



An Introduction to the “Comparative Study of Fiqh”

Muhammad Hasan Rabbani

**Translated By
Muhammad Sheibani, Zakir Husayn Mir**



**Al-Mustafa International
Translation and Publication Center**

Publisher's Forword

To begin and execute a research is like walking in the path of development and evolvment. When the seeds of the “questions” are planted, in the soil of the mind of the researcher, this phase initiates, and its end is culminated when the result and the outcome of knowledge and wisdom is gained.

Evidently, this end is a new chapter in itself, for growth, and announces beforehand this good news to humans. For the result of all those mental efforts will not only bring the blooming and flowering of talent and all kinds of Blessings to humans, but it also makes the mind of the researcher to ponder and shape new, more questions.

This will produce a great collection of growing plants and flowers for the seeking mind... Those “questions” are in fact, the seeds, which according to the necessities of Time and the strength of the researchers will grow and bloom by themselves. They will make Culture and Civilization to move forward.

In like manner, the increasing rate of transferring oneself from one place to another place and the decrease of the distances will make those seeds travel miles and miles, to faraway places, in order to install them inside the curious mind of other seekers. This will bring an amazing diversity and a novelty for another civilization...

It is true then, that the presence of knowledge and a good, capable management will help this project to develop itself and one has to admit indeed, that it has always played an important role...

Al-Mustafa International Publication and Translation Center, because of its global mission, and its special position among the Religious Schools and the colorful human diversity that it has developed inside itself, sees it as a moral duty to procure all the appropriate conditions for any research works, and takes its role in this matter, most seriously. To procure all kinds of necessary grounds, with an excellent management of all the existing possibilities and talents, and to care and protect all its researchers in religious fields; these are the most crucial responsibilities of the Department of Research in this International center.

We highly hope that by being attentive to all these autonomous scientific movements, and by fortifying all the existing motives, we shall be able to witness the blooming of the Religious Culture in every part of this wide world!

Table of Contents

Translator’s note	9
Writer’s note	11
Part One: General Concepts	13
Literal meaning of fiqh	13
The term fiqh in its technical meaning	15
The word “Muqaran”	16
Definition of Fiqh Muqaran «فقه مقارن»	17
First Definition	17
Second Definition	17
The Science of Khilaf	18
Definition of Khilaf and Khilafiyyat	18
Benefits of Fiqh Muqaran	22
Subject Matter of Comparative Jurisprudence	28
Difference between the Jurisprudence and Comparative Jurisprudence	29
The Subject Matter of Jurisprudence	29
Books of comparative jurisprudence by Sunni scholars	29
Origins of Differences in Jurisprudence	45
Emergence of jurisprudence schools of thoughts	59
Jurisprudence (fiqh)	61
Jurists’ Position and Jurisprudential Books	65
Inquiries	69
Contemporary jurisprudence	70
Well-known Sunni schools: (Maliki, Shafi’i, Hanbali and Hanafi)	71
Jurists of four schools of thought	73
1. Shafi’i	73
Sources of deduction in Shafi’i School of jurisprudence	74

6 An Introduction to the “Comparative Study of Fiqh”

Characteristics of Shafi’i jurisprudence _____	76
2. Abu Hanifa _____	77
Abu Hanifa’s sources of jurisprudence _____	81
Ahmad b. Hanbal’s Sources of Jurisprudence _____	85
Characteristics of Ahmad b. Hanbal’s jurisprudence _____	85
Ahmad b. Hanbal and introduction to Musnad _____	86
Ahmad b. Hanbal and the science of Jarh and Ta’dil _____	88
Ahmad b. Hanbal and the Emergence of Salafism _____	88
Vocabulary and Terms _____	94
Source of Ijtihad (deduction) in Shiite school _____	95
Sources of Deduction in Sunni school of thought _____	96
Shiite jurists and Sunni jurisprudence _____	97
a) Writers of Sunni jurisprudence: _____	98
b) Those who discussed Sunni jurisprudence: _____	98
c) Avoiders of Sunni fiqh _____	100
Necessity to Study Sunni Fiqh _____	101
Ayatollah Borujerdi’s view _____	101
Part Two: Shiite Books of Comparative Study of jurisprudence _____	105
Shiite Books of Comparative Study of jurisprudence _____	105
Mukhtalaf al-Shi’a _____	127
Method used in the book _____	130
Commentaries on “Majallat al-‘Adliyya” _____	137
Part Three: Terminology Of Jurisprudence Books _____	141
Extraction of hadith from jurisprudence books _____	142
Abandoning factors of comparative study of fiqh _____	143
Important jurisprudence books of four Sunni schools _____	145
Main books of Shafi’i school of jurisprudence _____	149
Important books of Hanafi school of thought _____	155
Explanation of some terms used in Hanafi fiqh _____	163
Important jurisprudence books of Maliki School of thought _____	167
a) Muwatta’ Ibn Malik _____	167
b) Al-Mudawwanat (compilations) _____	167
c) Al-Mukhtasarat _____	168
Important jurisprudence books of Zaydi school of thought _____	172
Methodology of Zaydi fiqh _____	172
Important jurisprudence books in Zahiri school of thought _____	173
Important jurisprudence books of Ibadi school of thought _____	174
Important jurisprudence books of Isma’ili school of thought _____	174
Some jurisprudence books of Ja’fari school of thought _____	174
a) Former jurists _____	174
“Usul Mutalaaqqat” _____	175
b) Latest jurists: _____	179

The Latest Jurists _____	183
c) The age of jurisprudence evolution in the last two hundred years	186
After Shaykh Ansari _____	192
Books of principles in fiqh _____	195
Interpretation of holy verses _____	197
Interpretations of Sunni jurists _____	198
a) Hanafi school of thought _____	198
b) Interpretations of Shafi'i School _____	198
c) Books of interpretation written in Maliki school of thought _	199
d) Important interpretations written in Hanbali school of thought _	200
Shiite Interpretations of fiqhi verses _____	200
Poetry in fiqh _____	204
Bibliography _____	207

Translator's note

Fiqh is Islamic jurisprudence while comparative study of fiqh deals with different schools of thought comparing their fatwas. The subject of comparative study of fiqh is as much important as other subjects. From the very beginning, jurisprudence scholars have given importance to the subject. They have studied it at their seminaries and have written books on it.

Today, the subject is being taught at Universities and religious seminaries in a broader scale. The book in your hand is a contribution to the subject. The respected writer has presented a general view of this science. He has explained important aspects of this field such as introducing different schools of thought, the biography of the authors as well as their works and some of the key terms being used.

The original book is written in Persian. The importance of the topic as well as the need of today has motivated us to translate this book into English. It was through Allah's blessing that we were able to finish the project. We hope it can be a useful reference for those who are interested in Islamic Rulings (Fiqh). It may also be a useful source to bridge the gap between various schools of thought which will lead to common understanding, unity and brotherhood.

**Muhammad Sheibani
Zakir Husayn Mir**