, it was Islamic state
- d. Hence, Rules differed accordingly

4. Topics during Makkan period (Non Islamic State)

Rules are of ideological foundation for next stage to come. Its laws, in or another aspect revealed to build faith in God

- a. Unity of Allaah
- b. Existence of Allaah
- c. Life in Hereafter
- d. About Earlier Civilizations
- e. One system of worship: Salah
- f. Challenge to the Arabs proving the Miracle of the Qu'raan
- g. In general, no laws on Jihad revealed. Time for patience, If they fight, they would be wiped off

5. Topics during Madeenan period (Islamic State)

90% of laws deals with society were revealed in Madeenah

- a. Economics
- b. Marriage
- c. Jihad
- d. About Christians and Jews
In Jew founded Madeenah, number of verses revealed dealing with Jews are lesser than that of Christians. Why? Christians are closer to Muslims
- e. About Hypocrites
Hypocrites were not killed even when it was known in order to protect interests of Islaam. It should not be said Muhammad is killing his followers

C. Major Topics of the Qur'aan

1. Aqeedah
2. Akhlaaq: Reformation of Human Character (Ethics)
3. Fiqh: External dealings (with Society and societal needs)

D. Legal content of the Qur'aan

Laws governing...

1. Relationship with Allaah

- a. Acts of pure worship (eg: Salah)
- b. Social and economic commandments (eg.: Zakah)
- c. Physical body (eg.: Fasting and Hajj)

2. Relationship with Creations

- a. Family Laws - Building blocks of the society (eg.:Marriage, divorce)
- b. Trade Laws - Business transactions, rental contracts, etc (eg.: Riba)
- c. Criminal Laws → To protect family and society (eg.:Hudood)
- d. Promote Islam and defend it (eg.: Jihad)

E. Basis of Legislation in Qur'aan

1. Principle

- a. Its approach is Reformation and not Cancellation
- b. Islam did not erase all pre-islamic custom rather removed every facet of corruption and cancelled all customs which were harmful to the society

- c. Islamic law is not something new
3:110 → Enjoin al Ma'ruf (that which is known to be good)
Mar'uf comes from Marifah

2. Conformation of Previous Laws

Islam's law of conformation of Arab system does not mean that it has derived from that system rather

- a. it has its remnants in earlier laws (eg.: Hajj - from Ibrahim)
- b. Recognition of useful results of human activity that is Logical/ common sense
- c. If it is not there, it would have mentioned something for it

3. Reality of Conformation

In reality, what Islamic law conformed is very few but what it brought new is many Foundation remain untouched but forms changed

Eg.: Hijab, Hajj conformed/modified by Islamic Law

F. Goals of the Shariah (Maqaasid al Sharee'ah)

In order to achieve the goal of reformation, Islaam bases all its laws on the Goal of the Shariah

1. Removal of difficulty

a. Evidences:

2:286 → "Allaah does not burden.."

2:285 → "Allaah wishes for you ease and He does not wish difficulty for you"

22:78 | 4:28

Prophet's ﷺ advice on sending his Governor to Yemen "Make things easy and do not make them difficult" [Bukhari 5/630]

b. Examples for Implementation:

i. How Salah, which is 5 times a day make life easier?

Goal of Salah is God Consciousness, Success in the Life. This is the easiest way

GEM: Weigh things based on Goals!!!

ii. How fasting makes life easier?

If you are able to give up halal for 30 days, we can give up Haram for rest of Life.

iii. How Zakah?

Developing Generosity and able to handle difficulty. Get to know feelings of the poor/deprived people

2. Reduction of Religious Obligations

- a. Asl: When commanding good it is general and when forbidding evil it is quite a few and even the sub categories are mentioned

Examples for Implementation:

List of Prohibited women to marry (4:23) and general statement on permissible women (4:24)

Forbidden categories of Food (5:3) and general allowance on permissible foods (5:5)

All trees are forbidden except one

b. Asl: In spite of this, Islam records no sin, if the person forced by necessity takes forbidden things (2:273)

c. Asl: Laws do not contain so many details to make things rigid

What the Qur'aan and Sunnah left open, we should leave it open and enjoy from its benefits. Avoid unnecessary digging!

i. Questioning on how many times Hajj

Concerning Hajj Prophet ﷺ said "If I said yes, it would have become compulsory. Leave me alone concerning things which I have left upto you, for certainly those before you were destroyed because of their many unnecessary questions and their arguments and disagreements with the Prophets" [Muslim 2/3095]

i. 5:104 - If something is generally forbidden, don't dwell there in detail (eg. Eating meat in Christian Hotels)

ii. **Business Transactions [5:1 | 2:275 | 4:29]**

3. Realization of the Public welfare

Eg. Riba - Vast majority does not have capital as those who invest in banks and take returns have

Alcohol

a. Principle of Naskh (Abrogation) - Manifestation of Human welfare

When Naskh?

"Allaah may prescribe a law suitable to people at the time of its enactment or it may serve a particular limited purpose. However its suitability may later disappear or its unique purpose may have been achieved"

Abrogation is where People are not in a position to adapt

Qur'aanic abrogation does not address the primary truth (like Allaah is one)

Examples:

Bequest (waseeyah):

Stage	Law	Wisdom
Existing stage	No inheritance for parents from decease unless there is waseeyah	Jahili cunningness
Islamic Stage 1	Waseeyah to parents is Mandatory (2:180)	People should realize the importance of inheritance to parents

Islamic Stage 2	Inheritance law giving everyone their due right	Now people are ready to follow the revelation
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Note: Non Muslim allowed taking from Wasayah because this is the gift

Idhaa period - Mourning Period:

Stage	Law	Evidence
Existing Stage	Indefinite period	Bukhari (7:251)
Islamic Stage 1	1 year	2:240
Islamic Stage 2	4 months and 10 days	2:234

Fornication:

Stage	Law	Evidence
Islamic Stage 1	Confinement in home up to death	4:15,16
Islamic Stage 2	100 lashes	24:2

Features of Naskh:

- i. May replace with severe law (Fornication laws)
 - ii. May replace with easier law (Idhaa period)
 - iii. May replace with law something similar to it
- b. **Legislation of law based on reason**

Law	Reason
Fasting	Piety (2:183)
Zakah	To purify (9:103)
Forbiddance of intoxicants & Gambling	Rememberance of Allaah (5:94)

"If the benefit for which the law is continuous, then the law is continuous but if changed due to change in circumstance, law must change"

When there is law with reason, it can be applied based on reason (Umar's رضي الله عنه suspension of giving Zakat to non muslims)

c. Legislation of law with consideration of human needs

Religious rites, family and marriage law, divorce, inheritance

Laws against crimes whose harm will not change with passage of time like murder, fornication, adultery, theft and slander

General laws of universal benefit which may be implemented by those in authority according to human needs (4:59 - Business transaction | Structuring the society)

d. Legislation of law based on preventing the greater evil with lesser evil

How do you distinguish between above principle and "Ends justify by means"

4. Realization of Universal Justice

All sane, able people are equal before Allaah

Prophet ﷺ: "I will cut off the hand of the Fathima..." (Muslim 3/4187)

G. Sources of Islamic Law:

Revelation: Qur'aan and the Sunnah

1. Sunnah is the exposition of the Qur'aan

Sunnah is the statements, actions and tacit approval of Prophet ﷺ

Generality clarified and intended meaning specified

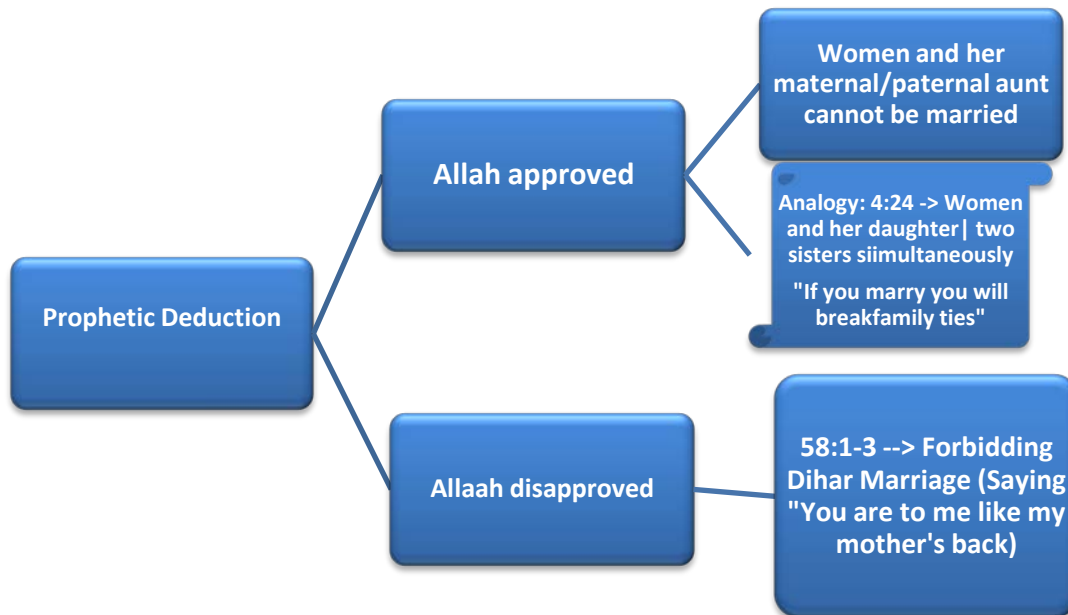
Everything in Sunnah is addressed in the Qur'aan either by inference or direct inference

a. Qur'aan addresses whole Sunnah (59:7)

b. Qur'aan addresses generally defined laws

Forbiddance of domestic donkey (Muslim 3/4778) addressed by verse on forbidden foods (7:157)

c. Qur'aan addresses general principles from which the Prophet ﷺ may deduce rulings



- d. Sunnah does not include prophet's ﷺ personal habits and personal opinion
 Eg.: Prophet ﷺ not eating desert lizard
 Hadeeth on cross pollination

Prophetic legal judgments are prone to error ("...more eloquent one may win the dispute..."
 Abu Dawood 3/3576)

2. **Why Allaah allowed Prophet ﷺ to commit mistake?**

- To teach us
- To stop unproportional elevation of the leader
- To teach Sahaabahs about Ijtihad

3. **Prophet ﷺ called Sahaabahs to make Ijtihad**

- Sending 'Alee ؓ on expedition
- Saad ibn Muaadh ؓ judging people

4. **Why Prophet ﷺ and Sahaabah need Ijtihad?**

To train the Sahaabah ؓ to tackle the future when Prophet ﷺ is not going to be with them

5. **Ijtihad - third source during this era?**

No. Since the validity depended on divine revelation for conformation

6. **Madh-hab of Rasoolullaah**

This is the first stage in which first Madh-hab took shape as Prophet ﷺ guided and trained Sahaabahs in Ijtihad

Stage II: Establishment Phase

From rule of Abu Bakr ﷺ [632 CE] to end of the Rule of 'Alee ﷺ [661 CE] → 29 years

A. Political/Religious Climate

1. Massive expansion of Islamic state during this period
Countries: Syria, Jordan, Egypt, Iraq and Persia
2. Muslim Ummah came in contact with other civilizations
This gave rise to need for specific provision which is not found in the Sharee'ah directly
3. New principles developed by Caliph during their period
 - a. Ijmaa' - marked feature of Caliphite
 - b. Ijtihad - When consensus is not achieved
4. During the caliphite, Ummah remained one body

B. Problem Solving Procedures developed by Caliphs

1. Looking into Qur'aan
2. Looking into Sunnah
3. If they didn't find solution directly in Qur'aan and Sunnah, they will call for leading Sahaabahs to have unanimous agreement
4. If unanimity not achieved, they go for majority
5. If majority cannot be identified, they go for own Ijtihad
Caliph had an option to overrule Ijmaa' and majority
eg.: Fighting people who do not give Zakah - Abu bakr ﷺ over ruled Ijmaa' and majority

C. Approach of individual Sahaabahs

1. Their Ijtihad is not necessarily what Allaah intended
Abdullah ibn masud ﷺ and ruling on inheritance "*I am giving my opinion, if it is correct, then it is from Allaah but if it is incorrect, then it is from me and Satan*" (Saheeh Abudawood 2/1858)
2. When evidence reach them contradicting their position, they will change their position immediately (eg.: Where to bury Prophet ﷺ)
3. When neither Hujjah nor Ijmaa' established, they respect each other's opinion

If companions were found to involve in incidences, which is abrogated they will give precedence to follow what is abrogated

D. Differences of opinion

1. They had difference of opinion in Fiqh, even in Aqeedah but it did not disturbed their unity
Eg.: Sahaabahs differed over Me'raj with body and soul or only soul
2. Did Prophet ﷺ see Allaah or not?
3. Their difference is based on information they have. When sufficient evidence reach them, they changed their opinion

4. When clear evidence reaches them, they will be brought into task [eg. Umar asked who is practising Mutah marriage]

E. How Sahaabah established unity? (Absence of Factionalism)

1. Companions established unity through Shurah
Imam Ahmad: whoever claims Ijmaa' after Sahaabah, they were liars
2. Ease with which consensus can be arrived at.
Umar never allowed the leading knowledge companions to go out
3. General reluctance of individual Sahaabahs to give Fatwa
They redirect it to qualified Sahaabahs
4. Narration of hadith during this period is not frequent rather based on needs
Umar asked to restrain them to Qur'aan because the knowledge available is enough



Gem: During the time of Dajjal, 6 months of day and months of night - companions immediate question - how we are going to pray?

F. Characteristics of Fiqh during this era

1. Fiqh during this period is al Fiqh al waqi'ee (Realistic Fiqh) Fiqh that addresses the issue of their times
2. Companions made certain procedures and never made set procedure to followed by whole ummah
3. Literalism - obvious meaning of the text is preferred
 - a. They never tried to follow metaphor and personal opinions
 - b. Though during that period are actual issues and interpreted according to the literal meaning, approach of critical analysis, "what if?" fiqh developed.
Reasoning approach (Ahl ar ra'i) preceded from Abdullah ibn Masood رضي الله عنه
4. Companions suspended some elements of Sharee'ah if they do not have relevance during the time/changing social conditions
 - a. Giving cash gifts from Baitul Maal is suspended during time of Umar
 - b. Triple talaq pronouncement considered as single talaq
5. It was a unified Fiqh - Head of the Madh-hab is the head of the state

G. Evolution perspective:

Foundation for Ijmaa' and Qiyaas is laid during the period

Stage III: BUILDING

From 'Alee's رضي الله عنه death to middle of 8th century

A. Political/Religious Climate:

1. Covers the rise and fall of Umayyad period [around 100 years]
2. Started from period of Muawiyah ibn Abu sufyan رضي الله عنه of ummayyad dynasty, compatriot of 'Alee's رضي الله عنه dynasty
3. Ummah divided into sects and factions

4. Caliphate converted to kingship

B. Three main trends in regards to Evolution:

1. Increase in number of Ijtihaads (Ijmaa' become difficult because of dispersion of Sahaabahs)
2. Widespread narrations of hadeeth
3. First attempts in compilation of Fiqh

C. Factors affecting Fiqh

1. Division of Ummah

Sectarianism began on the account of socio-political blows

Two sects divided because of difference in Aqeedah

- a. Khawaarij - Takfeer of both 'Alee عليه السلام and Muawiyah عليه السلام because they used human arbitration
- b. Shee'ah - Giving ali the divine status
 - i. Almajlisi, leading writer of Shiah fiqh- standard fiqh of Shia, Jaffari Fiqh
 - ii. He wrote going to karbalah is 14 times greater than going to Hajj

Political split in Makkah by Abdullaah ibn azzubair

2. Deviation of Ummayad Caliphs:

- a. Kingship started
- b. Baitul Maal become personal treasury of king
- c. Additional tax introduced
- d. Music, dancing girls, court astrologer were introduced into Ummayad courts (copying contemporary non Muslim empires like Persia, India)



Insight: Music, entertainment were exclusive for kings, now because of democracy it reached us all and deviating

3. Dispersion of Ulamaa

- a. As they cannot sit in the courts and to avoid conflict and confusion, many ulamaa fled from Ummayad state
- b. State's link with Ulama broken
- c. Some scholars began to bend the rules according to king's preferences
Eg.: If a person breaks Bayyah to king, then he will be automatically divorced by his wife. Leading scholar of that time, Imam Maalik opposed it
- d. This diversion prevented them from making Ijmaa'
- e. This gave rise to more Ijtihaad
- f. So number of schools started like of Abu haneefa, Maalik, Layth, Sufyan ath thawree

4. Fabrication of Hadeeth

As need for information increased, hadith narration increased

However, Hadith fabrication started

a. Fabrication for two reasons:

- i. False sects to support their position

- ii. State tried manipulate laws according to their political conditons

b. Thus body of incorrect Fiqh evolved

D. Characteristics of Fiqh in Ummayad period

Two group Evolved:

1. Rise of Ahlul Hadeeth

- a. Now scholars have to rely mainly on Qur'aan they memorised and the Hadith they were aware of
- b. They started relying on narration of Hadeeth
- c. Usoolul Hadeeth started
- d. **Centre:** Madeenah
- e. **Fiqh:** Realistic

2. Rise of Ahl ar Ra'i (People of reasoning/opinion)

- a. For each and every law, there is reason for it even if it was not identified by Allaah and His Prophet ﷺ
- b. They used their powers of reasoning to arrive at possible reasons
- c. **Centre:** Kuffa
- d. **Fiqh:** They were primary reasons for hypothetical Fiqh
- e. They came to known as Arraitiun - "What iffers?" because they use the phrase "What if it were like this?"

E. Reason for differences between Ahl ar Ra'i and Ahlul hadeeth

It is because of Socio-political condition these two schools brought up

1. Status quo of Hijaz

- a. During Alee's ﷺ caliphite, centre of Islamic state shifted first to Iraq and then to Syria
- b. Centre of the state become melting pot of various cultures sparing Hijaz
- c. Thus Hijaz (western coast of Arabian peninsula including Makkah and Madeenah) remain unaffected
- d. For Ahlul hadeeth, as they were in Hijaz, they have vast knowledge of Sahaabahs and Hadeeth

2. Status quo of Iraq

- a. Breeding ground for most of the early deviant sects
- b. As Hadith fabrication started from Iraq, validity of Hadeeth become questionable
- c. They accepted Hadeeth after strict conditions
- d. For Ahl ar Ra'i, as they were mainly in Iraaq where Abdullaah ibn masood settled, they have limited access to knowledge and hadeeth are fabricated, so they have to rely more on reasoning

F. Evolution perspective [Compilation of Fiqh]

1. Why Sahaabahs never compiled Fatwaas?

- a. Rapidly expanding of Muslim state

- b. They were guiding the young Muslim nation
- c. They considered Ijtihad not necessarily infallible

2. Need for compilation:

As Ummayyad's began to bend Sharee'ah, need arise to preserve fatwa of Sahaabahs for the benefit of future generations

3. Major scholar for whom compilation of Fatwa was made by later day scholars

a. Hijaazi Fatwas:

- i. Abdullaah ibn Abbas رضي الله عنه
- ii. Abdullaah ibn Umar رضي الله عنه
- iii. Aa'eshah bint Abee Bakr رضي الله عنها

b. Iraaqi Fatwas:

- i. Abdullah ibn Masud رضي الله عنه
- ii. Alee ibn Abee taalib رضي الله عنه

4. These manuscript went out of existence anyway

These fatwa are narrated along with the books of hadeeth, History and Fiqh
So we find these fatwas in Sahih bukhari, and in Muwatta of Imam Maalik

Rise of more Ijtihad and compilation of Fiqh is the mark of this era

Stage IV: Flowering

(750 CE to 950 CE)

A. Political Climate

1. From Abbasid dynasty overthrown Ummayyad dynasty to its consolidation and beginning of its decline
2. Abbasid's are descendants of Abbas رضي الله عنه, Prophet's ﷺ uncle
3. They ruled for around 100 years
4. Abbasid was founded by Caliph Abul-Abbas (reign 750 -754 CE)
5. Caliph Abu al Abbas started Abbas University.
6. Their call was to implement Sharee'ah
7. His successor Caliph Haroon ar Rashid, was a scholar of islamic law

B. Religious Climate:

1. Fiqh shaped as independent Islamic Science
2. Islamic Scholarship was supported by the state
3. Fiqh divided into two sections
 - a. Usool - basic principles

- b. Furoo - branches , application of Usool and developing secondary principles
4. Sources of Islamic law identified
5. Division between Madh-hab developed
6. During the time of Great Imams, tradition of flexibility was present
7. After their death rigidity started

Factors affecting the Fiqh:

C. Period of Great Imams [750 CE - 850 CE]

1. State support for Scholars

Reason:

Their call to overthrow Ummayad's was to implement Sharee'ah

Example:

Caliph Mansoor asked Imam Maalik (rah) to compile compendium of Muslim texts
After that Caliph Mansoor asked permission of Imam Maalik to make Muwatta a law of the state but Imam Maalik refused

Contrast:

Severe punishment if scholars ruling counter political policy
Imam Maalik tortured/jailed for his fatwa challenging Abbasids
Imam Maalik challenge the opinion "If a person breaks Bayyah, then automatically his wife was divorced"

2. Increase in centers of learning

1. Abbasid territory expanded to included Persia, India and southern Russia
2. Hence learning centers increased there
3. Abdur rahman, ummayad who escaped from Baghdad Massacre end established caliphite in Spain
4. Learning center established in Spain
Dawood az zahri, student of Imam Ahamad developed Zahiri Madh-hab in Spain

3. Spread of Debate and Discussion

- a. Different Scholars exchanged their views
- b. They debate to reach common conclusion
- c. If they are not able to reach, they respected other's views
Example: Mail debate between Imam Maalik and Imam Layth on Amal-e-Madeenah

- d. Even the student of great Imams differed from their Imams

e.g.: All 3 students Imam Abu Haneefa differed on Imam's opinion Khamr from grape alone are haram

Compilations by Great Imams:

Imam Abu haneefa had not compiled anything

Imam Maalik compiled hadeeth (Muwatta) only but his students complied his Madh-hab

Imam Shaafi'ee'ee compiled his writings (Al Umm | Risalah | Hujjah)

Imam Ahmad compiled Hadeeth but not his positions (Musnad)

D. Period of Minor Scholars [850 - 950 CE]

1. Compilation of Fiqh

Sunnah was compiled to facilitate Scholars in deriving legal rulings

a. Three forms of Compilation

- i. Compilation of hadeeth, fiqh, fatwa of Sahaabahs, Opinions (eg.: Muwatta)
- ii. Compilation of principles of Fiqh (eg.: Al Umm of Imam Shaafi'ee | Kitaab al-kharaaj of Imam Abu Yoosuf)
- iii. Books of Fiqh - Organized according to Masaail (Al mudawwanah of Imam Ibn al Qasim, student of Imam Maalik | Six books of Muhammad ibn Hasan)

b. Madh-hab rigidity from Compilation perspective

Phase 1: Hadeeth quoted with Isnaad

Phase 2: Only Matn (text)

Phase 3: Decreased quotation of Hadeeth and mentioning the authenticity of Sources neglected

Phase 4: Thus Opinions of Madh-hab were given precedence over Sunnah

2. Court Debates

- a. Quality of the court started dropping
- b. There were court Scholar sitting along with court astrologer, dancing girls etc.
- c. These court scholars make up issue for intellectual entertainment of these caliphs - Hypothetical Fiqh developed

Examples:

From Hanafee School → Would wudoo break when a Muslim have sexual intercourse with fish?

From Shaafi'ee School → What about if a person passes a wind in a bag and pass the wind out of it later?

- d. Competition between two schools of thought was encouraged
- e. Rigidity of Madh-hab developed because if they lose, they lose not only their price money but also face for Madh-hab

3. Compilation of Hadeeth

- a. Opposing trend of hadeeth compilation started again
- b. Fiqh issues tackled without dependence on traditional rulings of existing Madh-habs
- c. Period of Imam Bukhaari (810 - 870 CE)
- d. Period of Imam Muslim (817 - 875 CE)
- e. Hadeeth arranged in chapters according to the format of Fiqh Scholars

4. Organization of Fiqh

- a. Greek logic were translated into Arabic and this started corroding Usoolul Fiqh
- b. This made them to divide Fiqh into
 - i. Usool - basic principles

ii. Furoo - branches, application of Usool and developing secondary principles

c. Compilation of Tafseer and Arabic grammar developed

d. Positions of Major Scholars were recorded

E. Six Sources of Islamic Law recognized by Most Scholars (according to the below order)

1. Quraan

Differences of opinion in interpretation was there

2. Sunnah

Various conditions were set by Scholars to accept the Hadeeths

3. Opinions of the Sahaabahs

a. Ijmaa' - All Sahaabahs agree

b. Ra'i - When there is difference of opinion among Sahaabahs, Personal opinion of individual Sahaabah taken by scholar accordingly

4. Qiyaas

a. Process by which Ijtihad is exercised

Eg.: Every khamar is haram - text

According to Qiyaas, every liquid which intoxicates like of khamar is haram. Here analogy is the process of intoxication

b. Difference of opinion started among Madh-hab on rulings based on Qiyaas

5. Istishaan (Legal Preference)

a. Opinion based on a circumstantial need over an opinion based on Qiyaas

b. This is Qiyaas with its limitations

c. Example:

Qiyaas: If thing being sold is nonexistent during contract, then it is invalid

Istishaan: This kind of contract is universally acceptable and need for such contract is obvious like in boat builders build boats after taking money from the buyer

d. Terminologies among different Schools

Hanafee School - Istishaan

Maalikee School - Masaalih Mursalah

Shaafi'ee School - Istishaab

6. Urf (Custom)

a. "Legal customs were accepted as a source of Islamic law in a given religion as long as they did not contradict any of the principles of Islamic law"

b. Urf is applied generally

c. Urf preferred where qiyaas and Istishaan is not possible

d. Eg.: Give Mahr

In Egypt - initial payment (Muqaddam) and delayed payment (Mu'akhkhar -incase of death or divorce) of Mahr is practiced and it is not against Shariah, so allowed

F. Evolution Perspective

1. Fiqh took a definite shape as an independent Islamic Science
2. Fiqh of Various Madh-habs was compiled
3. Hypothetical Fiqh evolved

The Madh-habs

Definition of Madh-hab

Linguistic:

Way, path

Technical:

The sum total of the Scholars legal rulings as well as the rulings of his students and that of all the scholars who adhered to their approach

Schools of Islamic Legal thought

Hanafee Madh-hab

A. Overview:

Founder	Imam Aboo Haneefa Original Name: Nu'maan ibn Thabith His father: Persian origin converted to Islam during the period of Righteous caliphs
Place of Birth	Kufah (Iraq)
Period	703- 767CE
Early Studies/Teachers	<p>Ilm al Kalaam: He forsook it after mastering various disciplines</p> <p>Hammad ibn Zayd:</p> <ol style="list-style-type: none"> i. For 19 year he studied under Hammad ibn Zayd ii. Hammad was a serious Hadeeth Scholar iii. His narrations are in Bukhaari (around 230) and Muslim iv. After Hammad's death in Basra, he moved to Kufah v. Some people consider Abu Haneefa to be a minor Tabioon. The point is that he studied mainly under Hammad who was not a tabie rather taboo tabie <p>Abdur rahman ibn Abi Laila:</p> <ol style="list-style-type: none"> i. Tabioon ii. Abdur Rahman's father Abu laila was a major Sahaabah and hadith narrator

	Another teacher was Allowite
Teaching Methodology	<p>Though he was qualified to teach, he started teaching at the age of 40 after Hammad's death</p> <p>Group Discussion: He will make the student to discuss, and they will come to conclusion after consensus</p> <p>Devil's Advocate: After students record the conclusion, he will play devil's advocate</p> <p>Conclusion: Finally he will debrief the two views and reach a conclusion</p> <p>So, Scholars say Abu Haneefa's Madh-hab is the product of his and his students</p>
Political Intervention	<p>Yasid ibn Umar: Ummayyad Caliph wanted him to become a Qadee (judge) of the court But Abu Haneefa refused. For that he was beaten up and imprisoned</p> <p>Abu Jaffar al Mansoor (754 -775 CE): Abbasid caliph also offered the position but Abu Haneefa refused. For that, he was imprisoned and died in the prison</p>

Initially he studied, philosophy and logic so these things being reflected in his Madh-hab
AlHidhaya - Classical book of Hanafee Madh-hab

B. Sources of Law used by Hanafee Madh-hab:

1	Qur'aan	
2	Sunnah	They preferred Hadith Mashoor (well known) Individual ahadith are not considered as legal proof unless until it is along with their Usool
3	Ijmaa'a' of the Sahaabah	Recognized Ijmaa' of Muslims in any age and binding upon Muslims
4	Individual Opinion of the Sahaabah	Abu Haneefa will take the opinion which best suits his Usool and consistency
5	Qiyaas	
6	Istishaan (Preference)	Weaker proofs given preference over stronger proof that is deduced because of the needs Eg.: Specific hadith over general one Suitable law over the one deduced by Qiyaas
7	Urf (Local Custom)	

C. Major Students of Abu Haneefa

1. Zufar ibn al Hudhayl (732 -774 CE)

- a. He never accepted appointments
- b. He died at the age of 42 in Basra

2. Abu Yoosuf Ya'qoob ibn Ibraheem (735 - 795 CE)

- a. Extensively studied Hadeeth
- b. Abu Yoosuf studied under Abudur Rahman Abi Laila (died 765 CE) for 9 years
- c. Then he studied under Imam Abu Haneefa for 9 years
- d. After Abu Haneefa's death, He studied briefly under Imam Maalik
- e. He accepted the appointment and he was Qadhil Qudha of the period of Abbasid Caliphs Mahdi (775- 785 CE), al Hadee (785- 786 CE) and Haroon ar Rasheed(786- 809 CE)
- f. During this period, Abu Yusuf favored scholars from Hanafee School to have positions in the court
- g. This is the reason why Hanafee School wide spread

3. Muhammad ibn al Hasan ash Shaybaanee (749 - 805 CE)

- a. Born in wasit and grew up in Kufah
- b. He studied briefly under Abu Haneefa
- c. After Abu Haneefa's death he studied under Aboo Yoosuf
- d. He studied under Imam Maalik for 3 years and become leading narrators of Muwatta
- e. His student was Imam Shaafi'ee
- f. He accepted appointment briefly during the period of Haroon ar Rashid
- g. Later, he gave it up and returned in his teaching post in Baghdad

D. Followers of the Hanafee Madh-hab

India, Afghanistan, Pakistan, Iraq, Syria, Guyana, Trinidad, Surinam, Some extent of Egypt Turkey (Ottoman Scholars) - In 19th century Ottoman's codified Hanafee Madh-hab as State law, any scholar who aspire to be judge is obliged to learn it

Awzaa'ee Madh-hab

A. Overview:

Founder	Imam Abdur Rahman ibn al Awzaa'ee
Place of Birth	Ba'labek in Syria
Period	708 - 774 CE
Status and his position	Major Scholar of Hadeeth Opposed to Qiyaas and other reasoning when clear text is available Contemporary of Imam Abu Haneefa
Teaching	He spent most of his life in Beirut and died there
Madh-hab's dominance	Syria, Jordan, Lebanon, Palestine, Spain

B. Reason for Madh-hab's disappearance

1. Dominated Syria until 10th century CE
2. Abu Zar'ah Muhammad ibn Uthmaan, Shaafi'ee scholar appointed as judge in Damascus
3. He offered prize money of 100 dinars for memorizing Mukhtasr al Muzanee, book on Shaafi'ee rulings
4. Then Shaafi'ee Madh-hab dominated Awzae
5. His works are found in books of Comparative Fiqh

Maalikee Madh-hab

A. Overview:

Founder	<p>Imam Maalik Full Name: Maalik ibn Anas ibn Aamir His grandfather was Aamir ﷺ , major Sahaabah</p>
Place of Birth	Born in Madeenah
Period	717- 881 CE
Early Studies/Teachers	<p>Imam Zuhri He studied under Imam Zuhri Imam zuhri was a greatest hadith scholar during the period of Umar ibn Abdul Azeez (rah)</p> <p>Imam Nafia Studied under Imam Nafia, great Scholar and he was a freed slave of Abdullaah ibn Umar ﷺ</p> <p>Golden Chain of Hadeeth: Abdullaah ibn Umar ﷺ → Nafia → Imam Maalik</p> <p>Gem: How Islamic slavery is unique and different? So many leading Scholars, caliphs were once slaves.</p> <p>He didn't travel except for Hajj</p>
Teaching Methodology	<p>He served teaching for 40 years in Madeenah</p> <ol style="list-style-type: none"> a. Narrate a Hadeeth and relate each word to contemporary issues b. Encourage student to ask questions and he will answer them with a Hadith/ athar
Political Intervention	<p>Muwatta (The Beaten path) Caliph Abu Jaffar ibn al Mansoor (754 -775 CE) requested Imam to compile Same Caliph who arrested Imam Aboo Haneefa</p> <p>Muwatta as a Constitution</p>



	<p>Imam Maalik was twice given a opportunity to make his Muwatta as a Constitution But he refused This is the blow to Madh-hab fanaticism - It means his works are not divine and shouldn't be made rigid His refusal is the greatest legacy he left behind</p>
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B. Sources of Law used by Maalikee Madh-hab:

1	Qur'aan	
2	Sunnah	If the hadeeth contradicts customary practices of Madeenah, he rejected it
3	Amal (Practices) of Madeenites	People of Madeenah were descendants of Sahaabahs and living sunnah was there It is form of highly authentic Sunnah narrated in deeds rather than in words
4	Ijmaa' of the Sahaabah	Recognized Ijmaa' of Muslims in any age and binding upon Muslims
5	Individual Opinion of the Sahaabah (When Ijmaa'a' not possible)	Individual opinions are given preference over his Opinion Individual opinions were recorded in Muwatta
6	Qiyaas	
7	Custom of Madeenah	Custom that was during the Prophet ﷺ and he was either silent/ recognized it
8	Istislaah (Welfare)	Simply means seeking that which is more suitable It deals with things which are for human welfare but are not specifically considered by Sharee'ah Considering the welfare of Ummah over what law may intend Example Istislaah practiced by 'Alee ﷺ During 'Alee ﷺ where people conspire in murder, even one is the killer, all will be executed. Text says only Killer should be executed Collecting tax in addition to Zakat if interest of the state demands
9	Urf (Local Custom)	

C. Main Students of Imam Maalikee Madh-hab

1. Students who did not started their own Madh-hab:

a. Abu Abdurrahman ibn al Qasim (745 - 813 CE)

- i. Born in Egypt
- ii. Studied under his teacher
- iii. Mentor for 20 years
- iv. He wrote AlMudawwanah -Ruling on Maalikee Madh-hab
- v. It eclipsed even Maalik's Muwatta

b. Abu Abdillaah ibn wahb (742 - 819 CE)

- i. Travelled from Egypt to Madeenah to study under Imam Maalik
- ii. Imam Maalik given him the title of al-Muftee because of his distinction in deductions
- iii. He along with Abu Abdur Rahman went to Egypt
- iv. Ibn Wahb was offered an appointment in Egypt but he refused

2. Students who modified their Madh-hab after the study:

- a. Imam Shaafi'ee
- b. Abu Yoosuf
- c. Muhammad ibn al Hasan ash-Shaybanee

D. Followers of the Maalikee Madh-hab

Upper Egypt, Sudan, North Africa (Tunisia, Algeria, Morocco), West Africa (Mali, Nigeria, chad), Guyana, Gulf States (Kuwait, Qatar, Dubai, Abu Dhabi, Bahrain)

Zaydee Madh-hab

A. Overview

Founder	Imam Zayd Full Name: Zayd ibn Alee Madh-hab attributed to ali ibn Abu talib □through Hussain □and through his son Zayn al Aabideen Father: Zayn al Aabideen known for great knowledge in legal rulings and Hadeeth narration
Place of Birth	Madeenah
Period	700 - 740 CE
Early Studies/Teachers	<ol style="list-style-type: none"> 1. As a youth he studied under Waasil ibn atta, founder of Mu'atazilah 2. He travelled to major centers of learning like Iraq, Kufah, Busrah, wasit except for Hajj 3. Exchanged views with his contemporaries like Abu Haneefa, Sufyan ath thawree
Teaching Methodology	<ol style="list-style-type: none"> 1. Narrating Hadeeth and teaching the art of Qur'aanic recitations 2. Zayd narrated from all his relatives including his brother Muhammad al Baaqir (5th of 12 Imams idolized Shitte's twelever sect

	<ol style="list-style-type: none"> 3. If legal questions were asked, he would solve them or take the opinion of his contemporary like Abdur Rahman ibn Abee Layla 4. His Madh-hab was not dictated by him but recorded by his students
Political Intervention	<p>Hisham ibn Abdul Maalik (reign 724- 743)</p> <ol style="list-style-type: none"> 1. Hisham never missed any opportunity to disgrace Zayd 2. Zayd cannot travel out without state's permission 3. He secretly travelled to Kufah where he was joined by Shites of Iraq, wasit and other place to do battle with Ummayyads 4. In kuffa, when people found him not cursing Abu Bakr and Umar, they left 5. They declared his nephew Ja'far as Saadiq to be Imam 6. Taking advantage of this confusion, Hisham's army wiped out him and his followers

B. Sources of Law used by Zaydee Madh-hab:

1	Qur'aan	
2	Sunnah	
3	Aqwaal ali	<p>Rulings and statements of 'Alee ؑ which were not merely his personal opinions were considered as part of Sunnah</p> <p>Balance: He didn't take ali's opinion blindly ali's opinion was Zakat can be taken from orphans but Zaid differed</p>
4	Ijmaa' of the Sahaabahs	He felt Alee better suited for leadership than Abu Bakr, Umar and Uthman but accepted Ijmaa' of Sahaabahs
6	Qiyaas	Both Istishaan and Istislaah involved in Qiyaas
9	'Aql (Intellect)	<ol style="list-style-type: none"> 1. Human intellect considered as sources of Islamic law where none of the previous sources are applicable 2. As a youth he studied under Waasil ibn atta, founder of Mu'atazilah - this thing influenced him <p>Distinction: Imam Zayd placed 'Aql as last source and recognized Qiyaas which is contrary to Mu'atazilah who placed it immediately after Qur'aan and Sunnah and denied Qiyaas</p>

C. Main Students of Imam Zaydee Madh-hab

1. Abu Khalid, Amr ibn khalid al waasitee (d. 889 CE)

- a. Accompanied Zayd in most of his journeys
 - b. He wrote two books:
 - i. Majmoo al Hadeeth – Comprising Hadeeth from Alawee family. These hadeeth were also found in 6 books
 - ii. Majmool al Fiqh
 - c. These two were together known as Majmoo al kabeer
- 2. Alhaade elaa al Haqq , Yahya Ibn al Hussain (860 – 911 CE)**
- a. He was from hasanee side of descendants
 - b. His grandfather was Qaseem ibn Ibraheem al Hasanee (786 – 857 CE)
 - c. His extensive knowledge impacted Hadee
 - d. He was made Imam of Yemen
 - e. Islamic state was set up in Yemen according to Zaydi Madh-hab and it survived till today
 - f. Haadawiyah is Zaydi Madh-hab expounded by Imam Haade
 - g. Hence Zaydi Madh-hab not only have Imam Zayd’s opinions rather opinions from Alawee family

D. Followers of the Zaydee Madh-hab

Major Madh-hab of Yemen today is Zaydi Madh-hab

The Laythee Madh-hab

A. Overview

Founder: Imam al Layth

Full name: Al Layth ibn Sa’d

Period: 716 -791 CE

Born in Egypt of Persian Parentage

Contemporary of Abu Haneefa and Imam Maalik

B. Reason for the Madh-hab’s disappearance

His Madh-hab disappeared shortly after his death

1. He neither compiled, dictated, nor instructed his followers to record his legal opinions
2. Students under Layth were small in number and none of them become outstanding Jurists
3. Imam Shaafi’ee settled in Egypt immediately after al-Layth’s death and his Madh-hab quickly displaced that of Layth

⇒ Imam Shaafi’ee observed al-Layth was a greater Jurist than Maalik, but his students neglected him

The Thawree Madh-hab

A. Overview

Founder	Imam ath Thawree Full Name: Sufyaan ath Thawree
Place of Birth	Kufah

Period	719- 777 CE
His Position	Main Fiqh Scholar of Hadeeth in Kufah He opposed Abu Haneefa's view of Qiyaas and Istishaan
Political Intervention	<ol style="list-style-type: none"> 1. Series of Confrontation with Abbasid state because of his outspoken nature 2. Caliph Mansoor (reign 759 - 744) sent letter asking him to accept the position of Qadee on condition that he should not make any judgment in opposition to the State's policy 3. Sufyan tore it up and threw it into Tigris river 4. As a result, he was forced to give up his teaching and flee for his life 5. He remained in hiding until he died

B. Reason for the Madh-hab's disappearance

1. Imam's hiding
2. **Will:** He requested in his will that his main student Ammar ibn Sayf to erase all his writing and burn whatever could not be erased

Imam's ideas were recorded by students of other Imams, so they have survived till today but not in an organized form

Shaafi'ee'ee Madh-hab

A. Overview:

Founder	Imam Shaaf'iee Full Name: Muhammad ibn Idrees ash Shaafi'ee
Place of Birth	Ghazza, part of Palastine (Shaam of that era)
Period	769 - 820 CE
Early Studies/Teachers	<p>Imam Maalik: He studied Fiqh and Hadeeth under Imam Maalik he died After his death, Shaafi'ee went to Yemen and was a teacher there for 4 years</p> <p>Muhammad ibn ash Shaybanne: Rumour spread that Imam Shaafi'ee come under Shiite influence So, Caliph Haroon ar Rashid had him arrested and brought him to Iraq After proving his correctness, he remained in Iraq Then he studied under Muhammad ibn ash Shaybanne in Baghdad</p> <p>Students of Imam al Layth: He travelled to Egypt to study under Imam Layth By the time he reached, Imam Layth passed away He studied under his students and remained in Egypt until his death [during the period of Caliph Mamoon (813 - 832 CE)]</p>
Formation of Madh-hab	<p>Madh-habul Qadeem:</p> <ol style="list-style-type: none"> 1. He combined Hijaz Fiqh (Maalikee) and Iraq Fiqh (Hanafee) and

	<p>wrote a book called Al-Hujjah (also called Madh-habul Qadeem-Old Madh-hab)</p> <ol style="list-style-type: none"> 2. He dictated it to his students 3. At that time, he had students like Ahmad ibn Hanbal, Imam ath-thawr (Founder of Thawr Madh-hab) <p>Madh-habul al Jadeed:</p> <ol style="list-style-type: none"> 1. After seeing Imam Layth's positions, he changed his positions and wrote a new book called Al-Umm (The Essence). 2. Here he combined the Fiqh of Hijaz, Iraq, and Egypt 3. Students call it as Al Madh-hab aj jadeed (New Madh-hab) <p>He was the first person to systematize fundamental principles of Fiqh in a book form called ArRisalaah</p> <p>He also contributed many works on Sciences of Hadeeth criticism</p> <p>Imam Nawawi wrote Majmoo, classical text on Shaafi'ee Madh-hab Here he mentions that Imam Shaafi'ee's old opinion was this and later was this one</p>
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B. Sources of Law used by Shaafi'ee Madh-hab:

1	Qur'aan	
2	Sunnah	<ol style="list-style-type: none"> 1. He made one condition that Hadeeth should be authentic (Saheeh) 2. He rejected Abu Haneefa's Hadith Mashoor (well known) 3. He rejected the Imam Maalik's position of Hadeeth should not contradict Amal-e-Madinah
3	Ijmaa'a' of the Sahaabah	<ol style="list-style-type: none"> 1. Had doubts about the possibility of Ijmaa' in number of cases and considered where it known to happened as third source 2. He had doubts about Ijmaa' after Sahaabahs
4	Individual Opinion of the Sahaabah	He will take the opinion which seems to be closest to the source and leave the rest
5	Qiyaas	
6	Istishaab (Linking)	<p>Istishaab literally means Link</p> <p>Technically, it means process of deducing Fiqh law by linking later set of circumstances with the earlier one</p> <p>Eg. alive person's law applied to Missing person until it is clearly known he is died</p> <p>Link: Law remains in force until the conditions are altered</p>

	He considered Abu Haneefa's Istishaan and Maalik's Istislaah to be Bid'ah
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C. Main Students of Imam Shaafi'ee Madh-hab

1. Al Muzanee (791 - 876)

- Ishmaa'eel ibn Yahya al Muzanee was the constant companion of Imam Shaafi'ee's stay in Egypt
- He authored Al Muzanee (explanation of Al-Umm) collecting Shaafi'ee Madh-hab
- Later he condensed it to Mukhtasar al Muzanee

2. Ar-Rabee' al Maraadee (790- 873 CE)

- Main narrator of Al-Umm
- He recorded other books of Imam Shaafi'ee

3. Yoosuf ibn Yahya al Buwaytee

- He became main teacher of Madh-hab after Imam Shaafi'ee
- He was arrested for his opposition to Mu'atazilite and was killed

D. Shaafi'ee Madh-hab followers of today

Egypt, Southern Arabia (Yemen, Hadramout), Sri Lanka, southern India, Indonesia, Malaysia, Philipines, East Africa (Kenya, Tanzania), Surinam in South America

In Surinam, because of rigidity of Madh-hab between Hanafees and Shaafi'ees, One Madh-hab is praying towards West and other towards east. Facing east from South America is the error

Hambalee Madh-hab

A. Overview:

Founder	Imam Ahmad Full Name: Ahmad ibn Hambal ash Shaybanee
Place of Birth	Baghdad
Period	778 - 855 CE
Early Studies/Teachers	He studied Fiqh and Hadeeth under Imam Abu Yoosuf and Imam Shaafi'ee
Teaching Methodology	<ol style="list-style-type: none"> 1. He was primarily a Hadeeth Scholar, So he will teach hadeeth and then teach Fiqh which comes out of it 2. Dictation: He dictates Hadeeth, including opinions of Sahaabahs from his vast collection al-Musnad (over 30,000 Hadeeth) 3. Apply Hadeeth or ruling to various problems 4. Forbade students from recording his opinions 5. As a result, his Madh-hab was not recorded by his students but by their students 6. His hadeeth compilation was based upon who narrated the hadith and not what the Fiqh is

Political Intervention	<ol style="list-style-type: none"> 1. Particularly noted for his stance against Mu'atazalites 2. He was jailed and beaten for two years by order of Caliph Ma'moon (reign 813- 842 CE) 3. H was freed and then again jailed by Caliph Al-wathiq (reign 842- 846 CE) 4. Imam Ahmad was in hiding for 5 years 5. When caliph al Mutawakkil took over, he accepted Imam Ahmad's position and expelled Mu'tazilite scholars 6. He continued to teach until he died
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B. Sources of Law used by Hambalee Madh-hab:

1	Qur'aan	
2	Sunnah	Only Stipulation was Hadeeth Marfoo, i.e., attributed directly to Prophet ﷺ
3	Ijmaa'a' of the Sahaabah	He rejected the idea of Ijmaa'a' after Sahaabah and said "Whoever says there is Ijmaa'a' after Sahaabah are liars"
4	Individual Opinion of the Sahaabah	<ol style="list-style-type: none"> 1. He gave precedence over his own opinion 2. His mode was he will present all the differing opinion of the Sahaabah (This is totally different from the position of other three)
5	Hadeeth Da'eef (Weak Hadeeth)	<p>He given precedence for weak Hadith over his opinion</p> <p>Conditions for his acceptance:</p> <ol style="list-style-type: none"> 1. Weakness is not because narrator is a liar/Fasiq 2. Weakness is not because of break in the chain 3. He accepted When narrator is good but has some memory problems
6	Qiyaas	

C. Main Students of Imam Hambalee Madh-hab

1. Imam Bukhaari
2. Imam Muslim
3. His son Salih (d. 873 CE)
4. His son Abdullaah (d. 903 CE)

D. Hambalee Madh-hab followers of today

Saudi Arabia and Palestine

1. Eventually this Madh-hab died out but when Muhammad ibn Abdul Wahab started his Da'wah, it unofficially become the Fiqh of his movement
2. When Abdul Azeez ibn Sa'oud established Saudi dynasty, he made this Madh-hab as basis for Kingdom's Legal system

In Egypt, People call it as extremist Madh-hab. They believe Hambalee's were strict but the reality is there was lot of flexibility because of presentation of differing opinion of the Sahaabahs

E. Difference between Imam Maalik and Ahmad in terms of both being Hadeeth Scholars:

1. Imam Maalik did not forbade his students from recording his opinions whereas Imam Ahamad forbade
2. Imam Maalik did not travelled for Hadith whereas Imam Ahmad travelled

Dhaahiree Madh-hab

A. Overview:

Founder	Imam Dawood Full Name: Imam Dawood ibn Aleo
Place of Birth	Kufah
Period	815 - 883 CE
Early Studies/Teachers	He studied under the students of Imam Shaafi'ee Imam Ahmad ibn Hambal Dawood later inclined towards hadeeth approach So he studied under Imam Ahmad until he was expelled Imam Ahmad expelled because he based on obvious meanings (Daahir an Nash) said As Qur'aan was Muhdath (newly existent) and therefore created
His approach	Relied on literal meanings (Dhaahir) of Qur'aan and Sunnah Because of this approach, he was called Dawood adh-Dhahiree (the literalist)

B. Sources of Law used by Imam Dawood:

1	Qur'aan	Literal Meanings are valid Only applied in a particular circumstance which they described
2	Sunnah	Literal Meanings are valid Only applied in a particular circumstance which they described
3	Ijmaa' of the Sahaabah	Ijmaa'a' represents narration of Rasoolullaah in a practical form Ijmaa'a' was not considered by him as product of Qiyaas
4	Qiyaas	Denied any form of ruling based on reasoning opinion, included Qiyaas
5	Mafhoom (Understood meaning)	This was virtually indistinguishable from Qiyaas

C. Main Students of Dhaahiree Madh-hab

1. This school virtually died out because people drifted away in 9th century
2. In 11th century Spanish Scholar, ali ibn Ahmad ibn Hazm al-Andaloosee took up his position and revived this Madh-hab

Ibn Hazm's works	Field
Ihkaam al Ahkaam	Usool ul Fiqh
Alfisal	Theology
Muhalla	Fiqh

3. As Ibn Hazm was not a hadeeth Scholar, his Fiqh was sometimes based on weak hadith

D. Disappearance of Madh-hab

1. It remained prevalent in Spain and spread to some areas of North Africa until the fall of Spain in early 1400's.
2. In later years, all Scholars who denied the validity of Qiyaas are labeled as Dhaahirees

Jareeree Madh-hab

Founder	Imam at Tabaree Full Name: Muhmad ibn Jareer ibn Yazeed at Tabaree
Place of Birth	Tabaristan
Period	839 - 923 CE
Early Studies/Teachers	He was a travelling Jurist He studied various Schools that were in existence He majored in all fields of Islaam and proficient in the fields of Hadeeth, Fiqh and History
His approach	For the first 10 years after his return from Egypt, he strictly followed the Shaafi'ee School Then he developed own principles and founded new school His followers are called as Jareerites
His Works	Jaami' al-Bayaan: Outstanding tafseer which later came to be known as Tafsir at-Tabaree Taareekh Ar Rusul wal Mulook: It came to be known as Taareekh at Tabaree He produced Tafsir Scholars and Historians
Disappearance of Madh-hab	Since his Madh-hab differed less in principle than in practice from Shaafi'ee Madh-hab, it fell comparatively quickly in Oblivion

Evolution Perspective:

A. Minor Madh-habs

They were

1. Awzaa'ee
2. Laythee
3. Thawree
4. Dhaahiree
5. Jareeree

These Madh-habs died out because of political matters and students failed to record the rulings

B. Four Madh-habs

They stand out because of State support and body of outstanding first generation Students

Sources of Islamic Law	Hanafee	Maalikee	Shaafi'ee'ee	Hambalee
Qur'aan as a text	No difference	No difference	No difference	No difference
Interpretation: Eg.: Breaking of Wudoo - Mazha	<i>Differed</i> Only Sexual intercourse (Prophet ﷺ kissed his wife before stepping to Masjid)	<i>Differed</i> Deliberate touch seeking pleasure	<i>Differed</i> Just a touch will break the Wudoo	<i>Differed</i>
Sunnah	Hadeeth Mash-hoor	Hadeeth should not contradict Ijmaa'a' of Madeenites	Saheeh Hadeeth	Weak Hadeeth acceptable with conditions Fabricated Hadeeth rejected
Ijmaa'a'	From Sahaabas to later day Scholars	From Sahaabahs to later day Scholars and included Ijmaa'a' of Madeenah	Ijmaa'a' in cases where it occurred and limited to Sahaabahs	Limited to Sahaabahs
Qiyaas	Used	Used	Used	Used
Controversial Sources	1. Istihsaan 2. Ijmaa'a' of Scholars 3. Urf	1. Istislaah 2. Ijmaa'a' of Madeenites 3. Customs of Madeenites 4. Urf	Istishaab	Weak Hadeeth

(to be evolved...)