

## The comprehensive analysis of Fiqh books of Islamic sect -Shia

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### Abstract

This research is about to introduce the Jurists/Fiqh books of Shia sect. This study undertakes an examination of two seminal jurisprudential works within the Shia tradition. The analysis will focus on the thematic structure and organization of the discussions contained in these texts. In this regard, particular attention will be given to *Tawḍīḥ al-Masā'il* and the seventeen volumes of *Wasā'il al-Shia*, with a view to assessing the manner in which their legal discourses have been compiled and presented. The Shia school of thought constitutes a significant segment of the Muslim population in Pakistan as well as in other Muslim countries of the Asian continent. Within this school, multiple perspectives exist; however, the majority adhere to the Twelver (Ithna Ashari) tradition, which is spread across various cities of different provinces in Pakistan. The Shia community in Pakistan can broadly be divided into two groups: the first comprises those who migrated from India to Pakistan at the time of Partition and settled in different regions of the country, while the second consists of those who had been residing in these areas even before Partition. The contribution of this community to the creation of Pakistan was remarkable, leaving an indelible mark on history. From the country's inception to the present day, the Shia population has stood alongside fellow citizens, striving for the stability and progress of Pakistan. The roots of Shia Islam in the Indian subcontinent can be traced back to very early periods. According to Ibn Khaldūn, during the reign of the Abbasid Caliph al-Mansur, the governor of Sindh was Umar ibn Ḥafṣ ibn Uthman ibn Qabīṣah ibn Abī Ṣufrah, who was inclined towards Shia thought. Moreover, the presence of ancient shrines of spiritual figures in Sindh and Karachi further indicates that the arrival of Shia traditions in this region is of considerable antiquity. The formative period of Shi'a Islam's introduction and dissemination in the subcontinent corresponds to the era of

Caliph al-Mansūr and the subsequent Abbasid period, which played a pivotal role in the propagation and consolidation of this school of thought. In the above context, this research will show the contribution of this school of thought regarding Islamic jurisprudence and way of approach in solving daily Muslims' issues.

**Keywords:** Shia Fiqh, Tawzeehul Masayl, Marjaa, Wasaiul-Ul-Shia, Ahkaam Muta

### 1- **Tawzee-Hul-Masayl / توضيح المسائل**

This work is a collection of selected fatwas of Grand Ayatollah Sayyid Ali Husayni al-Sistani (birth :4 August 1930). Recognized as the leading marja' (religious authority) for Twelver Usuli Shia Muslims, Sistani has addressed issues of creed, worship, and transactions in his writings. Born in Mashhad in Sayyed family, he studied in Qom under Ayatollah Husayn Borujerdi and later in Najaf-Iraq under Abu al-Qasim al-Khoei. He attained the rank of mujtahid in 1960 and succeeded Abd al-A'la al-Sabzawari as a Grand Ayatollah. From 2004 to 2024, he has been consistently listed among the most influential Muslim figures in *The Muslim 500*, while *Time* magazine named him among the world's 100 most influential people in 2004 and 2005.(1)

### **Topics Discussed In the Book:**

All the discussions in this book are of a jurisprudential nature, presented in accordance with the Shia methodological framework. At the outset, the rulings on *taqlid* (emulation) are outlined. It is emphasized that the principles of faith (*usul al-din*) must be known through personal conviction, as no form of *taqlid* is permissible in matters of creed. One cannot accept these principles merely on another's authority. However, a person who believes in the fundamental doctrines of Islam and acts upon them is still considered a Muslim and a believer, even if he does not articulate them with intellectual reasoning.(2)

The book further clarifies the meaning of *taqlid* in jurisprudential matters, specifying the qualifications of a mujtahid whose fatwas may be followed: he must be a living, mature, sane, Twelver Shia male, of legitimate birth, and just (*'adil*). Justice requires that he fulfills all obligatory duties and abstains from prohibited acts. Three criteria are mentioned for recognizing the most learned (*a'lam*). Detailed discussions are provided on *taqlid* and *ijtihad*, including how to act when a mujtahid's fatwa changes, when a more learned jurist issues a differing opinion, or when a mujtahid advises precaution (*ihtiyat*). In such cases, precaution may be set aside, for example, if a jurist states that a vessel is purified by washing once but recommends three washings as a precaution. (3)

The rulings concerning following a deceased mujtahid and transitioning to a living one are also presented, along with the obligation of learning those rulings that a person encounters in daily life. Similarly, the book discusses the rulings on acting upon the fatwas of a more learned versus a less learned jurist, the necessity of knowing when a ruling changes, and the validity of past actions performed without *taqlid*. If, upon later *taqlid*, the mujtahid rules those actions valid, they are deemed valid; otherwise, they are considered void. (4)

### **Rulings of Purification (Ahkām al-Ṭahārah):**

Under this heading, various issues are discussed, beginning with the explanation of *absolute* (*mutlaq*) and *derivative* (*muḍāf*) water. Derivative water refers to water derived from another substance, such as coconut water or rose extract. Likewise, water that becomes

mixed or contaminated with another substance, such as muddy water, is also considered derivative. Within this section, five types of water are mentioned:

1. **Kurr water (Kar Pānī)**
  2. **Small quantity water (Qalīl Pānī)**
  3. **Flowing water (Jārī Pānī)**
  4. **Rainwater (Bārish kā Pānī)**
  5. **Well water (Kunwēn kā Pānī)**
- **Kurr water:** Defined in detail, with its prescribed measure being approximately three and a half arm-lengths (spans) in dimension, covering length, breadth, and depth. The rulings regarding impurity falling into such water are also explained.
  - **Small quantity water:** Defined as water that does not spring from the earth and whose amount is less than the kurr measure. Its rulings in different cases are discussed.
  - **Flowing water:** Water that springs from the earth and flows, such as spring water. Its rulings and definition are elaborated.
  - **Rainwater:** The rulings related to rainwater and its various scenarios are recorded.
  - **Well water:** Defined with reference to different cases of impurity falling into it and the rulings attached.(5)

Other rulings related to water are also detailed under this section. In addition, the etiquettes of using the lavatory are extensively discussed, including legal rulings concerning urination and defecation.

## (2) Rulings on Impurities (Najāsāt):

This section discusses types of impurities, including urine, feces, semen, carrion, blood, dogs and pigs, unbelievers, intoxicants, and the sweat of impurity-eating animals. For each, detailed rulings are presented along with the different scenarios arising under them. Three methods of establishing impurity are noted: (i) personal conviction, (ii) reliable testimony, or (iii) the report of a just person. Furthermore, rulings concerning impurities coming into contact with sacred objects such as the Qur'an and blessed papers are also discussed in detail. (6)

## (3) Purifying Agents (Muṭahhirāt):

This section details the means through which impurity can be purified, such as: water, earth, sunlight, *istiḥālah* (chemical transformation), *inqilāb* (change of state), *intiqlāl* (transfer), Islam (conversion), *tab'īyyah* (dependence), disappearance of the essence of impurity, cleansing of impurity-eating animals, the absence of a Muslim (with presumptive purity), and the natural draining of blood after lawful slaughter. Each of these purifying means is elaborated upon with its conditions and rulings. For example:

- With water, purification is valid only if it is absolute and pure.
- With earth, purification is valid if the ground is clean, dry, and the impurity is removed by walking upon it.
- Under transfer (*intiqlāl*), for example, a mosquito's blood is considered transferred and thus not impure.
- Under dependence (*tab'īyyah*), an impure object may become pure due to its attachment to another object that has become purified.(7)

**(4) Blood after Slaughter:**

The blood that flows out during lawful slaughter is impure, but the residual blood remaining inside the body is deemed pure.

**(5) Acts of Worship ('Ibādāt):**

Under this heading, the rulings of ablution (wuḍū') are described. Ablution requires washing the face and arms, and wiping the front portion of the head and the tops of the feet. This is stated as obligatory. The different methods of ablution are described in detail, including the limits of washing, wiping, and the correct legal procedures. Mention is also made of the supplications recommended during different stages of ablution. Thirteen conditions for the validity of ablution are explained in detail, with related scenarios. Further rulings discuss doubts and uncertainties related to ablution, and the rulings for bandaged body parts in case of wounds.(8)

**Obligatory Bathing (Ghusl):**

The causes that necessitate obligatory bathing are described, such as janābah (major ritual impurity due to sexual discharge), menstruation, postnatal bleeding, irregular bleeding, bathing of a corpse, touching a corpse, and obligatory baths due to vows. The rulings attached to each case are elaborated.

It is stated that a person in a state of janābah cannot touch the Qur'an or sacred texts, nor enter mosques, and other acts of sanctity are prohibited for them.

The two types of ritual bathing are explained:

- **Sequential (Ghusl Tartībī):** Washing first the head and neck, then the rest of the body in order.
- **Immersion (Ghusl Irtimāsī):** Immersion of the entire body in water, either all at once (instantaneous) or gradually. Conditions of validity for both types are detailed.(9)

The rulings concerning *istiḥāḍah* (irregular bleeding) are defined and discussed, along with the definition of *ḥayḍ* (menstruation), its various rulings, and the different categories of menstruating women. The legal issues arising from the varying habits and circumstances of menstruating women are also elaborated.

Under the heading of **shrouding (kafan)**, the rulings state that a Muslim deceased must be shrouded in three pieces of cloth.

The section further discusses **Friday prayer (Ṣalāt al-Jum'ah)**, including the number of rak'āt, the timing of the prayer, the conditions for its obligation, the required number of participants, and the conditions for its validity.

Finally, under the heading of **khums (one-fifth levy)**, the rulings are presented concerning its obligation on seven sources:

1. Profits from business.
2. Minerals and oil.
3. Buried treasure.
4. Lawful wealth mixed with unlawful wealth.
5. Pearls and corals obtained through diving.
6. Spoils of war.

7. Land purchased by a dhimmī (non-Muslim under Muslim protection) from a Muslim. Under the heading of **the conditions of the obligation of Zakāt**, the causes that make Zakāt obligatory and its conditions are discussed in detail. The types of wealth upon which Zakāt becomes due are specified, along with their various legal rulings. A detailed explanation is given regarding which forms of wealth are classified as Zakāt-eligible assets. Furthermore, the rulings concerning each *niṣāb* (minimum threshold) and the different circumstances related to it are elaborated.(10)

#### وسائل الشيعه / Wassail Ul Shia – Introduction of its Basics topics ;

The seventeen volumes of this book, translated and compiled in Pakistan by the Islamic scholar Ḥusain Najafī, cover a wide range of jurisprudential issues. The first volume begins with the introductory chapters on *ʿibādāt* (acts of worship), comprising a total of thirty-one chapters. These chapters discuss the obligation of worship, the five daily prayers, almsgiving (*zakāt*), fasting, pilgrimage (*ḥajj*), and *jihād*. It is also explained that the denial of these necessities of religion renders a person an unbeliever (*kāfir*) and an apostate (*murtadd*).<sup>(11)</sup> Among these discussions, the excellence of intellect (*faḍīlat al-ʿaql*) is highlighted, and it is stated that legal accountability (*taklīf sharʿī*) is conditioned upon reason. Furthermore, legal responsibility, such as obligation (*wujūb*) and prohibition (*ḥurmah*), is tied to reaching the age of puberty (*bulūgh*). Other rulings include the signs of puberty, such as nocturnal emission (*iḥtilām*), the growth of pubic hair, completion of fifteen lunar years in boys, and maturity in girls. Before this age, it is recommended (*mustaḥabb*) that children be trained in acts of worship.<sup>(12)</sup>

The chapters also discuss that intention (*niyyah*) is obligatory in all acts of worship, and that every act of worship is dependent upon it. To intend goodness and firmly resolve to carry it out is recommended, and relevant traditions are cited in support. Conversely, forming the intention to commit evil is considered reprehensible (*makrūh*), as explained under the traditions. Similarly, it is established through Prophetic traditions that sincerity (*ikh-lāṣ*) in intention and worship is obligatory. These chapters further elaborate on the question of what aim or purpose should be sought through intention, and which ultimate objective ought to be given precedence.<sup>(13)</sup>

Volume 2 : In this section, a total of fifty-two (52) chapters are discussed. Among the issues addressed is the ruling that when menstruation ceases, it becomes obligatory (*wājib*) for a woman to perform the ritual bath of menstruation (*ghusl al-ḥayḍ*) before resuming acts of worship such as prayer and fasting. The text outlines the distinguishing signs between menstrual blood (*dam al-ḥayḍ*) and the blood of virginity (*dam al-bikārah*), along with the respective rulings pertaining to each. It also describes the indicators used to differentiate between menstrual blood and irregular bleeding (*istihāḍah*). In the case of a woman with an irregular menstrual cycle (*muḍṭaribah al-ʿādah*), it is obligatory for her to rely upon the method of distinction (*tamayyuz*) in determining her state. If such distinction is not possible, she is then required to refer to the relevant narrations (*riwāyāt*). Furthermore, the text states that whether the color of the blood is yellowish or muddy, if it occurs during the days of menstruation, it is to be considered menstrual blood, whereas if it appears during the days of purity, it is deemed non-menstrual. In such cases, the established menstrual habit (*ʿādah*) takes precedence over the mere color of the blood.<sup>(14)</sup>

The third volume provides a detailed discussion of the rulings concerning prayer (*ṣalāh*), including the prescribed times of prayer, the direction of the *qiblah*, the essential clothing required during prayer, as well as the regulations related to mosques and other associated matters. For each of these subjects, multiple chapters have been dedicated, ensuring a comprehensive treatment of the issues.(15)

The fourth and fifth volumes are also devoted to discussions related to prayer (*ṣalāh*), addressing issues such as intention (*niyyah*), salutation (*salām*), and the testimony of faith (*tashahhud*). Similarly, other related topics, including the prostration of thanksgiving (*sajdat al-shukr*), are examined. Each of these themes is elaborated upon under several chapters, where the relevant jurisprudential rulings are systematically presented.

The sixth volume is devoted to the rulings pertaining to *zakāt*. It discusses the essence and legal injunctions of *zakāt*, along with the following key themes:

1. The true purpose and objective of the obligation of *zakāt*.
2. The duty of genuine sympathy and care for the poor, the destitute, and the disabled.
3. Detailed rulings concerning *zakāt* on livestock, gold and silver, agricultural produce, and the obligation of *sadaqat al-fiṭr*.
4. The definition and regulations of *khums* are also covered, followed by an exposition on *anfāl*.(16)

The term *anfāl* is defined comprehensively as: whatever the Imam selects from the spoils of war, every land that comes under Muslim control without combat, uncultivated lands, mountain peaks, riverbeds, dense forests, royal selections and properties provided they are not usurped, inheritances without heirs, and spoils obtained by combatants without the permission of the Imam. All such *anfāl* are the exclusive right of the Imam, and no one is permitted to dispose of them without his authorization.

The volume also discusses the economic significance and social utility of *zakāt*, emphasizing its role in ensuring justice and welfare in society.(17)

From the seventh to the tenth volumes, a comprehensive and detailed discussion is presented on fasting (*ṣawm*), pilgrimage (*ḥajj*), and the lesser pilgrimage (*ʿumrah*), as well as the boundaries and sacred sites of Makkah and Madinah. These volumes also provide an elaborate treatment of the rulings regarding *iḥrām* and other related jurisprudential issues.(18)

The eleventh volume is devoted to the subject of *jihād*. At its beginning, the translator has included a preface which, owing to its comprehensiveness, proves highly beneficial. This introduction discusses the reality and virtue of *jihād*. Furthermore, all topics related to *jihād* are treated in detail, organized systematically under various chapters.(19)

From the twelfth to the fifteenth volumes, the rulings concerning trade and commercial transactions are discussed in detail under numerous chapters. These include the definitions and conditions of contracts (*ʿuqūd*), as well as comprehensive explanations regarding invalid (*bāṭil*) and defective (*fāsid*) contracts. The discussions further elaborate on the following points:

1. Engaging in business involving prohibited items is unlawful (*ḥarām*).
2. Trade in lawful (*mubāḥ*) items is permissible, with examples of what is prohibited and permissible.

3. Any commodity purchased with wealth that is essentially unlawful remains prohibited, otherwise it is permissible.(20)

A detailed treatment of *ribā* (usury) is also presented, along with the rulings on *kitāb al-salam* (forward sale contracts), *rahn* (mortgage/pledge), *muḍārabah* (profit-sharing partnerships), and other commercial contracts. The volumes also address issues such as fraud and deception in trade.(21)

In addition, they cover *hibah* (gifts), followed by discussions on recreational activities such as horse riding. The fourteenth volume specifically addresses adultery (*zinā*) and its legal rulings, after which the *Kitāb al-Waṣāyā* (Book of Bequests) is presented, which deals with inheritance and wills in detail. The subsequent volumes discuss marriage (*nikāḥ*), temporary marriage (*mut'ah*), and divorce (*ṭalāq*) extensively, spread over multiple chapters, along with rulings related to *riḍā'ah* (fosterage). The laws pertaining to slaves and bondmaids are also defined and explained in detail. Similarly, regulations concerning hunting, slaughter, and permissible food and drink are elaborated upon, as well as the rulings on assigning rewards for certain performances and the conditions attached thereto. All these issues are systematically expounded across numerous chapters.(22)-

### Conclusion:

From the perspective of jurisprudential discourse, the methodology of presenting legal discussions in this book shows little difference from that of other Islamic schools of thought. What becomes evident is that while the approaches to reasoning (*ṭarīqat al-istidlāl*) differ among the various sects, their sources and foundations remain the same—namely the Qur'an, the ḥadīth, and *ijtihād*. This study highlights that the differences among schools are methodological rather than foundational.

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