

# SHARI'AH

**THE WAY TO GOD**

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## THE NEED TO UNDERSTAND

### Aspirations and Antagonisms

There can be little doubt that today, as Islam steadily surges forward, powerful and decisive in directing and shaping the flow of events in the Muslim countries, the world is witnessing a phenomenon of far-reaching importance to its future. In this whole movement of Islamic resurgence, nothing stands out as more symbolic of Muslim aspirations than the commitment to re-establish the Shari'ah, the code of conduct for total life laid down by Islam. Every country of the Muslim world is pulsating with an intense longing to shape life in accordance with its precepts. The Shari'ah, in short, in the eyes of friend and foe alike, has come to epitomise the goal towards which Muslims are restlessly trying to advance in quest of their destiny.

But, paradoxically, it is the Shari'ah which, more than any other element in Islam, seems to arouse the greatest misgivings and most intense feelings of fear, hostility and ridicule both among those who are not within the fold of Islam and those Muslims who are either unaware of or have become intellectually alienated from their own traditions. For many of them, the Shari'ah is something barbaric and cruel, inhuman and uncivilised, which is trying to turn the clock back on progress and modernisation and plunge the world back into the Dark Ages (as if it was 'dark' in the world of Islam at the time it was 'dark' in Europe!): women will be no better than slaves and non-Muslims treated as second-class citizens. Cut off the hand of a thief; stone the adulterer; veil the woman; this, according to its opponents, is the sum substance of that Shari'ah which is so deeply inspiring Muslims everywhere today.

On a more sophisticated, though no less vociferous, level is the chorus of objectors who attempt to question the very basis, nature and role of the Shari'ah. The objective seems to be to cast doubt upon its relevance and applicability to modern life; and thus to lead Muslims either to abandon it or to change it beyond recognition by severing its unique continuity with the past. Man has grown up; why should he look to an extra-human source for guidance on how to conduct his affairs? Why should God condescend to interfere in man's day-to-day life? Why should He be concerned with such mundane and trivial matters? The Shari'ah is all formalism which consigns the sublime man-God relationship to the strait-jacket of law and obedience at the expense of the joys of love and spiritual devotion and religiosity. A law laid down fourteen centuries ago in a nomadic desert setting can hardly meet the complex demands and pressures of modern technological civilisation. The essential message of the Qur'an is moral; its laws could not have been meant to be eternal. The concept of the Prophet as the perfect model and of his Sunnah as the binding source of the Shari'ah are much later inventions of the Muslim mind. These and similar arguments are heard quite often.

### Understanding The Shari'ah

Such prejudices and opinions do not augur well for the future of mankind. They can only exacerbate the deep antagonisms and animosities between the West and Muslims which have persisted throughout history and which, if renewed and aggravated, may ultimately tear apart a

world already dangerously divided. The need to understand the Shari'ah is therefore no less urgent and compelling than the Muslim desire to implement it.

The Shari'ah is not merely a collection of do's and don'ts, nor just a code of criminal laws prescribing punishments for certain crimes. Though it does contain both, its sweep is much broader and deeper, encompassing the totality of man's life. Shari'ah literally means a 'clear path'. It is the path that man, in Islam, must walk as he toils and strives to reach his Creator. It is the yearning deep within to seek the Lord and the Master that the Shari'ah translates into steps, concrete and specific, on the pathways of life. The Shari'ah is the fulfilment of the total man - inner and outer, individual and corporate - as he seeks to live by the will of his one and only God.

## WHAT IS THE SHARI'AH?

### Man-God Relationship

To understand the essence of the Shari'ah, one must understand the relationship between man and God that Islam lays down. There is no god but One God; Muhammad is the Prophet of God: this simple sentence is the bedrock of the Islamic creed.

God is the Creator; to Him alone therefore belongs the kingdom and He is the only Sovereign:

'Surely Your only Lord is God who has created the heaven and the earth....verily to Him belong the creation and the sovereignty .' (al-A'-raf 7:54)

And:

'He has created the heavens and the earth with a purpose. He wraps night about day and He wraps day about night..He has created you from one being... That then is God, your only Lord; His is the kingdom. There is no god but He.' (al-Zumar 39: 5-6)

God is the Creator. To Him alone, therefore, as his only Lord and Master, man must submit his entire being:

'Your God is One God, so only to Him submit.' (al-Hajj 22:34)

That then is God, your only Lord; there is no god but He, the Creator of everything. So Him alone serve.' (al-An'am 6:102)

God is the only true Provider. It is He who has bestowed on man such faculties and capabilities as seeing, hearing, thinking and articulating - attributes which man cannot live without, but which he cannot create for himself. It is He who has made available the resources of the external world which man may discover, exploit and develop but, again, cannot create.

Yet surely man's greatest need is to know how to live his life so as to fulfil successfully the purpose of his creation; how to relate himself to his Creator, to his own self, to his fellow human beings and to everything around him. To Him alone he must therefore turn to seek guidance. For there is no one apart from or beside Him who can truly provide answers to man's eternal questions or is capable of guiding him. All else can only be speculation and conjecture. And why should the One who has provided even for man's most trivial material needs not also have provided for his more important moral and spiritual needs?

The Qur'an says:

‘Say: Is there any of those you associate (with God) who guides to the Truth? Say: only God guides to the Truth. Does then, He who guides to the Truth deserve more to be followed or he who can guide not unless he be guided? What ails you? How judge you? And most of them follow naught but speculation, and speculation can never take the place of truth’ (Yunus 10:35-6)

And further:

‘Or, do they (claim to) have associates who have laid down for them the Way for which God gave not leave.’ (al-Shura 42:21)

It was to provide for this greatest human need that God sent His Prophets from amongst men in all ages and to all nations, bringing them the light of the divine guidance revealed to them. Among them were Adam, Noah, Abraham, Moses and Jesus. And Muhammad was the last of them, in no way different or new. May God bless all of them.

‘He has laid down for you the Way that He entrusted to Noah, and that We have revealed to you, and that We entrusted to Abraham, Moses and Jesus. Establish fully the way and follow not different ways.’ (al-Shura 42: 13)

Man’s relationship to God is expressed by the very word ‘Islam’ submitting to Him by following His will and guidance as brought by His prophets. But this submission must be total and all-embracing. A Muslim submits his entire ‘person’ to his Creator as his only Lord and Master. No part of his life can be exempt from the need of divine guidance or from the writ of divine sovereignty. God and His lordship and sovereignty are indivisible; and so is man’s life in its submission to Him. It would indeed be an imperfect God who could only be experienced or related to in the realm of the spirit or the provision of material needs like one’s daily bread - a God unconcerned, uncaring or incompetent to help man in the more arduous and complex task of living his life.

Him he worships; Him he invokes; Him he depends upon; Him he trusts; Him he seeks; and, equally important, Him he obeys. Man has been given the freedom to reject God; but, once having accepted Him, he must follow His guidance. He is not free to follow one part of it and ignore another, nor to seek guidance from sources other than God. Denial of part is denial of the whole.

‘What, believe you in part of the Book and deny part thereof? And what is the reward of those who do so except ignominy in the present life, and on the Day of Resurrection to be returned unto most grievous punishment.’

(al-Baqarah 2:85)

‘‘What, do they seek another way other than God’s Way; whereas unto Him submits whoso is in the heavens and the earth, willingly or unwillingly.’

(Ale-’Imran 3: 83)

‘And who seeks a way other than Islam, it shall not be accepted from him’ (Ale-’Imran 3: 85)

In its fullest sense, the Shari’ah is therefore virtually synonymous, and can be used interchangeably, with the word Din, which can only inadequately be translated as ‘religion’. Din literally means ‘way of life’, ‘submission’, ‘following’ or the ‘Way’. Though the word Shari’ah in its various derivative forms is found in five places in the Qur’an<sup>1</sup>, its extensive use only came

into vogue much later; for the words Islam and Din were more commonly employed to express the same meaning in the early days of Islam.

The Shari'ah includes both faith and practice. It embraces worship, individual attitude and conduct as well as social norms and laws, whether political, economic, familial, criminal or civil.

It may also sometimes be used to imply, in a more restricted sense, do's and don'ts - the rules and regulations for conduct and behaviour. Lastly, it is also used as the equivalent of the Islamic laws.

The Shari'ah is thus nothing less than the divinely ordained way of life for man. To realise the divine will, man must follow the Shari'ah. To live in Islam is to live according to the Shari'ah. To give up the Shari'ah or any part of it knowingly, wilfully or deliberately is to give up Islam. A Muslim must therefore do his utmost to observe and to implement the whole of it, wherever and in whatever situation he finds himself. Hence the Muslim insistence, persistence, commitment and passion for it.

### Human Freedom and Dignity

The act of total submission to God in accordance with the Shari'ah given by Him in no way diminishes human dignity, freedom and responsibility. The act of submission is the highest act of human volition and freedom, for it implies freedom to disobey God. Indeed, in submitting to God, all the chains and shackles of every form of serfdom, servility and bondage are broken, whether they be to other men, to ideas, to nature, to man-made objects or to institutions. For before the affirmation of One God must come the forsaking of every false god.

More importantly, total submission to God elevates man to the state of Khilafa, (vice-regency), whereby he is accorded the highest place on earth by being endowed with reason, articulation, volition, freedom and responsibility. The responsibility to follow the Shari'ah according to the Qur'an (al-Ahzab 33: 72), is the fulfilment of amanah, the trust which even the heavens, the earth and the mountains dare not bear.

### The Sources

How do we know the Shari'ah, the will of God? There are four sources:  
(1) the Qur'an, (2) the Sunnah of the Prophet Muhammad (may Allah bless him), (3) Ijma, and (4) Ijtihad.

#### (1) The Qur'an

The principal source of the Shari'ah could only be the word of God revealed to the Prophet Muhammad. These revelations are compiled in the Qur'an which - and nobody disputes this - has come down to us word for word as it was conveyed by the Prophet.

Both the meaning and words of the Qur'an are God's, as it clearly states in different ways in various places. It extensively uses the word 'sending down' in preference to any other word to describe the process of revelation. The very first revelation was: 'Read'. The Prophet always clearly indicated when he was using his own words and when he was using words he had received.

The Qur'an's main emphasis is unquestionably on faith and the moral conduct of men and nations; but it does lay down, both explicitly and implicitly, though with brevity, the principles, broad outlines and necessary rules and regulations which are essential for the formation of the community of Islam. For one cannot be realised without the other; the trust of the Shari'ah cannot be fulfilled without the presence of moral fibre of the highest quality.

The argument that, because the prime concern of the Qur'an is moral, its legislative element cannot be meant to be literally eternal, can only hold good if the Qur'an itself says so. But it does not. Nor does it in any way even suggest a different status for one part as against the other. There is absolutely no Qur'anic argument or injunction that 'to pray' is an eternal imperative, while 'to cut off the hand of a thief' or the permission for polygamy are valid only at certain times and under certain circumstances. One can only say, in the language of the Qur'an: 'Have you a Book wherein you have read (this)' (al-Qalam 68: 37). If so, then: 'Bring me any Book (revealed) before this, or evidence from knowledge' (al-Ahqaf 46: 4)

## (2) The Sunnah

The Prophet himself was not a mere postman who delivered the Book of God and then disappeared. Acting under divine guidance, he not only delivered the message, but launched a movement. He changed men and society; founded a community; established a state; and spent every moment of his prophethood in guiding, directing and leading his followers. His life example of living by God's guidance, consisting of whatever he did or said or approved, is the Sunnah, the second basic source of the Shari'ah. The authority of the Sunnah is firmly rooted in the Qur'an and in the historically continuous consensus of the Muslim Ummah.

The explicit statements in the Qur'an in this respect are many. Every Prophet was sent to be obeyed (al-Nisa' 4: 64). The Prophet Muhammad is the last and perfect model (al-Ahzab 33: 21,40). To obey him is to obey God (al-Nisa' 4: 80). God and the Prophet are frequently coupled together, especially where obedience is enjoined, but the imperative 'obey' is also used separately for God and for His Prophet (al-Nisa' 4: 59). To follow and obey the Prophet is the only way one can love his God and be loved by Him and have one's sins forgiven (Ale-'Imran 3: 31-32). All matters which cause differences or disputes are to be referred to God and His Prophet as the final authority (al-Nisa' 4: 59). No one can be truly a believer unless he accepts the Prophet as the final arbiter in all affairs and submits to his decisions, willingly and free from all misgivings (al-Nisa' 4: 65). The Prophet has the authority to permit and prohibit (al-A'raf 7:157). And, finally, whatever the Prophet gives, must be taken; whatever he forbids, must be eschewed (al-Hashr 59: 7).

The historically continuous consensus and practice of the Ummah dates back to the moment when Abu Bakr, the first Caliph, assumed office and, in his inaugural address, explicitly accepted 'God and (the example of) His Prophet as deserving obedience and binding upon him'. There is also ample evidence that the first community of Islam invariably looked to the Sunnah for guidance in every sphere of life. Indeed, ever since that time the entire Ummah has almost always been agreed on the Sunnah as the second source of the Shari'ah: the very few isolated voices that have been raised in disagreement from time to time have never enjoyed support.

The Sunnah is mostly recorded in books of ahadith (sayings or Traditions). Initially, mainly because people were concerned that the reports of what the Prophet said or did or approved would get confused with the actual text of the Qur'an, they were not recorded on a large scale; many compilations were, however, written down privately by individuals, of which authentic evidence exists. As those who had known the Prophet began to die, the need to compile his life example became pressing, and tremendous efforts were made to do so. By the middle of the third century the first comprehensive source books, those now in use, were completed by Bukhari (d. 256/870) and Muslim (d. 261/875). More followed and are still extant. Bukhari lists 2,762 Traditions and Muslim 4,000 Traditions, without taking into account repetitions.

That some reports were forged by various political and theological factions was inevitable: the authority of the Sunnah was so widely accepted that to fabricate their own Traditions was the only course open to the unscrupulous to project their own opinions. But, first, fabrication itself constitutes strong evidence that the Sunnah was accepted as binding from the very earliest times; why otherwise bother to fabricate it? Second, the existence of historical records of forgery also proves that the problem was recognised and tackled as soon as it arose. Finally, and most importantly, to argue, as some have argued, that all the scholars of the Ummah for the first two hundred years of Islam were engaged in a carefully co-ordinated plot to do nothing but fabricate ahadith and put into the mouth of the Prophet their own opinions, is untenable. Such fabrication would have required a stupendous, superbly organised effort of a scope beyond even perhaps the most sophisticated means of communication available today. It is, too, difficult to believe that a single individual like Shafi'i, two centuries after the Prophet, when Muslims had spread far and wide, could force all the scholars and the entire Ummah against their will to accept the Sunnah as the source of the Shari'ah.

### (3) Ijma' (Consensus)

The consensus of the Ummah in understanding, interpreting and applying the teachings of the Qur'an and the Sunnah forms the third basic source of the Shari'ah. This can be the only natural, feasible and wise course to determine the Shari'ah.

Any consensus which has a historical continuity from the days of the four Caliphs and the Companions of the Prophet is accepted to be binding. Any other consensus serves as a strong precedent but one which is nonetheless replaceable by another consensus.

Ijma' (within the limits set by the Qur'an and the Sunnah) provides a mechanism for the Ummah to undertake legislation collectively on issues and problems it may face in an ever-changing world, and even venture fresh thinking on past interpretations.

The Shi'as would prefer to look to Imams and mujtahids to meet this need. But the acceptance of any particular Imam or mujtahid will finally also depend on the acceptance and consensus of the followers. There are no divine signs to support any particular person; and the differences have been many among the Shi'as as to who really was the Imam.

### (4) Ijtihad

The exercise of reason and judgement to determine the Shari'ah is called Ijtihad. It subsumes various categories of endeavour such as opinion (ra'y), analogy (qiyas) equity

(istihsan), public good (istislah) and so on. Ijtihad is a precursor to ijma' and has to be exercised within the framework provided by the Qur'an and the Sunnah. It is a key element in ensuring the dynamism of the Shari'ah, but it is often misunderstood, misrepresented and even misused. We shall have more to say about it later.

## INNER AND MORAL DIMENSIONS

### Shari'ah - The Law

One image of the Shari'ah which has been assiduously cultivated, is that of a collection of laws enforceable only through political authority. This is not the case; all its laws are religious, but religion is not all law. Laws are therefore an important and integral part of the Shari'ah and, as we have already noted, it admits of no distinction between its parts: 'to pray' is as valid, enforceable, obligatory and sacred as 'to consult in collective affairs' or to 'prohibit interest' or 'to stone an adulterer'. Yet the Shari'ah overwhelmingly consists of morals, norms, manners and rules, from worship to statecraft, which depend for compliance entirely upon man's conscience. 'Law' in modern usage is only that regulation which is enforced by political authority, whereas Muslim scholars use this word to cover every act of human behaviour, even acts of the human heart; for the Shari'ah deals extensively with the intention, just as it does with the duties of prayer, fasting and alms-giving as well as with civil and criminal law.

### Motivation and Sanction

The entire sanction behind the Shari'ah is man's inner relationship with his Lord, his love and fear of Him, and his sense of responsibility and accountability to Him, here and after death. Much has been made of the punishments prescribed by the Shari'ah, but it is far less widely appreciated that the Qur'an and the Prophet have in fact laid down very few such punishments - and, where they have, they concern serious crimes against a fellow human being's life, property or honour. Because of this, perhaps, the Shari'ah has been able to command a powerful and unparalleled following and obedience from Muslims down the ages, and, despite being often deprived of legal and political sanctions, has been accorded a remarkable adherence from one end of the world to the other.

Inner motivation is the main reason why the institutions created by the Shari'ah - like family life, abstinence from alcohol, and chastity - have tenaciously survived for fourteen centuries. The punishment for drinking is rarely enforced, yet the Muslim world has no problem of alcoholism. Stoning for adultery is also rare - except in one or two areas - yet the amount of extra-marital sex is negligible. Divorce is easy to pronounce, but the divorce rate is extremely low.

### Love and Law

The Shar'ah experiences no tension between 'love' and 'law' or between 'faith' and 'deeds'. Both are integrated into a harmonious whole.

Guiding man to Din, the Way, through the Shari'ah is an act of God's greatest mercy, kindness and love. Wherever the 'sending down of the Book' is mentioned in the Qur'an, the attributes of mercy, wisdom and omnipotence are also mentioned. 'A sending down from the

Most Merciful, the Mercy-giving (Fussilat 41:2) ‘We sent it down in the blessed night... a mercy from your Lord.’ (al-Dukhan 44: 3-4).

And following God’s guidance is what man’s love for his Lord and Creator must lead to. ‘Those who believe love God most’ (al-Baqarah 2:165). But: ‘Say: If you love God, follow me [the Prophet]’ (Ale-’Imran 3: 31) And only when one follows the Prophet out of love for God, his love is reciprocated by Him: ‘God will love you and will forgive your sins’ (Ale-’Imran 3:31)

The very distinction between love and law is alien to the temper of Islam and incomprehensible in its vision. Love is all-embracing; how can it even conceive of displeasing the Beloved and ignoring the guidance given by Him? How can One who loves His creatures leave them wandering and groping in darkness to find answers to the complex problems of life?

### Moral Ideals and Rules of Conduct

In Islam, faith is not an abstract theological dogma, nor an intellectual creed, nor a philosophical proposition. It must spring forth into action in day-to-day life, extending from inner to outer, from individual to social, from moral to legal. It is the Shari’ah which translates faith and moral ideals into clear, definable, viable and concrete goals, forms and codes and brings them within the grasp of every ordinary man and woman; this is why it is one of the greatest blessings of God and one of the greatest vehicles for human progress.

For men have groped endlessly to translate faith and moral ideals into viable actions and deeds. Some have been tempted to separate the two, others have been led into a never-ending philosophical quest. They have not been able even to define what is ethical, moral or good. But can ordinary men and women wait for such definitions and answers? If man has to live a morally good life, if he has been created with a purpose, if he has to meet his Maker -- the moment he opens his eyes and becomes aware and conscious, he must know what to do and what not to do. And he must act in the certain knowledge that what he is following is universally and absolutely true and will please his Creator. Who else, then, other than his Creator should he look to for those answers? Herein lies the beauty of the Shari’ah. Every man knows what his outward conduct ought to be to conform with his faith, his moral ideals. He has an answer to the eternal question: what is ‘good’? It matters not whether he is illiterate or a scholar, he can confidently act.

Not that all ethical and moral problems have been solved and buried for ever. So long as man is alive, he will continue to face difficult choices and dilemmas, old and new. This is a natural corollary of a worldview where man has to battle incessantly for ‘good’ against evil. But, in the Shari’ah, he has the means to find the best way to ease and facilitate his task.

### Inner Dimensions

To think that Islam emphasises submission to God merely in the outward conduct of man’s life would be a gross misunderstanding. As the name used for the totality of the man-God relationship, Islam grips man’s inner self in equal, or even more emphatic, terms. Significantly, the Qur’an prefers to address Muslims more as ‘those who believe’, and treats Iman, faith, and ‘amal salih, good conduct, as an integrated whole.

Indeed, the Qur'an and the Prophet, at almost every step, stress the importance of the inner relationship to God as compared to mere outward conformity. The true heart of the Shari'ah is not at all formalistic. For example: although prayers cannot be performed without turning to Makkah, the Qur'an says, 'it is no virtue merely to turn your face to the East or the West' (al-Baqarah 2:187); charity is ardently desired, but an act of charity done for the benefit of the doer will bring no reward (al-Baqarah 2:264); it is not the 'flesh and blood' of a sacrificial animal that God desires, but 'the taqwa (God-consciousness) inside you' (al-Hajj 22:37), says another verse of the Qur'an; and, declared the Prophet, 'there are many who fast during the day and pray all night but gain nothing except hunger and a sleepless night' (Darimi); and, finally, only those who return to God with a pure and wholesome heart, Qalb Salim, will deserve to be saved (al-Shu'ura' 25: 89).

### Shari'ah and Tariqah

Some in Islam, naturally enough, have concentrated more on developing ways and means of purifying the inner self and of strengthening the relationship between man and God. Leading exponents of this approach - known as Tariqah - have been the Sufis. Much has been said about the conflict between the Shari'ah and the Tariqah. But what we have said above gives the lie to the often propagated idea of any inherent or continuing dichotomy and tension between the two terms - both of which, interestingly enough, are of latter-day origin. (Early Islam used only Islam or Din which encompassed every aspect of man's self). Special circumstances may have led this or that person to lay more emphasis on a certain aspect: a few may have even been sufficiently misled to try to generate tension and conflict between the two or extol one at the expense of the other. But there were never two different paths or two different expressions of man's relationship to God. Interestingly, both Shari'ah and Tariqah have exactly the same meaning - the way. According to Ibn Tamiya, a person observing only the law, without its inner truth, cannot be called truly a believer; and, similarly, a person claiming to possess 'truth' which is at odds with the Shari'ah cannot even be a Muslim.

Even, historically speaking, in early Islam, the two streams, of Sufis and the jurists never flowed separately. Hasan Basri, the doyen of Sufis, is a major pillar of fiqh and tafsir (jurisprudence and exegesis); whereas Ja'fer Sadiq, Abu Hanifa, Malik, Shafi'i and Ahmad - the founders of the main schools of Muslim jurisprudence - find pride of place in Fariduddin 'Attar's classical Tadhkira-al-Awliya - (The Book of Saints).

In the Qur'an and the ahadith both inward and outward are inseparably intertwined. For example, when the Qur'an says, 'who in their prayers are humble' (al-Muminin 23:1), then prayer is what one is likely to categorise as the Shari'ah, humility as the Tariqah. Or, when it says, 'those who believe, love God most' (al-Baqarah 2:165), love is likely to be taken to belong to Tariqah; but, at the same time, the Qur'an emphasises: 'Say: If you love God, follow me'. Thus prayer and humility, love and obedience are inseparable, two sides of the same coin.

## THE UNCHANGING IN A CHANGING WORLD

### The Eternal and Unchanging

The Shari'ah is for all times to come, equally valid under all circumstances. The Muslim insistence on the immutability of the Shari'ah is highly puzzling to many people, but any other view would be inconsistent with its basic concept. If it is divinely ordained, it can be changed by a human being only if authorised by God or His Prophet. Those who advise bringing it into line with current thinking recognise this difficulty. Hence they recommend to Muslims that the 'legal' provisions in the Qur'an and the concept of the Prophet as law-giver and ruler should be 'downgraded'.

But, as the manifestation of God's infinite mercy, knowledge and wisdom, the Shari'ah cannot be amended to conform to changing human values and standards: rather, it is the absolute norm to which all human values and conduct-must conform; it is the frame to which they must be referred; it is the scale on which they must be weighed.

### Categorisation of Precepts

As we have already seen, the claim that the Shari'ah is eternal and all-embracing does not in any way imply that every issue for all times to come has been decided. The mechanism through which the Shari'ah solves a problem posed by an unspecified, new or changing situation can be best understood in the framework of the categorisation of its norms and rules and the role it gives to human reason in the form of Ijtihad.

The code of behaviour and conduct laid down by the Shari'ah divides human acts of heart and body into the following five categories:

- 1 expressly prohibited (haram);
- 2 expressly enjoined (wajib or fard);
- 3 disliked but not prohibited (makruh), hence permissible under certain circumstances;
- 4 recommended but not enjoined (mandub), hence no obligation to comply;
- 5 simply without any injunction or opinion, and hence permitted through silence (mubah).

It is not commonly realised what a great blessing has been imparted to the Shari'ah by this categorisation: it enables the Shari'ah to accord a vast expanse and degree of latitude to individual choice, freedom and initiative under varying human circumstances. Things which are prohibited or enjoined are few and a major part of man's day-to-day life falls in the mubah category. Still more important and revolutionary is the principle that, in matters of worship, in a narrow sense, only what has been expressly enjoined or recommended, and nothing else, is obligatory or desirable; while, in matters of day-to-day life, whatever is not prohibited is permissible. This closes the door for any religious vested interests to impose upon God's servants additional burdens and duties in the name of God as has so often been done in history; but at the same time it keeps wide open the options for resolving new problems.

For example, even to make a sixth prayer obligatory every day is not permissible. Nor can extra moneys be extracted or levied in the name of God or spent for personal ends, as both the amount and heads of expenditure have been specified. But in the matter of food, everything may be eaten, with the exception of a few things which have been prohibited. Indeed no human being has the authority to prohibit what God and His Prophet have not forbidden; to forbid anything permitted by God (halal) is as much of a sin as to do what is prohibited (haram). A

Muslim has the right, whenever it is claimed that something is obligatory or prohibited, to demand the basis for this assertion in the Qur'an or the Sunnah. On another level, while the Qur'an simply lays down the principle that 'all affairs of Muslims must be settled by consultation', how that consultation and the ensuing consensus is to be achieved has been left to be decided by Muslims in each age according to their own circumstances.

### Human Reasons and Legislation

Total submission to God does not imply any lesser role for human reason. On the contrary, human reason has a very important and fundamental role to play in the Shari'ah (except that it will be unreasonable for it to overrule its own God). No doubt the Shari'ah is not rational in the sense that its authority does not rest in human reason; but it is rational in the sense that it cannot be meaningfully opposed to reason.

This role consists of:

- understanding and interpreting the divine guidance in new or changed situations;
- applying the divine guidance to actual situations in human life;
- framing rules, regulations and byelaws for the implementation of the basic principles and injunctions;
- legislating in those vast areas where nothing has been laid down in the original sources.

The conduct of the Companions of the Prophet and those who came after them, and the differences in opinions which emerged in the time of the Prophet himself, in the period immediately after him and among successive generations of Muslims, in all spheres of the Shari'ah, bear ample testimony to the role of human reason in the Shari'ah.

### Permanence and Change

The role of human reason in the Shari'ah, exercised through understanding and interpretation, ijihad and consensus, provides it with a built-in mechanism to meet the demands of any changed human situation. The complexities of life and the novelty of the situations which the Muslims faced within fifty years of the Prophet's death bore no comparison to the simple life in Madina. Yet the Shari'ah successfully coped with all the situations, not only in that period, but for more than a thousand years afterwards - indeed, till the Muslims fell under the political subjugation of the Western powers. This in itself is living testimony to its inner vitality and inherent capability to face any challenge.

What is important to understand is that none of what is stable and permanent in the Shari'ah is of a nature as to need change. Where changes are necessary due to newly-emerging situations, the Shari'ah has laid down broad principles only and left its adherents to work out the details. Where it has chosen to be specific there is in reality no need for change.

Again, it is only the changed human situations which the Shari'ah caters for, and not for changes in primary and essential values and standards: the divinely-given values and standards are final.

### Historical Development

The issues involved in re-establishing the Shar'ah in modern times can be better understood against the background of the history of its development.

The Shari'ah, as the code of life derived from the Qur'an and the Sunnah, in its present form, has developed over a long period of time. During the Prophet's life, he was available as the supreme source of guidance and all situations and issues could be referred to him. He either received a direct revelation or laid down the code by his own prophetic knowledge, wisdom and authority. And, if a situation arose when he could not be approached, the Companions exercised their own judgements to find a solution in the light of the Qur'an and whatever they had learnt from the Prophet. That he approved of this procedure is borne out by many instances.

For about 100 years after his death, as the Muslim society expanded and new situations arose, the Companions of the Prophet and the scholars trained by them used the same procedure of understanding, interpreting and applying the Qur'an and the Sunnah, using their own reason and judgement. On the one hand, the Khalifate Rashida (Rightly-Guided Caliphate) provided a central legislative and political machinery for this purpose. And, on the other, Muslims approached any Companion or trusted scholar of the Qur'an and the Sunnah who was near at hand to find out answers to the problems faced by them. They did not consider themselves bound to follow any one particular person and every Companion and scholar answered their questions to the best of his knowledge and wisdom without recourse to any organised body of jurisprudence.

After the period of the Khilafate Rashida, Islamic political authority separated from the legal authority and could not play such an effective role; during the next 150 years, however, many Muslim scholars arose to answer the growing needs of Muslims. They gave definite shape to the principles and concepts which were already being used in determining the Shari'ah, and also dealt with the ever more complex situations being faced by the Muslim society. It was during this period that great jurists like Ja'fer Sadiq (d. 148/765), Abu Hanifa (d. 150/767), Malik (d. 179/795), Shafi'i (d. 204/819), and Ahmad Ibn Hanbal (d. 273/886) appeared. Each developed a circle of followers, although there were still no organised schools of law and jurisprudence - ordinary Muslims referring their problems to any scholar they could find. This is how a particular scholar came to be followed more in a particular region. By 350 AH the principles laid down by these great scholars had developed into well-defined schools of thought and had begun to command the exclusive allegiance of scholars. Over the next 300 years ordinary Muslims also came to adhere to a particular school and owe exclusive allegiance to it. This happened, as explained, because they followed the school of law to which the scholar or religious leader they found near and trusted belonged, or in some cases, to which the rulers and judges belonged. Inter-school debates and arguments also developed leading to, as often happens in such situations, a hardening of positions.

The fall of Baghdad, in the middle of the 7th century AH, was a watershed. The instinct for preservation became the foremost consideration in an age of intellectual disintegration and political instability. Although there was merit in this caution - the consensus that had been achieved after such tremendous effort by giants could not be allowed to be undone by pygmies

- the unwillingness to think dynamically contributed to the decay and intellectual ossification of the Ummah.

The situation became worse after Muslims fell under the political subjugation of the European powers; they, however, continued to live by the Shari'ah as best they could. But they were no longer masters of their own affairs as an alien culture did its best to sever their links with their culture and traditions.

### Ijtihad

Much ado has been made about the closure of the gate of Ijtihad, the subsequent rigidity that set in and the need for making it wide open today. We have already noted briefly how this happened. Ijtihad worked as a dynamic institution in the first five centuries of Islam. The giant intellectual upsurge generated by the study of the Shari'ah has few parallels. Later, due to circumstances like the Mongol invasion and Western domination, the Muslims had to fall back upon formal law to preserve the identity of the Ummah. But even when the door was presumably closed, whenever new situations arose, efforts were made to find solutions. Of course, those solutions did not involve repudiation of the Qur'an, the Sunnah and Ijma' - which is perhaps what irks so many.

Ijtihad can be done only by those who have the ability and competence, knowledge and understanding, and, above all, the character and piety to undertake the crucial and sacred task of determining the Shari'ah. Whatever may be said about the strictness and rigidity or otherwise of the qualifications imposed by the orthodox, the only criterion that will prevail in the final analysis is that any new Ijtihad must find acceptance by the Muslim masses, for Islam has not left its revelations in the care of a 'Church'.

One thing is certain: Muslims will never accept the Ijtihad of a Harun al-Rashid or a Kemal Ataturk or a Nasser or a Sukarno. An Abu Hanifa, who died in prison and was lashed for his views, or an Ahmad ibn Hanbal, who was persecuted and whipped for his opinions, are more likely to find acceptance by the sheer depth of their faith, steadfastness, fidelity, piety and knowledge. The ethics of the modernists are all too often based on expediency rather than on exemplary practice of faith; no wonder they can make no headway.

What is required today is a generation of Muslim scholars who know the Qur'an and the Sunnah, who fully understand the value of their heritage of fourteen hundred years, who are highly knowledgeable about Western thought and the strengths and weaknesses of modern times, who have the intellectual vigour and originality of thought to tackle problems afresh, and who, above all, possess the moral and spiritual qualities which bear testimony to their submission and fidelity to God and His Prophet. And such scholars must be supported by political rulers who will look to Ijtihad not as an escape route but as the true way to live by the Shari'ah.

Unfortunately, since they regained their political independence after the Second World War, many Muslim societies have been in a state of flux. The people who have inherited the political authority from the foreign rulers, by their training and education, are incapable of leading the Muslim masses on the road of the Shari'ah. Conversely, the masses themselves remain

committed to following this path, even though they are spiritually and morally weak. The result has been serious inner conflict and tension.

The non-Muslim minorities within Muslim countries and the Western countries, as well as international observers, will do well not to hinder the sometimes painful process of regaining self-identity, but rather seek to understand it, if they can.

#### Sects and Schools of Law

Will not various schools of law and sects present formidable problems in the implementation of the Shari'ah? Yes, to some extent. As we know, countless scholars and hundreds of schools of thought blossomed during the first four centuries of Islam, its intellectual Golden Age, but only four have survived among Sunnis and most Shi'as follow Ja'fer Sadiq. The Hanafi school is predominant in Bangladesh, Pakistan, India, Afghanistan, West Asia and lower Egypt; the Maliki in North and West Africa; the Shafi'i in Indonesia and Malaysia; the Hanbali in Arabia; and the Ja'feri in Iran and parts of Iraq. Although there have been periods of dogmatism, sectarian violence and rigid attitudes (none, however, comparable in intensity to the religious wars of Europe), the differences between the various schools pale into insignificance when compared with their similarities. Indeed, in essentials they hardly have any differences. Divergences occur in the way that two courts, attempting to interpret the same law, may arrive at different conclusions. The differences may present problems, but they are not insurmountable. Although it may be difficult to return to the traditions of the earliest times of Islam, a solution is possible by allowing Muslims in each region to implement the Shari'ah through a consensus of persons commanding the trust of the majority; while in personal law each sect should be free to follow its own legal system.

#### Muslim Minorities

Large Muslim communities now live in non-Muslim countries. Many have even made the West their home. How can they live by the Shar'ah? Obviously they have every intention of continuing to live where they are now and of making their own distinctive contribution to the societies around them. This contribution will be based on the rich culture of Islam, at the heart of which is the Shari'ah. That a vast majority of them, under very difficult circumstances, still try to observe the Shari'ah as best they can is a further testimony to its powerful roots.

Unfortunately, Muslims living in non-Muslim countries, especially in the West, face very many difficulties and extreme hardships in their attempts to observe the Shari'ah. The difficulties extend to very small and simple day-to-day matters such as their worship rites and what they may eat, drink and wear. Few real opportunities are available, for example, to offer Friday prayers or to have appropriate diets in such institutions as schools, hospitals and prisons. Indeed, in many cases the majority communities and their governments simply fail to acknowledge the existence of Muslims in their midst.

Efforts to assimilate Muslims into the majority culture at the expense of their observance of Islam will be of no benefit to the culture itself. Muslims who contravene the Shari'ah live with a permanent sense of inner guilt deriving from the awareness that they have betrayed their own consciences. Such people are of little worth to any society.

#### CONCLUSION

Whatever reservations an outsider may have about specific provisions of the Shari'ah, it should nevertheless be possible for him to appreciate the deep foundations, the solid framework and the breathtaking beauty of an institution which gave rise to one of the finest of human civilisations and which to this day continues to sustain and inspire every fifth human being who walks on this globe. For the Shari'ah literally means the path to water - the source of life.