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ON THE SOURCES OF ISLAMIC LAW

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Abstract. The text is devoted to the issue of the sources of Islamic law. It explains the peculiarities of Islamic law as such, emphasizing the absence of dualism, the absence of the division of reality into sacred and profane. There is no dualism in Islamic law between church and state, faith and law. Islamic law means the fulfilment of God's commandment by deed, responding to God's will with obedience. There can be no other law beside it, because the source of all law is God. The article describes Fiqh, Islamic jurisprudence, the study and application of divine law. It also analyses the origins and development of the Islamic legal system, the role of the Prophet Muhammad and other prominent Muslim scholars. It focuses on four basic elements – the Qur'an, the Sunnah, the consensus, the Ijma and the analogy, the Qiyas. The first two sources are generally regarded as primary, the others are more likely to be methodological foundations or principles of application, and thus secondary sources of law. It does mention additional sources of Islamic law such as derogation from one rule in favour of another rule, a decision based on public interest, relying on *qiyás*, *istisláh* and finally *urf*, custom. Finally, we assess the importance of knowing these sources and the logic of their use in Islamic law, which divides reality into permissible and impermissible acts, affecting the daily lives of all those who are subject to this law, as well as the coexistence between members of different religions. We consider that knowledge of the current state of legal scholarship in the field of religious law is a prerequisite for dialogue on peaceful coexistence of communities and its implementation.

Keywords: Islamic law; sources of law; principles; legal system.

INTRODUCTION

Islam is one of the fastest growing religions, if we consider the numbers. It is a monotheistic, universal, Abrahamic religion, based on the teachings of the Prophet Muhammad. More than 24.1% of the world's population is Muslim, with an estimated total of approximately 1.9 billion.[1] It is predicted that Muslims will also be the largest growing group among religions. Their numbers are expected to grow by 70 percent between 2015 and 2060. In the case of Christians, the growth is predicted to be only 34 percent.

[1] *Major Religions of the World Ranked by Number of Adherents*, http://www.adherents.com/Religions_By_Adherents.html#Islam/ [accessed: 10.18.2024].

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Yet the Pew study predicts a 32 percent increase in the planet's population in general.[2] The differences in the ways of life of the various components of increasingly heterogeneous societies are a challenge to the secular state as well as to its reflection of the experienced division of reality into the sacred and the profane. Islam strictly rejects such divisions when it naturally conflates culture, lifestyle, morality, norms and rules. In the context of comparing the degree of correlations between religion and way of life, it is not only social scientists who often reach for arguments that involve the ways and matter by which particular religious systems make ethical claims on their adherents. These are undoubtedly the canonical and non-canonical records of the lives and sayings of their founders and followers, but also other sources that were and are produced in a variety of geographical, cultural, social and political settings, and interacting with a wide variety of influences. The more these kinds of arguments progress, the more often we see various attacks whose actors themselves refer to religion or are associated with religious systems by others. Although this is not only true of Islam, is this religion that has been penetrating in recent times. Even in the context of many simplifications, but above all in the context of the need to approximate the ethical claims of religions and the practice of life in a democratic society in the 21st century, it is essential to eliminate misinterpretation and misunderstanding of the sources of religious law as far as possible. Their examination is even more important the more religion is diversified among different schools and traditions, and the more loosely its hierarchical aggregation, and hence the more problematic the determinable binding interpretation of its law.

1. THE WAY – ISLAMIC LAW – *SHARĪ'A*

Islamic law is quite exceptional, given that it is not the law of a particular state, but the law of persons of a particular religion. The Islamic legal code knows no dualism of church and state, faith and law. Islamic law means the fulfilment of God's commandment by deed, responding to God's will by obedience. There can be no other law beside it, because the source of all law is God. Islam, therefore, knows no dualism of secularism and religiosity [Bureš 2007, 39].

In the structure of Islam, it incorporates the *sharī'a* sum of the divine order commanded to mankind. It is an immutable moral law [Kropáček 2003, 117]. In particular, it is a Qur'anic code of conduct within the intent of Islamic morality. It is neither a part of normative law nor a set of legal precedents that determine judicial decisions. It is primarily about Qur'anically

[2] *The Changing Global Religious Landscape Babies born to Muslims will begin to outnumber Christian births by 2035; people with no religion face a birth dearth*, https://www.pewresearch.org/religion/2017/04/05/the-changing-global-religious-landscape/ [accessed: 10.18.2024].

determined conduct within the intent of Islamic morality. "It does not come from the state, it is not in the form of a book, nor is it a collection of rules. The *sharī'a* is of divine and philosophical origin. The human interpretation of the *sharī'a* is called *fiqh*, or the Islamic way of right conduct, which is created by individual scholars on the basis of the Qur'an and the hadiths" [Quraishi-Landes 2017]. According to Seyyed Hossein Nasri, the s*harī'a* represents an ideal model of personal life and a law that binds all Muslims into one community. It encapsulates the divine will in specific teachings, the acceptance and application of which guarantee man a harmonious life in this world and bliss in eternity [Hossein Nasr 1975, 93]. The term *sharī'a* [Haeri 1997, 228][3] was initially used to refer to a watering hole or path to water. Similarly, in Judaism, the term *halakhah*, the way, is used to refer to Jewish law. The ideal state is the management of every step in life by means of *sharī'ah* regulations, whether the matters are religious or secular. The most important sources and the main sources of legal scholarship [Kropáček 2003, 119-22, 144-46] are Quaran and Sunnah. Mohamed has served as a legislator since the beginning of his presidency. During his lifetime, his decisions were accepted uncritically, and as final. After his death, Muslim caliphs, rulers who faced different situations in different circumstances, had to make difficult decisions. Pragmatic solutions to problems, however, had to be replaced in due course by new firm legal foundations that were regarded as genuine Islamic principles. The early religious scholars, the ulama, strove for meticulous adherence to the precepts of their religion. Naturally, therefore, they turned to the Qur'an [Hillebrantová 2017, 100-101]. Although the Qur'an is primarily a book of revelation, out of 6345 verses, it contains approximately five hundred verses relating to law. From these, several specific rules can be derived. From the carefully preserved reports of what the Prophet Muhammad told his companions, the *ashāb*, of his deeds, and of what he approved in their presence, albeit tacitly, of the hadeeths, they have drawn upon the Qur'anic values as another source in formulating opinions reflecting Qur'anic values. The first two generations of followers of Muhammad's preaching, especially from Medina, where he spent the last decade of his life, drew on oral tradition, on the living memory of ancestors. The early scholars, however, were aware of the need for a formal record of the hadith for later generations and for converts from more distant areas. The Ulama therefore collected the hadiths, and gradually a critique of them and a doctrine of their criticism was developed. They formulated the first criteria for deciding the degree of their authenticity. A true hadeeth had to be proved by a chain of reliable

[3] "*Sharī'a* is [...] semantically not quite an unambiguous term [...] according to the most common Sunni conception [...] *sharī'a* represents the codified body of God's commandments and prohibitions, which encompass all the details of human conduct, action and thought in this world." See Mendel 1997, 19.

tradents whose testimony could be traced back to the Prophet Muhammad and his companions. The most important collections of *hadīth* are the works of *al-Bukhārī*, Muslim, *Abū Dā'ūd*, *at-Tirmīdhī*, *an-Nasā'ī* and *Ibn Mādja*. Thousands of statements recorded by them have become the foundations of a comprehensive system of legal science. In the period when Muslim territory was bounded by Granada in the north and India in the south, in the 8th century, because of the great distances, there were certain problems of communication, which naturally affected the uniformity of interpretation of legal texts. Local legal schools, madhhabs, were therefore established in the major centres. The most important were in Damascus, Kufa, Basra and Medina. It should also be mentioned that the early ways of applying Islamic law were strongly influenced by earlier systems, especially Jewish and Roman law. Pre-Islamic practices, local customs and administrative edicts of the rulers also had a considerable influence. The reign of the Abbas dynasty (750-1258), which replaced the Umayyad dynasty (661-750), which succeeded the Umayyad dynasty, was characterised by a firmly centralised authority, order and system that allowed the formulation of the classical principles of Islamic legal scholarship [Hillebrantová 2017, 102-103].

2. FIQH – MUSLIM JURISPRUDENCE, THE SCIENCE OF DETERMINING THE PRECISE TERMS OF *SHARĪ'A*

Contemporary Muslim scholars sometimes refer to their religion as a unity of dogma, *aqīd*, law, *sharī'a* and culture, *hadār* [Kropáček 2003, 117].

Fiqh is a term that denotes Islamic jurisprudence, the study and application of divine law; in a broader sense, it denotes knowledge or rationality. The etymology draws our attention to the fact that early Islam regarded *fiqh* as a science to be pursued by highly specialized experts, fuqaha. If *sharī'a* implies divine origin, *fiqh* expresses human activity and covers all aspects of religious, political and social life. "*Fiqh* is the knowledge of how to classify divine laws, which concern all responsible Muslims, into obligatory, prohibitive, recommendatory, condemnatory, and permissive. These laws are derived from the Qur'an, from the Sunnah, and from the proofs that Muhammad established for the knowledge of the laws. The laws drawn from all these sources are religious law," says Ibn Khaldun [Ibn Chaldún 1972, 430]. The earliest extensive and systematic legal treatises are found in texts attributed to scholars of the late 8th and early 9th centuries, Malik ibn Anas, Ash-Shafi'i, Abu Yusuf, and especially Abu Hanif and Ahmad ibn Hanbal. To establish a system of law and to evaluate man's actions, Islamic legal scholarship developed, in its early stages, four basic sources of legal theory, *usūl al-fiqh*. These are the methodological principles used to derive legal provisions legitimately. Ash-Shafi (767-820), one of the fathers of Islamic

legal systematics, relied on four basic elements – the Qur'an, the Sunnah, consensus, *ijmah* and analogy, *qiyas*. The first two sources are generally regarded as primary; the others are more likely to be methodological foundations or principles of application, and thus secondary sources of law. The other additional sources of Islamic law are: deviation from one rule in favour of another rule, the deviation being necessary, *istihsán*; a decision based on public interest, relying on *qijás*, *istisláh*; and finally *urf*, custom. *Istihsán* – reminiscent of the common law institution of equity as a departure from strict analogy in favor of an alternative rule that better serves the ideal of fairness and reasonableness. *Istihsán* – is an important tool for softening the law in light of the diversity of life circumstances and legal issues. It is used to deal with exceptional and borderline cases. *Istislah* – is a method of legal reasoning through which public interest, *maslaha*, is taken as the basis for a decision on a legal issue. *Istisláh* is similar to *istihsán*, but while *istihsán* is essentially an extension of *qiyás* or a choice within a broader analogy for the purpose of reducing the harshness of the law. In *istislah*, the norm is purposively formulated with a particular public interest in mind, where it is possible to determine what is the common good or public welfare. The Arabic word *arafa* means to know, and its adjective *ma'rúf* means that which is familiar, habitual. *Urf* denotes customary law, a recurrent, constant collective practice from pre-Islamic or even later times. It is an authoritative source of law provided that it is a general, widespread phenomenon that is consistent in terms of its observance, valid at the time of the transaction or legal act to be governed by it, and also, the interpretation of legal acts is consistent with the customs existing at the time. Custom is subsidiary to the agreement of the parties; only in the absence of agreement is the legal relationship governed by custom. *Urf* must not contradict the primary sources of law [Osina 2012, 38]. *Urfu* norms, unlike consensus, are changeable. This is undoubtedly due to the fact that *urf* persists not only in verbal or factual form, but also as a general custom, or a special custom that is bound only to a particular time or place, even approved or disapproved, depending on the perception of its conformity with Islamic law, general morality, and other requisites of custom.

3. THE QUR'AN

"In the name of the gracious God, in whose power is grace."[4] The above introduction to the prayer, which is also called the "Opener of the Book", the *basmala*, is not only an introduction to the entire Qur'an, but is also recited at the beginning of every prayer and on many other occasions. The Qur'an is

[4] *Korán. Zväzok I*, Alja, Bratislava 2008, p. 22.

the central fact of Islam's existence without which this tradition would never have come into being. Religious scholars compare the Qur'an in the Islamic milieu to the person of Christ in Christianity, both being the living or holy word of God. Muslims believe that if the Qur'an is recited in the right way,[5] the divine presence in the form of its sacredness descends upon both the reciter and the audience. This divine presence is peace and involves the feeling that one is protected and guided by the God.[6] The Qur'an is only touched by Muslims in its ritually pure state, and memorising it is considered a particularly meritorious act. Those who have done so are revered as "guardians of revelation" [Denny 1999, 92], the Hafiz. The word Qur'an is a noun verb derived from the verb *qaraa* – to recite, recite, read. It therefore means reciting or reciting or reading what has been revealed to Muhammad from God. The Qur'an is not a legal code, although there are verses of a legal nature in it. The Ulama divide the Qur'an into four basic headings, matters of faith, cultic matters, human morality and human relations. The legal heading mainly regulates family relations, civil and criminal law. Strict and detailed verses of a legal nature concern inheritance law and relations between spouses [Osina 2012, 32]. There are also prohibitions on some despicable pre-Islamic customs and practices, such as female infanticide, interest, gambling or unrestricted polygamy. In general, the Qur'an approves the existing customs and legal institutions of Arab society and introduces certain changes to them. However, the Qur'an, as a whole, is more a guide for life than a constitutional or legal document. Characteristic features of Qur'anic legislation include the phenomenon of gradualism, *tangim*, the division of the surahs and hence norms into Meccan and Medinan, and the frequent justification of particular prohibitions and injunctions by explaining the purpose and aim, indicating the benefit to be derived from compliance and pointing out the expediency of acting in accordance with the Qur'an. The *Qurʾān's* provisions are also divided into general, *'amm*, and specific, *chaṣṣ*, defining in their effect certain actions as obligatory, *wagib*, or forbidden, *haram*.

The legal meaning of the relevant *Qurʾānic* phrases regarding the scale obligatory – recommended – indifferent – reprehensible is always derived from the circumstances, the wording of the text and its systematic classification. Legally relevant, obligatory, are explicit commands or prohibitions defining in their effect a certain action as obligatory or forbidden. Most Qur'anic legislation is general guidance, although it is specific on some issues. But all questions should be resolvable based on the principles contained in the revealed text. General principles are specified in the Sunnah or other sources of law [Potměšil 2012, 58-62].

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[5] "Many translations of the Qur'an, if they are to be approved by Muslim religious communities, are published alongside the Arabic original and are referred to as 'interpretations'" [Kropáček 1994, 94].

[6] Like the *shechinah*, the divine presence in the world, in Judaism.

4. THE SUNNAH – THE BODY OF TRADITIONAL SOCIAL AND LEGAL CUSTOM AND PRACTICE OF THE ISLAMIC COMMUNITY

"The Sunnah took into itself the Prophet's well-established sayings, the hadiths, and became an authoritative guide developing or supplementing a particular piece of legislation enshrined in the Qur'an" [Hillebrantová 2017, 103].

Another of the primary sources of Islamic law is the Sunnah. The authority of the Sunnah is based on the Qur'an, which speaks of the Prophet Muhammad and his role to teach scripture and wisdom in the surah of *hikma*[7].

The prominent Islamic thinker Ibn Khaldun (1332-1406), the eminent Islamic thinker, Ibn Khaldun, summed up the essence of the Qur'an and the Sunnah when he argued that the basis of all traditional sciences is the legal material of the Qur'an and the Prophet's customary conduct, the Sunnah – these form the law given to us by God and his messenger Muhammad [Ibn Khaldun 2015, 436]. The term Sunnah is derived from the verb *sanna*, to give shape, form, to ordain, to prescribe. The customs of the Prophet Muhammad, his words, habits, actions, and commands as remembered and preserved by Muslims in the form of reports, sayings. It represents the totality of norms [Denny 1999, 98-99, 188]. The Sunnah is expressed through stories whose authenticity of origin derived from Muhammad has been researched and documented by approvals from generation to generation. The Sunnah has been regarded as an interpretation of Allah's words and has become a model of conduct for Muslims. The role of the Sunnah is to supplement and explain the loopholes of the Qur'an in an intelligible manner [Hruškovič 1997, 27-28]. The Sunnah, which is the main reason for the unified cultural character of Muslim communities in different cultural, linguistic and geographical settings, is a set of specific instructions on what a Muslim should believe and do in order to preserve the character of the global Muslim community – the *ummah*.[8] The fixed structure of the ummah is formed and governed by the *sharī'a*, the way of Islam,[9] which is the expression of Allah's will as revealed to Muhammad, and governs the believer's relations to the religious community, the state, Allah, and even to his own conscience. As mentioned above, the Sunnah is the authentic tradition of the Prophet Muhammad. It includes his sayings on specific occasions and his actions in certain situations. Muslims are bound by the obligation to follow the path of the Prophet

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[7] 62:2, 59:7, 33:36.

[8] However, the unity of the ummah suffered, splitting in the 7th century into Sunnis (forming the majority of the faithful and subject to the ruling caliph), *Shi'ites* (loyalists of the first "orthodox" caliph, Ali), and Kharijites ("apostates", according to whom only the community has the right to elect its leader and also the duty to overthrow him if he commits grave sins). See Eliade 2001, 39.

[9] Literally "the way to go" [Müller 1997, 23].

Muhammad. Although the Sunnah stands outside of revelation, it is nevertheless sacred and inspired by God. It ascribes infallibility to the prophet in religious matters, since he did not express his own will, but God's. The Sunnah is either a supplement to the Qur'an or an interpretation of its text. Expression through hadiths[10] conveys the interpretation of the words of Allah Himself and becomes a model of behaviour for all Muslims. The Sunnah is almost an equal source of law as the Qur'an and its role is to supplement and explain the gaps in the Qur'an in an intelligible way. It deals primarily with issues of a political, cultural and legal nature. It is an important source of law for the work of the Islamic courts, its provisions have become the normative basis for the decisions of Muslim judges, with the preponderance of normative prescriptions being causal in origin. The careful collection and preservation of information about Muhammad's conduct and actions testifies to Islam's tendency to offer, alongside the Qur'an, which is impersonal, other, personalized norms and patterns for Muslim life [Osina 2012, 34-35]. Sunnah in ancient Arabia referred to the continuous practice of a tribe or society that was inherited from ancestors. The opposite of sunnah is innovation, *bid'a*, for which there is no precedent and therefore no connection with the past. *Bid'a* usually has negative connotations and often denotes inappropriate innovation. It should be stressed that the Prophet Muhammad himself valued new good habits. His negative assessment of some new customs has given rise to a conservatism that fears anything new in Islam [Potměšil 2012, 73-74].

5. *IJMA* – FAITH OF ISLAM

"What Muslims consider righteous is righteous in the sight of Allah" [Hruškovič et al. 2015].

The Ijma, although the third most important source in Islamic law, is already classified as a secondary source, like the Qiyas. Ijma is the expression for the consensus of experts in law, a consensus unanimous and largely tacit. It is based on Muhammad's alleged statement that "my community will never unite on error" [Mendel 1997, 21]. In this context, it should be borne in mind that Shi'ite Muslims do not regard the Ijma as a source of law. From the etymological point of view, the root of the word can be found in the verbal noun *ajme*, which expresses an agreement on something, a resolution over something, an agreement, an opinion, a consensus. It can be defined as the unanimous opinion of all the scholars of one time

[10] News, conversation, talk. Denotes a specific report of the sayings or actions of the Prophet Muhammad and his companions. The hadeeth is the bearer and source of the sunnah. *Khaba* and *atar* are terms denoting the acts and sayings not of the Prophet but of his closest companions who followed the example of the Prophet Muhammad.

after the death of the Prophet Muhammad on a particular cause. Ijma does not require the consent of all Muslims, it is limited to Muslim jurists, ulama. Ijma is applied when a new case arises and their decision clearly cannot be based on the Qur'an or the Sunnah. The validity of decisions arising from Ijma is dependent on conformity and compliance with general rules from the Qur'an and Sunnah. Although the Ijma is a subsidiary source, in practice it is of great importance; it was believed to be infallible. It played a particularly important role in the early centuries of the Islamic era, the hijra, when the *sharī'a* was only being established and many problems remained unresolved. Ijma and Ijtihad.[11] In this context, it should be borne in mind that Shi'ite Muslims do not regard the Ijma as a source of law. From the etymological point of view, the root of the word can be found in the verbal noun *ajme*, which expresses an agreement on something, a resolution over something, an agreement, an opinion, a consensus. It can be defined as the unanimous opinion of all the scholars of one time after the death of the Prophet Muhammad on a particular cause. Ijma provided Islam with a certain flexibility in response to changing conditions of life. By the tenth century, the view began to prevail that all questions had been answered. The Caliph declared "the gates of ijtihad closed", which made it impossible for several centuries to adapt the law to changing conditions. Since then, only conservative methods of interpretation have been used, and the individual's own thought has been suppressed at the expense of adhering to the customs of the first generations of Muslims. Self-judgment has often been judged as negative innovation or apostasy from the faith. Islamic law and dogmatics for eight hundred years stagnated behind the closed gates of the Ijtihad. It was not until the eighteenth century, but significantly not until the early twentieth century, that a growing number of Muslims called for an updating of the *sharī'a* and its introduction into the modern world, which places the ummah in unforeseen and complex situations, to be done through the "reopening of the gates of ijtihad" – the effort of Muslim legal experts to exercise individual scrutiny and independent judgment in legal and religious matters. Today, ijma and ijtihad are used as arguments for the democratisation and liberalisation of Islam [Osina 2012, 36].

6. QIYAS – ANALOGICAL REASONING AS APPLIED TO THE DEDUCTION OF JURIDICAL PRINCIPLES FROM THE *QUR'ĀN* AND THE SUNNAH

"The gates of ijtihad should be thrown wide open to anyone who is sufficiently qualified" [Hillebrantová 2017, 111-12].

[11] One of the important elements of modern Islamic reform. The ability to determine from a certain point the decisions of the mujahideen, a qualified person expert in religious law.

Qiyas is a form of analogical reasoning, based on the logic of establishing general propositions and legal rules based on the generalization of the specific cases examined. Its justification is justified by a verse of the Qur'an: "Verily in the determination of the heavens and the earth, and in the alternation of night and day, is a sign for men of understanding."[12]

The qiyas, although an older source of law, like the Ijma, is of lesser importance than the Sunnah or the Qur'an [Hruškovič 1997, 30]. Etymologically, the root of the word means measure, pattern, or analogy, usually translated as a decision made in a new case based on a legal analogy. Judgment is based on the logic of establishing general propositions and rules of law based on the generalization of the examination of special cases. It is a matter of filling in the blanks in the legal regulation of a particular area or a particular case. Qiyas can only be allowed in partial provisions; it cannot relate to the fundamental norms of Islam. It is the application of a legal solution cited in the Qur'an or Sunnah to a particular case that is similar to a precedent case. It is not an autonomous source of law because it depends on a model case. Some jurists argue that the *qijás* contains within it ijtihad [Osina 2012, 37]. Qiyas probably originated in Jewish law and was probably introduced into Islamic jurisprudence by Jewish converts. Technically, it represents an extension of the meaning of a norm of Islamic law to a new case that shares substance with the original norm. Recourse to analogy is permissible only when no solution can be found directly in the Qur'an, the Sunnah or the Ijma. Theoretically, in the case of analogical deduction, it is not a matter of creating new law, but rather of discovering and developing already existing norms. A rule defined on the basis of qiyas is the result of rational reasoning, but subordinate to revelation. The main operating space of human reasoning is the search for the common ratio egis in the new and original case. Qiyas is therefore the application of a rule, *hukm*, pertaining to the original case, far, about which it is silent if the *ratio legis*, *illa*, is common to both cases. The legitimacy of qiyas relies on the hadeeth describing the dispatch of Murad b. Chabal as a judge to Yemen, who was called upon to perform ijtihad, and by implication the use of qiyas in cases not governed by the Sunnah or the Qur'an. The Prophet Muhammad himself often applied analogical deduction in cases for which he had no revelation, much like the companions of the Prophet. In any case, without analogy, the creation and interpretation of law would be hardly conceivable [Potměšil 2012, 82], even if it is a religious right.

[12] Súra 3, Werset 190. Hrbek 2000, 512.

CONCLUSIONS

"Perhaps it has never been so important to understand Islam properly as it is now" [Armstrongová 2002, 225]. The sources of Islamic law, primarily the Qur'an and the Sunnah are the *quinta essentia* of the Islamic religion in general. If we have stated that in Islam reality is not divided into the profane and the sacred, we can state, with a great deal of simplification, that it is divided into halal and haram, i.e. into what is permitted and recommended, and what is not permitted or forbidden. In other words, also into what is lawful or what is unlawful under religious law. Since the Qur'an and tradition naturally reflect the realities of the time in which they were written, for new circumstances and situations conditioned not only by historical developments and advances in science, it is necessary to apply the values of the Qur'an in the spirit of the best tradition, not shorthand extremist bounded interpretations. However, this seemingly simple assertion runs into a number of problems related to authenticity and fidelity to the spirit of Islam. *Sharī'a* is now widespread and applied to varying degrees, given the spread of Islam throughout the world. It represents a fundamental issue for the coexistence of Islamic and non-Islamic communities, but also for the existence and further development of states in the aftermath of the Arab Spring. In particular, the issues of contradictions between Islamic law and the secular law of the state are pertracted. They arise in the context of the practice of forced child marriage, circumcision, honour killings or personal "acts of piety", which are qualified as extremism or terrorism by the surrounding secular milieu. The contemporary context or contextualisation of the revelation and legacy of the Prophet Muhammad appears to be crucial in preserving the religious heritage also in the case of Islam, and at the same time social cohesion and peaceful coexistence not only in the Western hemisphere. Islamic jurists interpreting the Qur'an and the Sunnah are confronted with the ethical questions of today just as much as Christians, Jews, inverts or infidels. The complexity of the issues that both revelation and hadith offer is a challenge to them. Islamic law is an organic, living entity that has undergone a dynamic evolution, especially in the last two centuries. Throughout history, scholars have exercised varying degrees of pragmatism in interpreting the *sharī'a*, adapting it to the diverse conditions of society in different parts of the world. The decisions taken have had a profound impact on the lives of one and a half billion people, primarily, and secondarily billions more, especially women. The question of the day is whether modern Muslim jurists will apply ijtihad and remove long outdated aspects of Islamic law that are historically and territorially contingent, and now no longer functional or counterproductive. They must also address issues related to scientific discoveries that

touch on the very essence of life, especially in the fields of medicine, genetics and bioethics. There is a need to rethink the concept of the ummah, the global Muslim community, and the forms of its existence in a global world, too.

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