

THE RELATIONSHIP BETWEEN FİQH AND KALAM :
Its Brief History and Its Key to the Future

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KELÂM VE FIKİH ARASINDAKİ İLİŞKİ:

Kısa Tarihçesi ve Geleceği ile İlgili Bazı Düşünceler

Kaynağını Kur'an ve Sünnet'ten alan kelâm ve fıkıh, tarih boyunca birbirleriyle yakın ilişki içerisinde olmuşlardır. Bu iki bilim dalı arasındaki ilişkinin mahiyetini kavramak, bir anlamda İslâm'ın mahiyetinin de anlaşılması demektir. Kelâm ve fıkıh, yaklaşık olarak Abbasi halifesi el-Me'mûn (ö.218/833) dönemine kadar ilkede ve uygulamada beraber dikkate alınmışlar ve *fikh* genel başlığı altında muamele görmüşlerdir. Kelâm, İslâm'ın temel ve değişmez iman esaslarını savunmanın yanında, fikhin temellerini savunma ve onun ortaya koyduğu çözümleri bir meşruiyet zeminine oturtma görevini de üstlenmiştir. Fıkıh ise, bireyin hayatını, dinî kaynaklardan çıkarılan İslâmî değerler ve ilkelere göre düzenlemeyi hedef edinmiş bir disiplindir. Bireyin hem iç hem dış dünyasına bir şekil ve yön vermede ve ona anlamlı bir dünya görüşü sunmada önemli bir araç konumundaki bu iki bilim dalı uzunca bir süredir işlevselliklerini kaybetmiş durumdadırlar. İşte bu makale, hem bu ikisi arasındaki ilişkiyi ortaya koymayı, hem de tarihteki işlevselliklerini yeniden kazanmaları hususunda nelerin yapılabileceğine dair bazı tespitleri sunmayı amaçlamaktadır.

Anahtar Terimler:

İslâm, Kelâm, Fıkıh

In the following essay, our main aim is to explore the relationship between *fiqh* (law) and *kalâm* (theology). Naturally, in order to gain a deeper understanding of this relationship, it is important to examine the two essential religious disciplines in their historical context. Finally, I will mention some points which we found useful for better treatment and improvement of these sciences according to the needs of modern times.

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There are two important stages in the development of the religion of Islam: First, the declaration of the Quranic Revelation by the Prophet of Islam, so that the establishment of a unified system of belief based on "God is one, no more than one" (*tawhîd*). Second, following the Prophet's death, the appearance of ideological/political and theological debates among the Muslim *Ummah*. And, mostly as a result of this, the rise of separatist groups -from the stand point of *Ahl al-Sunnah*, heretics- based on different ideologies especially in the theological field.

It is difficult for us to see, at first sight, a direct relationship between the questions of *fiqh* (Islamic jurisprudence/Islamic law) and the dogmatic problems of *kalâm* (theology/ speculative theology) at first sight. However, I think it is important to bear in mind that there is a close and mutual relationship between *fiqh* and *kalâm*. If we are to understand the very nature of Islam, we must take into consideration the relationship between these two essential branches of religious knowledge.

One point should be made here is that essential religious disciplines or sciences, such as *fiqh*, *kalâm*, *tafsîr*, *hadîth* etc., emerged from the study of the two main sources of the *Sharî'ah*, namely, the Qur'an and *Sunnah*. However, the Muslim mentality, being an endless curiosity for unknown and eagerness for knowledge and intellectual research, is the major cause of the study of the sources of religion. This study of the Qur'an and *Sunnah* among Muslims came into being both in the Medinese period and in the beginning of the century of the Umayyads. But *kalâm* only originated after the battle of *Siffin* and acquired its full development and shape during the tenth, eleventh and twelfth centuries C.E., "under the impetus of the 'foreign sciences' ".² By "foreign sciences" is meant above all Hellenistic philosophy and logic.

According to Ibn Khaldun (733-809/1332-1406), who is primarily a historian and sociologist rather than a philosopher, *fiqh* (a term originally meaning 'understanding', 'knowledge') " is the knowledge of the classification

² Louis Gardet, "Religion and Culture," in P.M. Holt, Ann K.S. Lambton, Bernard Lewis, eds., *The Cambridge History of Islam*, Cambridge University Press, Cambridge 1986, vol. 2B, p.588.

of the laws of God, which concerns the actions of all responsible Muslims as obligatory, forbidden, recommendable, disliked or permissible."³ In Ibn Khaldun's definition *kalâm* "is a science that involves arguing with logical proofs in defense of the articles of faith and refuting innovators who deviate in their dogmas from the early Muslims and Muslim orthodoxy."⁴

As may well be understood, the fundamental aim behind the emergence of *kalâm* is to defend the basic and unalterable principles of Islam that should be unreservedly believed by every Muslim, such as the belief in One Supreme God, His angels, His Holy Books, His Messengers, and so forth. *Kalâm* also claimed for itself the task of defending the bases and proving the logical assumptions of *fiqh*. Hence *kalâm* was considered by many Muslim scholars as the crown of all religious sciences. Another reason for its being considered as the crown of all religious sciences is that, in our opinion, while *fiqh* was regarded as "a mere science of this world, *kalâm*, on the other hand, was regarded as both a science of this world and a science of the hereafter ('ilmu'l-âkhira).

Fiqh, which is an integral part of religion in the eyes of a Muslim, was developed in order to meet the crucial administrative and judicial needs of the Muslim community. However, it must be stressed that, as Marmura puts it, *fiqh* "is not only based on theology but has subsumed numerous elements which, from a Western viewpoint, would belong to theology rather than to law. For these reasons, Islamic law has had a greater influence on Muslim society than Western law has had on Western society."⁵

It is noticeable that *fiqh* and *kalâm*, in principle and in practice, were not separated and seen as different sciences of religious thought until the time of the 'Abbâsid Caliph Al-Ma'mûn (d.218/833).⁶ It seems likely that both the questions of *fiqh* and the problems of *kalâm* were treated under the general

³ Ibn Khaldun, *The Muqaddimah: An Introduction to History*, (Trs. Franz Rosenthal), London 1967, vol.3, p. 3.

⁴ *Ibid.*, p. 34.

⁵ Michael E. Marmura, "God and His Creation: Two Medieval Islamic Views," in R.M.Savory, ed., *Islamic Civilization*, Cambridge 1985, p. 54.

⁶ Ahmad Hasan, *The Early Development of Islamic Jurisprudence*. Islamabad 1970, p. 3.

title of *fiqh*. Two famous works on *Kalâm*, *al-Fiqh al-Akbar* and *al-Fiqh al-Absat*, both attributed to the founder of the Hanafite school of law, Abû Hanîfah (d.150/767), and by their titles taken to be works of *fiqh*, prove that the term *fiqh* covered the basic principles and theological problems of the religion of Islam until the existence of *kalâm* as an independent science. As a result, after the Caliph al-Ma'mûn, speculative activity over theological problems received the name *kalâm*, which originally meant 'speech', 'discussion', 'dispute', 'word'. It thereby became an independent and separate branch of the hitherto undivided scholarship of Islam. In fact, the Mu'tazilah sect, or the rationalist movement, which is 'responsible for initiating the discussion of Islamic dogma in terms of Greek philosophical conceptions'⁷ is also responsible for introducing *kalâm* as an independent discipline into the intellectual world of Islam.

Fiqh or Islamic jurisprudence, on the other hand, developed at the hands of jurists who, in modern terms, were 'men of religion rather than men of law'.⁸ And the early schools of *fiqh* came into being in the last decades of Umayyad rule (II nd/VIII th centuries). Those men of religion, considered to be the first jurists of Islamic jurisprudence, dealt mainly, in the words of Coulson, 'with the elaboration of the system of ritual practices.'⁹ Although they sometimes treated highly imaginative situations and cases, their main aim was to find out and show the logic of the cases. However, as with the theologians in the field of *kalâm*, the jurists produced their work for those who were highly educated in the law of Islam. They rarely attempted to promote one or the other opinion of various scholars on any given legal problem, thus leaving the final decision to the (intelligent and educated !) reader's conscience. Such methods of the jurists prove to us that the law of Islam, rather than being a bulk of enforceable rights and duties by any

⁷ W.M.Watt, *Islamic Philosophy and Theology*, Edinburgh 1979, pp. 58-59.

⁸ N.J.Coulson, *A History of Islamic Law*, Edinburgh 1978, p. 37.

⁹ *Ibid.*, p. 37.

authority, is left to the (appropriately trained) individual's free will.¹⁰ The lack of support for *fiqh* or Islamic law by an organized power, consequently caused a dissonance between the sacred law and the reality of actual practice.¹¹

If we examine the history of Islam, we clearly see that in the eyes of ordinary Muslims, the law of Islam, which is the core and kernel of Islam itself, has always remained ascendant over *kalâm*. In general, the juristic and legal problems of daily life often proved victorious over the theological problems in the minds of these Muslims. Sufism -the esoteric aspect of Islam- proved to be the only challenger to the ascendancy of the law of Islam.¹²

While *kalâm* was setting out the logical and philosophical arguments for the basic tenets of Islamic belief such as monotheism, prophethood and so forth, *fiqh*, on the other hand, was preparing the ground for a Muslim to conduct his or her life according to Islamic values and principles derived from the sources of the religion. Therefore, it is not wrong to say that both *fiqh* and *kalâm* have an effective role in organizing the religious life of a Muslim whose only aim is to earn God's favour. For this reason too, in principle and in practice, it is almost impossible to distinguish these two important Islamic disciplines from each other. Further, both take their power, in the way of research and development, from those twin sources of authority, namely, the Qur'an and the *Sunnah*. Nevertheless, mention may be made casually in the course of this discussion that *kalâm*, in all domains, claims a certainty of truth that *fiqh* does not so obviously exhibit. That is, the *fiqh* writings leave much decision-making to the reader, but *kalâm* writings never leave the truth of any proposition in doubt.

It has also been observed that there had been close relations between the schools of *fiqh* and the schools of *kalâm*. Some scholars of *fiqh*, while discussing the legal problems of their time, also included the basic principles

¹⁰ A. Bülent Baloğlu, *Law of Sales in the Works of Marwazî, Qudûrî and Sarakhsî* (Unpublished Ph.d.thesis), University of Manchester, 1991, p. 252.

¹¹ Joseph Schacht and C.E.Bosworth, eds., *The Legacy of Islam*, Oxford 1974, p. 393.

¹² *Ibid.*, p. 392.

or creeds of Islam in their comprehensive works on jurisprudence. They considered this to be a duty and 'a "legal" obligation (according to *Sharî'ah*) to believe certain doctrines and profess them publicly'.¹³ The Hanafî school of *fiqh*, in the theological field, followed the Maturîdî way of teaching. The reason may have been that *Imâm* Maturîdî was much influenced by Abû Hanîfa's theological opinions. Hence, Abû Hanîfa may be considered as the intellectual source of the Maturîdite school of theology, whereas Maturîdî may be regarded as the systematizer of Abû Hanîfa's theological thoughts and the founder of this theological school. On the other hand, the Malikî and Shafi'î schools of *fiqh* found themselves to be the followers of Abû al-Hasan al-Ash'arî (d.330/941), who was a Shafi'î in *fiqh* and established his position as a reaction of *Ahl al-Sunnah* against the Mu'tazilî understanding of doctrine. It should be stressed, however, that for the Malikîs, *fiqh* still occupies an important place and was considered as the essential and real thing in comparison to *kalâm*. The Hanbalî jurists, who vehemently opposed to the use of reason (*'aql*) in the matters of *kalâm*, considered *kalâm* as the essential science and gave *fiqh* a secondary place. 'The reasons of symbiosis between these schools of law and theology', as Joseph Schacht stated, 'are not only doctrinal but personal or historical or geographical or, in one word, adventitious.'¹⁴

The scholars of *Usûl al-Fiqh* (the roots of the law or the principles of jurisprudence), for instance, under the leadership of Ahmad b. Hanbal (d. 241/855), waged war against the Mu'tazilah claim regarding the createdness of the Qur'an, and with Hanbal's great effort and help that claim was finally defeated. However, he paid the price of his opposition with imprisonment by the Abbasid caliph al-Ma'mûn. Al-Shafi'î (d.204/820), who founded the Shafi'î school of *fiqh* and aimed at the systematization and unification of the law of Islam, also played a major role with his call for Muslim thinkers in his time to defend the basic tenets of Islam and to write

¹³ Watt, *Op.cit.*, p. XII.

¹⁴ J. Schacht, "Theology and Law in Islam" in, G.E. von Grunebaum, ed., *Theology and law in Islam*, Otto Harrassowitz, Wiesbaden 1971, p. 7.

against the Mu'tazilî views.¹⁵ I would not generalize too much from these and similar examples, but they seem to me to indicate that those scholars who spent their energy and thought on the legal matters of Islam also produced constant thinking and writing about the theological problems of their age. The Muslim theologian, on the other hand, has always been involved in an inter-Islamic dialogue with an adversary or with an opposite school. He also had to think in the categories of defense and attack, especially against Jewish, Christian and Manichean intellectual skill. The aims of *kalâm* and a theologian were to defend the faith with the help of the Qur'an and *Sunnah*, using rational methods, and to refute heretics and their ideas. Therefore, Islamic theology or *kalâm* never lost its apologetic outlook. This attitude of theologians towards reason and rational methods, and their use in the settlement of theological disputes and matters attracted the support of the jurists of *fiqh*, many of whom appreciated the use of reason.

Throughout history, *kalâm* and *fiqh*, as religious sciences of the *Sharî'ah*, remained the core of Muslim intellectual life, and both always had an important and major place in forming and influencing thought and behaviour of the Muslim *Ummah*. Apart from that, they helped the establishment and survival of the religion of Islam as an organized system of belief. The only clear distinction between them was that *kalâm* confined itself with the inner life of the heart (*qalb*), while *fiqh*, on the other hand, in order to create an ideal society shaped by the directions and orders of the twin sources of the religion, concerned itself only with the overt acts of people. *Fiqh* had much more source material to use in the settlement of legal questions. *Kalâm*, however, was not so lucky to find enough source material in the settlement of theological matters. *Fiqh* used tradition (*sem'iyât*), that is Qur'an and *Sunnah*, but *Kalâm* had mainly recourse to reason (*aql*). The settlement of legal questions shows difference in accordance with time, place and context, and sometimes with geography. Theological matters, on the other

¹⁵ Ismaîl R. al-Fârûqî and Louis Lamyâ' al-Fârûqî, *The Cultural Atlas of Islam*, Newyork 1986, p. 276.

hand, show the characteristic of universality; in other words, they are free of any particular time or place.¹⁶

In the course of this discussion, I must also add that *Usûl al-Fiqh* which exclusively belongs to the sphere of *fiqh*, played a central role in forming and providing the logical tools for *Kalâm*. It is also true that *fiqh*, which was previously considered to be secondary to *kalâm*, owes its independence to *usûl al-fiqh* after el-Shafi'i's formulation of legal principles. Nevertheless, in spite of its central role in both the juridical and theological fields, *usûl al-fiqh*, which is, in Ibn Khaldun's view, 'one of the greatest, most important and most useful disciplines of the religious law' and was invented in order to 'systematize development of the law to meet new situations and problems, to institutionalize the continuous adaptation of the law to historical change'¹⁷ is almost totally ignored by modern scholars.¹⁸ In my opinion, the study of *usûl al-fiqh* is absolutely necessary before entering any research on Islamic law. The study of *usûl al-fiqh* will certainly help both in providing conclusions on legal matters and in exploring the nature of Islamic jurisprudence.

Fazlur Rahman, who advocated a return to Islam which will be comprehensive in scope and efficacious for every age and place, draws our attention to the vital relationship among *kalâm*, *fiqh* and moral values (ethics). According to him, God speaks to the intellect and heart of man, and generates a system of values for him or her. The law, or *fiqh*, produces the moral values which 'are the crucial pivot of the entire overall system'. However, it is important to bear in mind that law, in his view, should be based upon theology.¹⁹ He further draws our attention concerning *kalâm* that it is an intellectual endeavour to make the mind and heart of the believer consent, and

¹⁶ Fazlur Rahman, "Functional Interdependence of law and Theology" , G.E. von Grunebaum, ed., *Theology and Law in Islam*, Wiesbaden 1971, p. 90.

¹⁷ Ibn Khaldûn, *idem*, vol. 3, p. 23.

¹⁸ Aziz al-Azmeh, *Ibn Khaldûn*, London&Newyork 1990, p. 105, 154.

¹⁹ Fazlur Rahman, *Islam & Modernity*, The University of Chicago Press, Chicago 1982, p. 156.

provide for him or her a mentally and spiritually comfortable and coherent world view. So, its task is to guide man morally and to instill in him 'the sense of moral responsibility that the Qur'an calls *taqwâ*'.²⁰

In order to make the message of the Qur'an relevant to the contemporary situation, the theologians of *kalâm* should start studying and interpreting it systematically, and derive a world view which would help the Muslims in facing the facts of the world without losing their Muslim identity. Such *kalâm* will certainly provide meaning and orientation for human life in today's world, and encourage him or her to take immediate precautions against future dangers –which is not yet a reality- that will annihilate the earthly life as a whole.²¹

Fiqh and *kalâm*, today, seem to have lost their active roles which they once played in the religious life of Muslim societies. This is partly due to the lack of intellectual skills and partly to their being far from meeting the demands and needs of modern times. Apart from that, we observe diminution of sensitivity and the lack of interest towards religion among the Islamic nations. I am of the view that Islamic dogma's becoming dim and incomprehensible is the major factor. In the theological field especially, the types of theological problems are quite different from what has been in the past. Today we are not discussing whether the Qur'an, the Book of God, was created or uncreated. Furthermore, we know that the claim that the Qur'an was created, was defeated and no longer survives. There are, in the theological field, three important problems to be solved. They are: The problem of knowledge (*ma'rifa*), the problem of human's freedom (*qada'-qadar*) and the problem of being/existence (*al-wujûd*). These questions were doubtlessly dealt with in detail by past scholars of *kalâm*, but certain, or at least, satisfactory answers were never achieved. These problems certainly require new intellectual thinking and re-working in terms of a Muslim's responsibility in front of legal sanctions put by Islamic law.

²⁰ *Ibid.*, pp. 155-56.

²¹ Gordon D. Kaufman, *Theology for a Nuclear Age*, Manchester University Press, Manchester 1985, p. 13.

It is important to know one's degree of freedom and capacity of knowledge in order to keep one fully responsible for one's acts in case of infringement of legal rules. *Kalâm* is also responsible to work towards answers and solutions to the problems brought by recent philosophical trends and social activities, such as positivism, pantheism, marxism, existantialism, atheism, darwinism, feminism and so forth.²² These ideologies and beliefs constitute a great danger not only for the basic tenets of the religion of Islam, but also for its followers who are mainly defenseless against such dangers. *Kalâm*, by using modern sciences, must also reconsider and reinterpret *tawhîd*, which constitutes *kalâm*'s main subject, in a form that man of this age could understand without having any difficulty. The modern authors of *kalâm* must leave attaching more importance to the past scholars' views. Their views must be investigated from the method and system points of view.

²² Some nineteenth century scholars who were representatives of "new kalâm movement" which emerged at the end of the nnneteenth century, attempted to develop a better understanding of the new science and philosophy of the time, which they regarded as the source of Western superiority, in order to be well equipped in their struggle to maintain their religious and cultural identity. Keeping in touch with modern knowledge was the only way for them to deal with the challenges of the modernity, especially positivistic tendencies. These scholars, such as Muhammad Abduh, Abdullatif Harputî, Izmirli Ismail Hakkı and so forth, proposed a project of renewal in the Islamic sciences, and most specifically in Kalâm, to meet the new methods of reasoning of their rivals. They wrote articles and essays in order to revive the science of kalâm, and attempted criticize its old methods. They even produced kalâm books, such as *Kitab al-Tawhîd* (by Abduh), *Tanqîh al-Kalâm* (by Harpûtî), *Yeni İlm-i Kalâm* (by Izmirli), *Uss-i Islâm* (by Filibeli), and so on. However, we would not generalize too much from the content of these books, but they seem to us indicative enough that their authors kept very close to the form and style of this discipline. Their criticism of kalâm emphasized the importance of a dynamic and up-to-date theology in defense of religion. Their effort involved simplifying the language of classical kalâm books, abandoning sectarian disputes, and comparing Islamic doctrines with those of other religions. They replaced the old philosophical methods and thoughts with the new European philosophical methods and ideas. Their main argument was that the old ones were away from confronting the demands and challenges of the new age. In short, they wanted to renew Kalâm or Islamic theology both in content and method. Despite the fact that they wrote kalâm boons, their attempt remained fruitless.

Finally, as for *fiqh*, we have only one thing to say that the gap between theory and actual practice should be closed. In order to do that the scholars of *fiqh* must give fresh activity to the institution of *ijtihâd* whose gate, as some people claimed, was never closed. As a result, Islamic intellectuals have a vital duty in defending the basic principles of Islam and the defenseless followers of this religion. Islam, as a religion, and its Book, that is Qur'an, are needed to be understood in their real form and explained to the Muslim *Ummah*. This hard work can be done only by the capable and open-minded Muslim intellectuals. Therefore, Islamic world must try harder to produce new Maturîdîs, Ash'arîs, Shafi'is, Abu Hanafîs, Sarakhsîs and so on.

