

T1

Religious Figures and Sacred Texts

This section covers AO1 skills and content

D: Sources of Shari'a

Specification Content

Early development of Shari'a

Four Roots of Law

Ijma and qiyas

The work of Al-Shafi'i in developing fiqh

The Major Law Schools

What is Shari'a?

Shari'a literally means the straight path to the water and this clearly indicates that those who follow it will attain sustenance and well being– water referring to our most basic need- on earth but also referring to the waters of Paradise.

Many see Shari'a as Islamic law but in truth it is much more than that. It is a complete moral, social and religious guide for all aspects of a Muslim's life.

Fiqh

The 2 main sources of Shari'a are first and foremost the Qur'an as this is the direct word of God and should be the first port of call for all guidance. After that Muslims turn to the Sunna of Muhammad which is known to us through the Hadith collections. If a matter cannot be settled by reference to these two sources then jurists try to arrive at a decision by a number of other means. The method of working out Shari'a law is known as *fiqh* from the Arabic for 'intelligence'.

Fiqh is human endeavour to understand divine revealed law. Al Shafi'i is considered the founder of fiqh and the person responsible for establishing the concept of the

The Four Roots of Shari'a

As aforementioned the Qur'an is always referred to first when making a decision on Islamic law. However, although the whole of the Qur'an is a guidance for Muslims, only around 10% can be directly converted into legislative regulations. These cover such things as dietary law, family law and inheritance.

Key Terms

Shari'a—God's law

Sunna– the traditions of prophet Muhammad

Hadith– a written report of what Muhammad did or said as narrated by one of his companions

Fiqh - literally 'deep understanding' the name for the technique of working out Shari'a

For this reason then, other 'roots' of Shari'a are required. In order of importance these are:

- The Sunna of Muhammad, known through the collections of Hadiths
- Ijma'- 'Consensus' of scholars on matters of religion or 'Shari'a'
- Qiyas- Use of analogy in a hermeneutical framework to deduce and establish correct behaviour by comparing and contrasting Hadith against Qur'anic teaching.

It is intended to manifest God's infinite mercy- correctly applied , it is the true embodiment of and the best way to justice – **(Maqsood)**

Sunna and Hadith

Sunna literally translates as the clear trodden path. Following the Sunna of ancestors dates back to the tribes of pre-Islamic Arabia. For Muslims Sunna now refers specifically to the traditions of prophet Muhammad. If something is Sunna it means it is recommended as Muslims strive to imitate the example of the prophet-

Key quote

"Ye have indeed in the Messenger of Allah a beautiful pattern (of conduct) " Surah 33:21

How then do we know what Muhammad did and said? We know this through massive collections of written reports of what Muhammad did and said as narrated by his close companions. The collections are known as ahadith (plural for hadith).

Hadiths are made up of two parts; the isnad and the matn. The isnad is the chain of transmitters, explaining who heard it from who, going back to Muhammad himself. The matn is simply the content of what is being reported. All Hadith start with the isnad then go on to the matn.

Key Terms

Hermeneutics - the branch of knowledge that deals with interpretation, especially of the Bible or Qur'an

Ijma'- consensus

Qiyas—analogous reasoning

Isnad– the chain of transmission of a Hadith

Matn– the content of the Hadith

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Remember not everyone agrees about which Hadith are sound and which are weak. This is a good opportunity for diversity of scholarly opinion.

An example of a hadith structure is like this:

Bukahari from Muslim ibn Ibrahim from Hisham from Yahyaibn 'Ikrima from Ibn'Abbas narrated that the Apostle of Allah said "..... *(this would be the matn)*"

In general, hadiths can be divided into 3 main categories:

- 1) Story type material that provides us with details about Muhammad's life
- 2) Legal material where Muhammad interprets and elaborates on the guidance found in the Qur'an
- 3) Religious material where Muhammad provides motivation for Muslims to live according to Islamic values.

Hadiths are also classified into sound, good and weak. Sound hadith are almost certainly true, good hadith and very possibly true and weak hadiths cannot be considered true unless they are confirmed by other traditions. The main way a hadith is classified in this way is based on the isnad and in particular the moral character of the various transmitters, how long they had known the prophet etc.

Key Figures

Muhammad— last and most important Prophet of Allah, founder of Islam

Al' Shafi'i— Father of Islamic jurisprudence known as *fiqh*

Abu Hurayra— Short term companion of the Prophet believed to have narrated over 50000 ahadith

Ali— Muhammad's cousin and Son in Law

Abu Bakr—Muhammad's best friend and father in law

For instance many modernists and Shi'as reject the vast majority of traditions narrated by Abu Hurayra. Sceptics argue that he claims to have remembered too many accounts considering that he only knew the prophet for 3 years. In this time he is alleged to have narrated over 5000 ahadith, where as Muhammad's closest companions like Abu Bakr only narrated 142 and Ali narrated 586 traditions. Some say he fabricated Hadith to support the caliphate of Marwan. However, others revere him as the godfather of Hadith transmission and remembrance.

Ijma'

Al Shafi'i understood consensus to mean the entire Muslim community. This may have been acceptable in Madinah and the early Muslim communities but how could you possibly determine consensus of the global Muslim community today? Subsequent scholars began instead to understand ijma' as the consensus of qualified experts from a particular law school. It is important to note that consensus can never contradict the Qur'an.

After the experts reach a consensus it would be written up and become a third piece of text to accompany the Qur'an and Hadith narrations.

The Qur'an lacked unequivocal authority for the use of analogy, while Tradition suggested that the Prophet may on occasion have resorted to it.

(Waines)

Key quote

"My community will never agree upon an error"

-Muhammad

The above Hadith from Muhammad is often cited to endorse the use of ijma' as a suitable method of interpretation.

Qiyas

If Shari'a is meant to be a guide for all humans across all times then Al-Shafi'i assumed that it must be possible to extend the application of material in the Qur'an and Hadiths to other cases. The way we can do this is by means of analogous reasoning.

For instance the Qur'an forbids drinking fermented date palm and vine due to the fact it is intoxicating. By use of qiyas we can also assume drinking of vodka is haram as this too intoxicates.

Key Fact

As well as the 4 roots of law there are additional principles used. You only need to know the main 4 in detail.

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The four main Sunni law schools all disagree about which roots of law are acceptable and in which order they should be used. This is good for diversity of scholarly opinion.

Al-Shafi'i and the 4 Law Schools

In the first 4 centuries of Islam there was little uniformity in how Shari'a was applied and understood. Often personal opinion and local custom dictated the law. Gradually as the Hadith collections were formed and the Sunna of Muhammad was recorded in writing a more formal version of Shari'a emerged.

Al-Shafi'i in particular contributed to this by developing and writing about the 4 roots of law, discussed earlier. Eventually four different law schools developed, each named after the scholar who founded it.

The schools are not religious denominations and each Muslim adheres to one particular law school— usually this will be the law school common in their local area. In a Muslim state the rulers decide which law school they follow.

Topic Link: 5 Categories of Ethical Action

In Shari'a an action is not simply right or wrong. Instead it is divided into one of 5 categories:

Fard— obligatory

Mustahab— recommended

Halal— neutral/ allowed

Makruh— discouraged

Haram— forbidden

Each school has an accepted body of key texts. The four law schools referred to are the Sunni law schools. Shi'as tend to follow their own either Zaydiyyah or Ja'farite.

The 4 Sunni Law Schools are:

The Hanifite Law School (Turkey, Iraq, former USSR, India and Pakistan). This is the earliest law school based on Qur'an, Sunna, qiyas and opinion. NOT custom or ijma'

The Malikite Law School (West Arabia, North Africa, West Africa). Based on Qur'an, Sunna, Custom, Ijma'. NOT qiyas.

The Shafi'ite Law School (Egypt, Syria, South Arabia, Indonesia, Malaysia, East Africa) Founded by Al-Shafi'i and based on Qur'an, Sunna and Ijma', qiyas as a last resort. NOT custom or opinion

The Hanbalite Law School (Arabia especially Wahhabi sect of Saudi Arabia) The strictest and most traditional of the school. Based on Qur'an and Sunna alone. NOT qiyas, ijma' custom and opinion

Al- Shafi'i

Al- Shafi'i wrote over 100 books on Shar'iah law. The most famous is his *al-Risalah* in which he details the four roots of Islamic law.

In it he refined and systemized the legal thinking of those who came before him such as Abu Hanifa and Malik. His aim was to reduce the range of differences in fiqh . His starting point was to insist that in theory the whole of Shari'a could be derived from the Qur'an. Secondly he narrowed down the concept of Sunna to refer only to the traditions of Muhammad, rather than to encompass the Sunna of Madinan community as Hanifa and Malik had previously done.

It was also Al-Shafi'i who demanded proof of a Hadith's strength through the soundness of it's isnad. In doing so Al-Shafi'i hoped to reduce bida (innovation).

He [al- Shafi'i] did not invent the four principles of law, but rather systemized and crystalized the several elements which had already existed..

(Waines)

[Key Figures]

The founders of the 4 main schools of Sunni Law:

- **Abu Hanifa**—Hanifite School
- **Malik ibn Anas**—Malakite School
- **Al- Shafi'i**— Shafi'ite School
- **Ibn Hanbal**— Hanbalite School

Shi'a Law Schools

Shi'as have their own law schools founded by key figures from the 12 Imams. In particular those founded by Zayd and Jafar.

Shia's always go to the Qur'an and the Sunna first, exactly like their Sunni counterparts. After that the approach differs. For instance Shi'a refer to Hadiths about Ali and the other Imams as well as Muhammad.

Shi'as also reject the use of qiyas as they believe it leads to *bida* (Innovations— in other words making up new laws).

As secondary roots of law, Shi'as use logical and intellect.

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Key Skills

Knowledge involves:

Selection of a range of (thorough) accurate and relevant information that is directly related to the specific demands of the question.

This means that you choose the correct information relevant to the question set NOT the topic area.

Understanding involves:

Explanation that is extensive demonstrating breadth/depth with excellent use of evidence and examples including where appropriate, thorough and accurate use of supporting sources of wisdom and specialist language.

This means that you demonstrate that you understand something by being able to illustrate and expand your points through examples and supporting evidence.

Developing AO1 Skills

Task:

Below is a list of several key points bulleted in response to a question that has been written requiring an explanation of the how Shari'a law was formulated. From the list select the most important points that you would include in your answer. Remember AO1 questions are only worth 20 marks and you have approximately 24 minutes of exam time to complete them.

You can chose to do a depth or breadth approach so choose a few points to develop for a depth approach or several points for a breadth approach.

List of Indicative Content:

- Originally no set formula for applying Shari'a
- Based on local custom and personal opinion
- When Hadith collections began to be recorded there was a shift towards written accounts of Shari'a
- This gradually led to four different law schools developing
- Hanifite school
- Malikite School
- Shafi'ite school
- Hanbalite school
- Shi'a school
- Work of Al-Shafi'i in developing and standardising fiqh
- 4 roots of law
- Qur'an
- Sunna and Hadith
- Qiyas
- Ijma'
- Al-Shafi'i demanding sound isnads
- Al-Shafi'i changing focus of Sunna to be just Prophet rather than whole Madinan community

Issues for analysis and evaluation

The Divine Nature of Shari'a

On the one hand Shari'a is clearly a human law, although it is derived from the Qur'an, the Qur'an only has about 600 verses that can be translated into practical legislation. The human efforts to interpret the will of Allah into a formal law is seen in the additional roots of law— sunna, qiyas and ijma.

However, many would argue that the fact the Qur'an is always the first source of Shari'a, regardless of law school shows it is a divine law, based directly on the will of God and designed to 'manifest God's infinite mercy' - Maqsood.

Another reason why Shari'a is rightly seen as human law is the fact that there are over six different law schools each with their own particular variant of Shari'a. If Shari'a was truly a divine law then surely it would be consistent and unalterable— in the same manner of the Qur'an itself?

In opposition to this claim, one may point out the great lengths scholars of Islamic law have gone to, to avoid bida (innovation). Many of the law schools ban the use of custom and personal opinion for instance in order to ensure humans are merely understanding the law of God, rather than adding to it.

The fact that Shari'a is not in a position to address all modern issues without human interpretation shows that it can never be fully understood as a divine law. One only need look at the great lengths Islamic jurists have gone to in order to apply Shari'a to show that the law is not fit for purpose without a great deal of human interpretation.

Despite this it can be argued that what is fard and haram is made crystal clear in the Qur'an so the true matters of law are covered by the Divine command of Allah. It is only the recommended and discouraged acts that require human interpretation and these are not crucial aspects of Shari'a.

In conclusion, one cannot deny the role of human interpretation in formulating Shari'a over the centuries— however this interpretation is best understood as fiqh— attempting to understand and apply the Divine law of Shari'a— Shari'a itself is divine— it is fiqh— the application of Shari'a that is human.

Islam T1 Religious Figures and Sacred Texts

This section covers AO2 skills and content

Specification Content

How far is Shari'a a divine, rather than human law.

AO2 Activity

Listed below are 6 possible lines of argument.

Use your notes and info book to develop each argument with evidence, examples and quotes.

1. Shari'a is always based firstly on the Qur'an
2. The Hanbalite School only use the Qur'an and the Sunna
3. It is fiqh that is human, Shari'a is divine
4. Ijma, qiyas, custom, intellect, logic etc. are all human interpretations
5. Scholars always try to avoid bida
6. Shari'a is not simply civil law but covers all aspects of life
7. The Sunna is a huge source of Shari'a and Muhammad is not divine

- Which arguments suggest Shari'a is divine, which suggest it is human?
- Can you link any together to form argument and counter argument pairs?
- Can you add any other arguments?

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AO2 Activity

Listed below are 8 possible lines of argument.

Use your notes and info book to develop each argument with evidence, examples and quotes.

1. Shi'as believe the Qur'an has hidden esoteric meaning that only Imams and mujtahids can learn this true meaning— they reject qiyas and ijma but allow human interpretation of experts .
2. Modern issues require qiyas— how else would we know what to do?
3. Muhammad said ijma of his community could never be wrong
4. Sunnah and Hadith are second source of Shari'a this is human interpretation
5. Hanbalite school only use Qur'an and Hadith—they would agree it can impair understanding
6. Takhayyur= picking and choosing from the different law schools to make it more flexible— this is clearly impairing understanding of true Shari'a
7. Qur'an says it is a sure guidance— we shouldn't need human interpretation
8. Human interpretation has already corrupted God's previous messages, we should avoid doing the same with shari'a law

To what extent does human interpretation impair understanding of shari'a?

Many would argue that rather than impair understanding of Shari'a, human interpretation is vital to a proper understanding of the law.

This is most clearly seen in the fact that all law schools use not just the Qur'an but also the Sunnah and Hadith as their main sources of Shari'a law. Here we see human interpretation from Prophet Muhammad and of course this helps aid understanding of what the Qur'an expects. Muhammad is labelled by the Qur'an itself as the 'perfect exemplar' and there are several instances where the Qur'an gives the basics but it is the Hadith that gives the finer details and requirements. Salah is one such example.

However, many would argue that the Qur'an requires no human interpretation and the laws it sets out are clear. The Qur'an claims of itself "This is the book, in it is guidance sure". Many would also argue that Muhammad's interpretation is a clear expectation to the rule as he was always in contact, via Jibril, with God and so the Hadith are not purely human interpretation but Muhammad demonstrating the will of God, known to him due to his special status.

Those who adhere to the Hanbalite law school would likely agree that human interpretation does impair understanding and they are strict on the fact only Qur'an and Hadith may be used as a root of law. Indeed all law schools carefully select what roots are acceptable and are keen to avoid bida, showing that human interpretation at least has the potential to impair our understanding of Shari'a.

That been said one could argue that Allah has made us rational intelligent beings and he would expect us to use these faculties to gain a better understanding of his will and law. This is supported by the Hadith which states "My community will never agree upon an error". This suggests that human interpretation through ijma can be useful for enhancing understanding.

Indeed many would argue that human interpretation is necessary when applying shari'a to modern issues not mentioned in the Qur'an. In this instance the use of qiyas seems the best route of action as otherwise clearly bas actions not mentioned in the Qur'an would go without sanction.

It seems therefore that human interpretation is important in aiding our full understanding of Shari'a but it must be undertaken with caution and strict guidelines.

E: The role of Shari'a and its importance for Muslims

Islam T1 Religious Figures
and Sacred Texts

Shari'a In Action

Moral Law— Abortion & Theft

Abortion in Focus:

There are several suras relevant to the issue of abortion that form the basis of the Shari'a guidance in this matter.

Key quotes

Whoever takes a life it will be as if he has killed the whole of humanity

-Sura 5:32

And

Do not kill your children for fear of want

- Sura 6:151

For this reason abortion is generally forbidden under Shari'a law however there are some circumstances where it is acceptable.

If the mother's life is threatened by continuing the pregnancy then the principle of 'killing the calf to save the cow' is used. This is allowed as the lesser of two evils. This is a common practise in applying Shari'a law— and is backed up by several stories from the Qur'an where Allah advises believers to choose the lesser of two evils.

When is Abortion allowed?

Some believe it is allowed before ensoulment takes place at 40 days.

Others believe it is allowed before quickening at 16 weeks.

Others believe we have no knowledge of the soul and so should avoid it at all costs. This is based on a Hadith of Muhammad where when asked about the soul he said knowledge of it belongs to Allah alone.

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Different Schools of Thought

Yusuf al-Qaradawi, Muslim scholar based in Qatar allows abortion if the mother's life is endangered.

Shaykh Abdullah (grand mufti of Jordan) allows medical abortion as long as the foetus is unformed in human shape (up to 120 days)

In Islam the actual life of the mother takes precedence over the potential life of the unborn foetus. However, the foetus does have the 'right to life' from the moment of conception.

For this reason the only permissible reason for an abortion is if the mother's life is in danger.

Poverty is not a reason for abortion as it shows a lack of trust in the provisions of Allah and is in direct conflict with Sura 6:151.

The pregnant woman can not claim that the foetus is a part of her body under Shari'a either.

Sura 81-7-9 also reminds women that they will be held accountable for an abortions on the Day of Final Judgement:

Key quote

When the souls are sorted out, when the female infant buried alive is asked for what crime she was killed...then shall each soul know what it has sent ahead

-Sura 81:7-9

Key Terms

Mufti- a Muslim legal expert who is empowered to give rulings on religious matters.

Fatwa- a new legal verdict issued by a qualified jurist

Hadd penalties- specific penalties laid down in the Qur'an for specific crimes and sins. They cover six areas including theft

Theft in Focus:

Theft is haram in Shari'a law and has a specifically assigned hadd penalty. Most famously, one can incur an amputation for theft, however, there are several conditions that have to be met for this to actually take place.

A Hadd penalty is clearly stipulated in the Qur'an it is non negotiable. With non-Hadd crimes the punishment comes down to the discretion of the judge.

The idea of cutting of a thieves hand serves several purposes– It marks the criminal as a thief, it acts as a deterrent and a warning to others. Prophet Isa also talks about

removing the hands of a sinner in the Gospels (Injil).

Muhammad said he would personally perform the amputation if anyone was found guilty of theft– even if it was his beloved daughter Fatimah.

However, despite all this many conditions have to be met for theft to be classified under hadd punishment. Some of these are listed below:

- 1) The criminal has to be an adult (15 for girls, 19 for boys)
- 2) The criminal has to be of sound mind
- 3) The property stolen must be personal property above a certain value. If it is haram (like alcohol or pork) then it is not punishable under hadd.
- 4) The criminal must show no remorse
- 5) The criminal must not have stolen out of hunger or necessity– of this is the case they may keep their loot and the community is seen as having failed the individual for not looking after them properly.
- 6) The crime has to be seen by two witnesses willing to swear an oath that they saw the theft take place.

Religious Law— Tattoos and Hijabs

Shari'a applies to all aspects of a Muslims live so when it comes to religious law there are many guidelines for a Muslim to follow such as dress, food and worship. Unlike moral and civil law, violations of religious law are not punishable as crimes. Instead it is something that believer's will be held accountable for on the Day of Final Judgement.

Tattoos in Focus:

In Islam tattoos are haram. This includes all permanent tattoos where the skin is permanently changed. It does not include mehndi designs done with Henna as these wash off.

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If your hand causes you to sin, cut it off. It is better for you to enter life maimed than with two hands to go to Hell

Jesus in Mark 9:43

Are Hudud punishments barbaric?

In the UK right up until the 18th Century the punishment for theft was death– Under Islam this law was reformed to the much less harsh amputation as early as the 7th Century.



Kendyl Noor Aurora is a tattooed hijabi Muslim revert who is proud of her tattoos

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Shi'a View on Tattoos

Despite being haram, many Muslims from various cultures have tattoos. However, in Shi'a Islam tattoos are not outlawed at all unless they are of Qur'anic verses, images of Imams and other shirk-like depictions.

Rather they are classified as makruh.

Shi'a scholar such as Ayatollah Ali Khamenei argues that since the tattoo goes beneath the skin it is permissible.

Shi'as also point out that if Sunnis truly believed you cannot alter Allah's creation you would not be able to cut your hair, fingernails or have operations.

Accepting and reverting to Islam also negates any previous sins. If a person has had a tattoo in her Jahiliyya period she will not be held accountable for it. However, she should try to have it removed or at the very least keep it covered at all times.

There are several relevant ahadith referring to tattoos which form the basis of the Shari'a ruling on this matter:

Key quote

The Prophet cursed the one who does tattoos, the one who has a tattoo done..

Hadith narrated in al Bukhari

May Allah curse the women who do tattoos and those for whom tattoos are done, those who pluck their eyebrows and those who file their teeth for the purpose of beautification and alter the creation of Allah

Hadith narrated in al Bukhari

The last hadith hints that one of the reasons tattoos are haram is due to the fact they are altering Allah's creation. This is supported by the Qur'anic quote which talks of Shaytan tempting people to altar Allah's creation:

I [Shaytan] will command them so they will change the creation of Allah

Sura 4: 119

Another Sunni view against tattoos is they are an attempt to over beautify yourself which goes against Islamic teachings on modesty.

By contrast some see them as a mutilation and so damaging Allah's creation.

Hijabs in Focus:

According to all 4 Sunni law schools Hijab is fard. However, in Islam in general opinion is divided with modernists claiming hijab is mustahab and rather it is modesty that is fard.

In the four main law schools it is said a women should cover everything other than her face and her hands when in the presence of male non –relatives. With other women, or with close male relatives the dress code is relaxed.

Key quote

When looking at the Qur'an alone there is no clear ruling on wearing a hijab. Rather the Qur'an says:

Say to the believing men that: they should cast down their glances and guard their private parts (by being chaste) and say to the believing women to not display their beauty except what is apparent, and they should place their khumur over their bosoms..

Sura 24:30

The second relevant verse from the Qur'an is this:

O Prophet! Say to your wives, your daughters, and the women of the believers that: they should let down upon themselves their jalabib

-Sura 33:59

When looking at these quotes, traditionalists see it as requiring a full covering from head to toe. Modernists see it as being a call for modesty– the particular dress mentioned is that which was cultural to the women of Arabia and so a Muslim women should simply dress modestly inline with the clothes from her particular culture.

For many women then, the decision to wear a hijab or not is a personal matter of faith between her and Allah but in some Islamic states, the wearing of hijab is enforced by law.

Islam T1 Religious Figures and Sacred Texts

Just for Muhammad's Wives?

Reza Aslan, Leila Ahmed and Karen Armstrong all argue that veiling was only intended for the Prophet's wives and became popular as women tried to emulate them.

Key Terms

Khumur– plural of a veil women used to cover their heads

Jalabib– long, loose outer garment

Hijab - meaning veil– referring to the head scarf worn by Muslim women

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Divorce in Islam

- *A woman who is divorced must receive her mahr (bridal payment from groom to bride)*
- *There is a waiting period between requesting a divorce and being granted one to ensure she is not pregnant and to allow for reconciliation.*
- *If she is pregnant the woman cannot be divorced until the child turns 2 year' old.*
- *There are two types of divorce talaq- where one party wants a divorce and khul where both agree on the divorce*
- *Men can get talaq by "saying "I divorce you" three times in front of witnesses*
- *Women can only have a khul divorce and lose their mahr or a talaq divorce if their husband is impotent, insane or has a STD.*

Case Study Iran:

At one point, in a bid to modernise Iran, wearing of the hijab was banned. However, this caused lots of anger, especially with Shi'a clerics. Today the law has gone full circle and it since the Islamic Revolution it is now illegal to go out without a hijab on and strict Islamic dress for all women including non-Muslims and tourists. The rules apply to all females from the age of 9.

Signs are posted around Iran, in taxis, on street signs promoting the importance of mandatory hijab. Shopkeepers are forbidden to serve women who are wearing hijab incorrectly and 'morality' police patrol the streets looking for hijab violations to penalise.

Penalties in Iran for incorrect dress include fines, flogging and imprisonment from 1 to 12 months.

Civil Law— Divorce and Inheritance

As well as criminal law, moral law and religious law, Shari'a is also important in civil law which includes family matters such as marriage and divorce and inheritance. For many Muslims living in non-Muslim countries it is the civil aspects of Shari'a that can be accurately applied.

Divorce in Focus:

Divorce is allowed in Shari'a but it is seen as makruh.

Key quote

Among lawful things, divorce is the most hated by Allah

-Hadith

Despite this, divorce is very easy to obtain in Islam.

There are several guidelines in Shari'a pertaining to divorce (see side bar).

In Shari'a after puberty the father gets custody of the children, he can also appeal for custody sooner if his ex wife is a non-Muslim or a bad Muslim. If she remarries her children must return to their father.

Inheritance in Focus:

While by modern standards, Shari'a inheritance laws seem unfairly biased in favour of men, the Qur'an did much to improve the rights of women when it came to inheritance. In pre-Islamic Arabia there was much variance in inheritance but women seldom inherited anything. As well as this the widow of the deceased could be included as inheritance along with property and money. The Qur'an also outlawed this.

In Shari'a law six family members are named as heirs—six of these are female relatives and three are male.

The Qur'an does not explicitly mention the shares of male relatives, such as the decedent's son, but provides the rule that the son's share must be twice that of the daughter's. This ruling is supposed to be inline with the duties of each. As a male would have to use the money to provide for his wife and children, whereas the daughter would only need to use the money for herself, as such she would not require as much.

Key quote

The men get a share of what the parents and the relatives leave behind. The women too shall get a share of what the parents and relatives leave behind.

Sura 4: 7

GOD decrees a will for the benefit of your children; the male gets twice the share of the female

Sura 4:11

The money left must first be used to pay off any debts the deceased owed.

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Why do men get more?

One explanation of why a daughter is entitled to only half that of the son is that Islam decrees that women, upon marriage are entitled to a "dowry" from the husband (in addition to any provision by her parents). It is thereafter the husband's obligation to care for and maintain his wife and the "dowry" is, therefore, essentially an advance of inheritance rights from her husband's estate which returns to his possession after the formalities over.

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The mujtahid freely exercised his skills, answerable only to Allah

David Waines

The four founders of the 4 Sunni Law Schools are seen as the pioneering mujtahids of the early Islamic community

Key Terms

Ijtihad– intellectual struggle, the effort of mujtahids in deducing the law from the sources.

Mujtahid– legal scholars of Shari'a

Muqallad– jurist who imitates previous decisions of mujtahids and does none of his own ijtihad

The Role of Mujtahids

As we have seen from section D, there is dispute as to whether human interpretation impairs our understanding of Shari'a. Can right or wrong conduct be known by human reasoning alone or is revelation necessary? What happens where there is conflict between human judgement and the will of God as laid out in the Qur'an.

The general Muslim view has been that since human reasoning is liable to error and moreover, leads to a multiplicity conflicting views, the surest way to follow the straight path is simply to follow what Allah has decreed in the Qur'an.

Nevertheless one must spare no effort in ensuring they fully understand exactly what this divine command means and entails. The exercise of such effort is known as ijtihad (intellectual struggle). From this word comes the name of those who practise ijtihad– mujtahids (legal scholars) . One hadith states that mujtahids will receive two rewards in Paradise for their efforts if they are correct and one reward if they are wrong. This shows the importance of the effort to try to understand and interpret the law of Allah.

Generally, a Mujtahid is a great scholar Muslim who makes up his own ruling on the permissibility of an Islamic law but only for himself.

Ijtihad is a method of legal reasoning that does not rely on the traditional schools of law.

Mujtahids were special jurists qualified to deduce law from the sources by their own efforts. There was no checking up on their work and the fact that they were promised reward for their work, even when in error put a precious premium on the exercise of ijtihad.

By the 12th Century debate was arising as to whether the community could continue without mujtahids and indeed whether there were any mujtahids left. Some felt the community would always need mujtahids as they were the only people qualified to inform on matters of the law, especially when new situations arose.

Others felt mujtahids were no longer needed. When the governments began to employ their own jurists there was a feeling that unlike mujtahids who worked independently for the good of the community, these government jurists were bought to endorse the views and preferences of the rulers.

Taqlid

By the end of the 10th century, legal scholars felt that all major legal issues had been resolved. They said that the door of interpretation (ijtihād) should be closed and from now on, Muslims should simply consult the past decisions.

These past decisions were collected in books by various law schools. These books contained collections of fatwas issued by muftis (Islamic legal scholars) as well as more theoretical work dealing with the qualifications needed to become a mufti and the decision making procedures of a mufti.

Taqlid therefore, refers to 'imitation' whereby Muslims imitate past decisions from previous fatwas found in these books.

For many taqlid involves slavish adherence to the traditions of the jurists and is an inadequate way to meet the needs of the modern Muslim community.

Indeed there is a big debate within Islam as to whether the 'doors to ijtihad' should be closed or remain open.

The Closing of the Doors to Ijtihad

Sunni vs Shi'a View

It was the Sunni leaders at the time who decided to close the doors to ijtihad– some thing to quash uprising and people questioning their rulings.

For Shi'as the door has never been closed and ijtihad continues to this day.

Shi'as did not however, require ijtihad as early as their Sunni counterparts. For Sunnis, ijtihad has been used since the death of the Prophet. As Shi'as believe the authority of Muhammad continued through the 12 infallible Imams they had no need for ijtihad until the 12th Imam went into occultation.

Islam T1 Religious Figures and Sacred Texts

The closure of ijtihad ...condemns all Muslims to permanent stagnation and exclusion from the laws of evolution.

Subhi Mahmasani

Qualifications of a Mujtahid

- an understanding of the objectives of the *sharia* knowledge of its sources and methods of deduction.
- Competence in the Arabic language
- Good understanding of the Makkan and Madinan contents of the Qur'an, the events surrounding their revelation and the incidences of abrogation
- an adequate knowledge of the *sunnah*,
- He needs to know the relative reliability of the narrators of the *hadith*
- He should have a thorough knowledge of the rules and procedures for reasoning by analogy (*qiyas*)

T1 D-F Shari'a

Shi'as see the closing of the doors as a deliberate ploy by the enemies of Islam to block the source of dynamism and perpetual vitality of Islam and its law, which in turn implied the expulsion of Islam from the arena of temporal affairs and, following it, its elimination from the intellectual and spiritual spheres.

There are some Sunni Muslims who believe the doors to *ijtihad* should remain open, however this is not the prevailing view within Sunni Islam.

Starting from the 18th century, some Muslim reformers began calling for abandonment of *taqlid* and emphasis on *ijtihad*, which they saw as a return to Islamic origins. Public debates in the Muslim world surrounding *ijtihad* continue to the present day. The advocacy of *ijtihad* has been particularly associated with Islamic modernists and purist Salafi thinkers. Among contemporary Muslims in the West there have emerged new visions of *ijtihad* which emphasize substantive moral values over traditional juridical methodology.

So we can see, although the doors have never been closed for Shi'as the issue is less clear cut for Sunnis.

Key Terms

Ulema- a body of Muslim scholars who are recognized as having specialist knowledge of Islamic sacred law and theology

Riba—the sin of charging interest on money loaned.

Salafis-Muslims who call for a return to early Islam, following the ways of the devout ancestors

Rashid Rida on the Importance of Ijtihad

Rashid Rida is said to have been one of the most influential and controversial scholars of his generation and was deeply influenced by the early Salafi Movement was especially critical of what he termed "blind following" of traditional Islam. The Salafi movement is an ultra-conservative reform branch or movement within Sunni Islam that developed in Arabia in the first half of the 18th century. It advocated a return to the traditions of the "devout ancestors" (the salaf).

Salafis believe that adherence to *taqlid* has led to a decline in Islam and believe practice of *ijtihad* will strengthen the faith of believers by compelling them to better familiarize themselves with the Quran and come to their own conclusions about its teachings.

He encouraged both laymen and scholars to interpret the primary sources of Islam themselves. Applying this principle enabled Rida to tackle a number of subjects in a modern way and sometimes led to him holding unorthodox ideas that were considered controversial by some and progressive by others.

One of his controversial views was his support of Darwin's theory of evolution. To justify Darwinism, Rida considered it permissible to "interpret certain stories of the Qur'an in an allegorical manner, as, for example, the story of Adam."^[13] He also believed that the origin of the human race from Adam is a history derived from the Hebrews and that Muslims are not obliged to believe in this account

Other controversial beliefs held by Rida included:

- His view that usury (riba) may be permitted in certain cases
- His idea that building statues is permissible in Islam as long as there is no danger of their being devoted to improper religious uses. the blind imitation of the past (taqlid), the stagnation of the ulema, and the resulting failure to achieve progress in science and technology. He held that these flaws could be alleviated by a return to what he saw as the true principles of Islam albeit interpreted (ijtihad) to suit modern realities.

Tariq Ramadan on the importance of Ijtihad

Tariq Ramadan considers himself a Salafi Reformist. He has called for a return to thorough and careful ijtiḥad in the modern Islam world in his book *Radical Reform: Islamic Ethics and Liberation*. Ramadan argues that this does not mean betraying the essence of Islam, as his traditionalist Muslim critics might think, but instead being faithful to true Islam by undergoing effort and reasoning to work out what Allah really wants us to do. In this way he calls not for a reform of Islam, but rather for a reform of Muslim thinking to be inline with true Islam.

Ramadan argues that the doors to ijtiḥad were closed by well meaning traditionalists who wanted to remain faithful to Islam– they see any modern ijtiḥad as an attempt to

Islam T1 Religious Figures and Sacred Texts

Through ijtiḥad we ought to sustain a historically grounded approach to these sources while at the same time employing human creativity to respond to the particular problems of our age

Tariq Ramadan

Two Types of Ijtihad

- Ijtiḥad can be applied to *zanni* texts to analyse the text and draw a ruling from it.
- Secondly ijtiḥad can be used when there is no relevant scriptural text relating to the matter. In this case, mujtahids might use *qiyas* or try to deduce a ruling based on the overall aims of Shari'a

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We have no choice but to use ijihad... to find the right answer for our time

Tariq Ramadan

adapt Islam to the west. There is a preoccupation in Islam with avoiding corruption and several ahadith warn against this.

Nevertheless, Ramadan argues that it is in fact a betrayal of Islam to literally apply Qur'anic text to new situations that the Qur'an was never referring to and which does not fit it.

He argues that Muslims simply have no choice in the modern world but to employ ijihad. The doors cannot be closed, and should not be closed if Muslims are to find the right answers to correct conduct in the modern world.

He disagrees that Muslims should idealise Muslim scholars of the past, with the exception of Prophet Muhammad. These were just humans and so of course their judgements could have been flawed or may need updating.

However, Ramadan is very clear that ijihad should be done within strict guidelines. Firstly it should only be undertaken by mujtahids– the very demanding conditions of a mujtahid mean that the work would be done diligently.

One reason modern day ijihad is vital is because the mujtahid should have a good understanding of the social and cultural context in which the laws are being followed– how can judgements by 10th century Arab scholars be applicable and carefully deduced for modern Muslims living all over the world?

Ramadan is also very clear that Ijihad should only be done on zanni texts or instances where there is no scriptural reference at all. On all qati suras, ayat and ahadith there is no need for ijihad.

Finally, Ramadan gives a clear warning that Mujtahids should not be employed by governments to avoid ijihad becoming about pleasing the ruling powers over faithfulness to Islam. Here Ramadan echoes the concerns of the Muslim community at the time of the formal closing of the doors.

Key Terms

Zanni texts– where the ruling is not clear and open to conjecture or interpretation

Qati texts– where the ruling is very clear and so indisputable

Issues for analysis and evaluation

How far is the description of Shari'a as a law misleading?

For many who know of Shari'a they will identify it confidently as Islamic Law but many would argue that this term is misleading, at best and dangerous at worst.

Shari'a is not a law in the sense, we in the West might think of as law. Rather it is an all encompassing guidelines on how to best live one's life in line with the will of Allah. This can be seen by the fact that Shari'a covers religious, moral, civil and criminal matters. Law in the UK for instances does not deal in moral and religious matters.

Secondly there is not necessarily punishments and consequences for many acts. For instance there is no punishment for missing any of the five daily prayers– this is a religious obligation and presumably it will be taken up by Allah himself of the Day of Final Judgement.

Another factor that separates Shari'a from acting like law as we traditionally understand it is that there is no one set agreed Shari'a– there are 4 law schools in Sunni Islam, several more different ones used by Shi'as and even then, individual Muslims may practise *takhayyur* whereby they pick and choose different rulings from different law schools.

However, to say that Shari'a is not law seems equally misleading. Shari'a is the guidelines set down by which Muslims should live, the scholars of Shari'a are jurists who make legal rulings and issue legislations– Shari'a then is clearly a type of law.

Secondly Shari'a come with punishments and penalties for when Shari'a is not followed correctly, for instance the hudud penalties. This suggests that Shari'a is very much a law.

Finally where Shari'a forms the official law of a Muslim state, like in Iran or Saudi Arabia then it is very much a law and functions as a law.

Nevertheless much of the western hysteria regarding Shari'a and the idea that Muslims want to live by Shari'a law in the UK is probably a result of this misunderstanding of Shari'a and thinking of it in the same way as UK Law. Therefore while it is not true to say Shari'a is a law in the same way UK Law works, to deny it is a law at all is counter-intuitive.

Islam T1 Religious Figures and Sacred Texts

This section covers AO2 skills and content

Specification Content

How far is Shari'a as a 'law' misleading?

AO2 Activity

Listed below are 9 possible lines of argument.

Use your notes and info book to develop each argument with evidence, examples and quotes.

1. Shari'a is law but not in the same way UK law is
2. Shari'a is a complete guide to all life
3. Not all aspects of Shari'a are enforceable
4. Shari'a civil courts operate for Muslim family matters but they work alongside the law of the land and in no way conflict with it
5. A Muslim can live by Shari'a in a non-Muslim country
6. Shari'a is a set of guidelines with punishments– this is clearly a law
7. In Islamic States Shari'a is the law of the land
8. The practice of Ijtihad shows Shari'a is more of a personal guide than a set law
9. There is no one set version of Shari'a showing it is an attempt to understand the best way to live rather than a fixed law

T1 D-F Shari'a

AO2 Activity

Listed below are 6 possible lines of argument.

Use your notes and info book to develop each argument with evidence, examples and quotes.

1. Shi'as believe that the doors have never been closed
2. Salafis call for a return to ijihad
3. The doors have closed and this has caused problems for Muslims not being able to modernize
4. While individuals may practice ijihad for themselves– those in Islamic States like Saudi have to live by a Shari'a based on taqlid
5. The doors closed in 10th century
6. Using taqlid and sticking to the early law schools ensures Islam is not corrupted by modern western influences

Are the doors to ijihad closed?

Clearly the official position is that the doors to ijihad are closed and have been since the 10th Century. No further additions can be made to the cannon of work from the 4 major law schools and instead new legislations are made by reference to taqlid not ijihad.

Those who endorse the closing of the doors suggest that this is the best way to protect Islam from corruption and for Muslims to remain faithful to Islam and avoid adapting to please the West.

However, Salafi reformers would argue the opposite, Rida claims that slavish adherence to taqlid is responsible for the decline in Islam and the modern Salafi reformer, Ramadan claims that we have no choice but to use ijihad in order to meet the needs of the modern age. These two scholars suggests that it is blind imitation of taqlid that is a betrayal to Islam, not the intellectual endeavour to truly understand and apply the will of God through ijihad.

While the debate rages in the Muslim community between the traditionalists and the reformers it still remains that the majority Sunni Muslims believe that the doors remain closed. Indeed the fact that the doors are closed has caused problems for Modern Islam as Mahmasani claims "The closure of ijihad ...condemns all Muslims to permanent stagnation and exclusion from the laws of evolution."

However, for Shi'a Muslims the doors to ijihad have never been closed. The different status of Shi'a Imams contrasted with the Sunni caliphs has meant that Shari'a has always been open to interpretation and ijihad by the Shi'a clergy has always been important especially seen as Shi'a believe the Qur'an contains esoteric meaning that can only be known by the Imams.

To conclude the question as to whether the doors to ijihad are closed is a complex one– for some Muslims the doors are closed and should remain closed, for others the doors should be flung wide open to allow Muslims to fully participate in the modern world, for other Muslims the doors have never been closed. Perhaps a more important consideration is whether the doors of ijihad should remain closed?

F: Muslim understandings of Jihad

Islam T1 Religious Figures and Sacred Texts

Specification Content

- The meaning of the term 'Jihad'
- The division in to Greater and Lesser Jihad
- Misrepresentation of Jihad in Western Media
- History, development and modern context of military Jihad

What is meant by the term 'Jihad'?

Many Islamic terms have been misunderstood and misrepresented by Western media but perhaps the most enduring is the use of the term Jihad.

For most people, if you asked, they would tell you jihad means holy war but in actual fact the term Jihad means to struggle in the way of Allah.

It is divided into two kinds- greater jihad and lesser jihad, as implied by their names, greater jihad is the most important.

Jihad is fard upon all Muslims and is sometimes unofficially known as the 6th pillar of Islam.

The Greater Jihad

The aim of every Muslim is to live the perfect Muslim life and this is definitely a struggle for all Muslims as Islam makes many demands on its followers. Greater Jihad includes the struggle of every individual Muslim to perform the five pillars correctly, to follow Shari'a and follow the sunna of Muhammad.

The whole life of a Muslim is a struggle to please God and hopefully enter Jannah on the Last Day. Greater Jihad is about establishing what is right and removing evil from yourself.

Some refer to the Greater Jihad as the Internal Jihad as it is about struggling with your own baser instincts, desires and habits.

Once a Muslim is in the process of greater jihad within themselves, then they can look to making society a better place, establishing good within society and removing evil - this is lesser Jihad and as we can see it is not solely confined to military action.

• *Lesser jihad is war against polytheists and greater jihad is the war against evil*

-Prophet Muhammad

T1 D-F Jihad

UK Tabloid press covering 'jihad'.



Bus campaign on true meaning of Jihad



Lesser Jihad

Many people might correctly avoid referring to jihad in general as holy war but instead refer to lesser jihad as holy war- however, this is still inaccurate. Lesser jihad is the struggle to make society a better place- this of course does include military jihad but it can also include many other things- charity work, campaigning, educating, volunteering etc.

Misrepresentation of the word Jihad

There are 35 verses in the Qur'an that mention Jihad. 31 of these make no reference to fighting whatsoever. The 4 remaining verses speak only of taking up arms to defend yourself against an aggressor.

In US media the term Jihad is mentioned on average 6000 times per year. Greater jihad has had 56 appearances between 2001 and 2010.

By focussing on this narrow aspect of jihad the media reinforces negative stereotypes about Islam as a violent and war mongering religion.

However, as we shall see, the Western Media aren't the only ones guilty of hijacking the true meaning of Jihad. Islamic extremists often cite the Jihad passages in the Qur'an to support their acts of terrorism, calling their violent actions 'jihads' against an oppressive enemy.

In truth there is not one fixed interpretation of what lesser jihad is and what it should involve amongst Muslims and where some scholars have taken a more violent understanding of Jihad is has had knock on effects where poorer, less educated followers have taken their words over the true message found in the Qur'an.

There have been bus campaigns to try to highlight the true meaning of Jihad- especially the importance of greater jihad which is the only Jihad most Muslims will ever engage in in their lives.

Conditions for Military Jihad

As we have discussed jihad does not mean holy war and neither does lesser jihad mean holy war however, it is true to say that military jihad does form a part of lesser jihad.

However, in the Qur'an the term holy war is never used. In fact this is a Christian concept first used to justify the Crusades against Muslims.

Indeed the several strict conditions for military Jihad found in the Qur'an make it much more akin to an Arabian version of Just War Theory:

1. Only in self defence- started by the opposition
2. Must be to bring freedom, justice and peace
3. No killing female, children, seniors, pacifists, slaves unless combatants
4. Vegetation and property cannot be destroyed
5. No waterholes may not be poisoned
6. Torture of hostages forbidden at all times-
7. Must be endorsed by a spiritual leader
8. Fighting must stop as soon as the enemy lays down arms

If a war or conflict involves any of the following, despite what extremists or the media might call it, it is not a jihad:

- Wars of aggression or ambition
- Border disputes or for land
- To conquer or exploit
- Forcing people to accept Islam
- Acts of terrorism, suicide bombings etc

The Origins of Military Jihad

The doctrine of Military Jihad was first developed in Madinah when the Quraysh refused to allow Muhammad and his companions to practise their religion in peace. Islam was born into a world and geographical area that was constantly warring- the great empires that surrounding the nascent Muslim world, the Byzantine and Sassanian Empires were constantly at war.

Islam T1 Religious Figures and Sacred Texts

In the Qur'an war is either just or unjust; it is never holy

-Reza Aslan

An example from the Prophet

- When the Muslims captured a great enemy of Islam, Suhayl, Umar offered to cut open his cleft lip so he would never be able to speak against the prophet again. Muhammad was adamant "I will certainly not mutilate him" he replied.
- Muhammad saw his defeated enemies as potential converts and no longer enemies.
- Alas Suhayl did convert and went on to become a hero of Islam.

T1 D-F Jihad

At War with the Quraysh

The Quraysh were the most powerful clan in Makkah at the time of Muhammad. Muhammad's own clan, *Banu Hashim*, were members of the Quraysh tribe but Muhammad and his message of monotheism and morality did not impress his rich tribesmen.

As Muhammad and his companions planned to flee Makkah for Madinah, the powerful families of the Quraysh were plotting Muhammad's death.

Although they were unsuccessful in this attempt, they continued to attack the Muslims in Madinah and before Muhammad finally conquered Makkah in 630 CE the two sides fought three main battles— The Battle of Badr, the Battle of Uhud, and the Battle of the Trench.

Consequently, when Muhammad died and the early Islamic community began to expand through wars, it was not that the Muslims created or wanted these wars ; the wars were already there- the Muslims just dominated them and thus were able to expand.

Interestingly though they were never expanding to convert individuals to Islam. Indeed at this time your religion of Jewish, Christian or Muslim was more about your culture and ethnicity – you couldn't choose it. Christians and Jews living in Muslim lands at this time paid a special tax so it was more financially desirable for the Muslim conquerors *not* to force them to convert to Islam.

There are countless verses from the Qur'an that show Islam should always be freely chosen and never forced. Indeed for Christians and Jews there would be no need to convert as they already follow the one True God.

Key Quotes

The truth is from your Lord; believe it if you like, or do not.

Sura 18:29

Say "Oh you who disbelieve... to you your religion and to me mine"

Sura 109:1-6

There is no compulsion in religion

Sura 2: 256

The people who Muhammad had been called upon to warn and convert were the Arabian polytheists. This interestingly, is where most misunderstood and misappropriated verses relating to Jihad come from- those that specifically refer to the Quraysh at the time of the on-going battles with the early Muslims.

Those who wish to portray Islam as a violent and oppressive religion take these verses directed specifically at the Quraysh, specifically at that situation and use them to be representative of military jihad when of course they are not.

However, if those intolerant of Islam have misquoted these verses, so too have radical Islamists who have used them to justify violence and attacks in the name of Islam that the very vast majority of Muslims would not endorse and would not recognise as a genuine Jihad.

Here are some of the problematic verses relating to the Quraysh:

Key Quotes

“slay the polytheists wherever you find them”

Sura 9:5

“fight those who do not believe in God and the Last Day” **Sura 9:29**

“carry the struggle to the hypocrites who deny the faith” **Sura 9:73**

It is these three passages, and specifically a misapplication of them that has given Islam its unfair reputation as a war mongering, violent religion. The issue lies in the fact that these verses have been taken out of their historical context and been used to apply to all any polytheists, atheists and general non Muslims when in fact they refer to specific groups of people during the time of Muhammad (see info box to right).

Those radical Muslims wishing to manipulate Qur’anic teaching for their own political agendas have one further ploy. In the Qur’an, much like Jesus says in the Bible, there is no greater sacrifice than to be willing to lie down one’s life for one’s faith.

Islam T1 Religious Figures and Sacred Texts

Qur’anic Terminology

Those who study the Qur’an know that ‘polytheists’ is used throughout to specifically refer to the Qurayshi polytheists fighting Muhammad in Makkah.

The term ‘hypocrites’ specifically refers to those who claimed allegiance to Muhammad and Islam in Madinah but didn’t really accept it and were allied with the Makkans.

This highlights the importance of reading and understanding the Qur’an in its historical context.

T1 D-F Jihad

Lesser jihad is any exertion- military or otherwise- against oppression or tyranny- and while this definition of Jihad has occasionally been manipulated by militants and extremists to give religious sanction to what are in actuality social and political agendas, that is not at all how Muhammad understood the term.

Reza Aslan

The Qur'an says those who die fighting a Jihad will go straight to heaven and are known as shahids (martyrs). In communities like ISIL it is considered a great honour for the family members of a shahid. By exploiting this teaching, which is meant to be a reward and comfort for those who do a selfless act and give their life for Islam, because they have to not because they go out actively looking for it with a belt of explosives strapped to them, extremists can and have manipulated young, impressionable followers to commit acts of terrorism for the promise of becoming a shahid.

Key Quotes

Think not of those who are slain in God's way as dead. Nay they live in the presence of their Lord

Sura 3:169

Military Jihad in Modern Warfare

In modern times several military jihads have been called for and fought in the Muslims world. However, there will always be disagreements amongst Muslims and academics as to whether they all meet the criteria for a genuine Jihad as Muhammad and the Qur'an called for.

The conditions for military Jihad, much like Aquinas' Just War theory, are so strict that it sometimes seems impossible for any warfare to meet with all the conditions. Sometimes it might seem a war or conflict is called under the right circumstances- i.e. fighting an oppressor in self defence as a last resort but then falls short of being a jihad because of the methods used within the conflict.

We will consider a few examples of modern military Jihads. As you read, consider whether you think they can be classed as genuine jihads.

Afghanistan vs USSR

In 1979 The Soviet Union invaded Afghanistan and immediately assumed complete military and political control of Kabul and large portions of the country. The Soviet Union's invasion was met by almost worldwide condemnation with the US and UK backing Afghanistan.

At the same time there was existing unrest in Afghanistan As the government had been trying to enforce a communist revolution based on Marxist ideology.

Both this revolution and the invasion of communist USSR was grounds for Islamic rebels in the area to call a Jihad they were being oppressed and their freedom to Praticise their religion was under threat.

The US backed the rebels and supplied them with arms. Unfortunately the conflict lasted a decade and had devastating effects for Afghanistan leaving the country shattered and allowing the fundamental Islamic group, The Taliban in control.

Osama Bin Laden

Osama Bin Laden famously called for a Jihad against the western military forces in Islamic countries and those that support the state of Israel. His goal was for military forces to withdraw from the Middle East and for foreign aid to Israel to cease as it reflected negatively on Palestinians. As part of his Jihad he masterminded the World Trade Center attack of 2011.

Islam T1 Religious Figures and Sacred Texts

Views on Bin Laden

- While some Muslims and non Muslims alike, may share or understand Bin Laden's grievances with US foreign policy and the ongoing problems between Israel and Palestine very few support his methodologies and use of terrorism to achieve his political goals.
- Even the very militant and very anti-American leader of Hezbollah, Shaykh Fadlallah, condemned the actions of Bin Laden as going against the principles of Jihad.

T1 D-F Jihad

Who are ISIL?

ISIL stands for the Islamic State in Syria and the Levant. They are an extremist Sunni militant group seeking to create their own state based on their interpretation of the Qur'an and Shari'a. They control large areas of Iraq and Syria and were able to take more power during Syria's civil war. In Syria many rebel groups have fought against president Assad—he is known to imprison, torture and kill people who disagree with him by 2011 this rebellion had become a fully fledged civil war. However there are many rebel fighters with some of these groups hating each other as much as they hate Assad. The Free Syrian Army are moderates who are not guided by religious dogma and are backed by the US.

ISIL and Jihad

ISIL believe or claim that they are fighting a jihad. As part of which they have continued to grab land, commit brutal attacks and rape Kurds whom they have captured.

When they capture land they seek to 'purify it' by killing all Muslims and non-Muslims who do not accept their particular interpretation of the Qur'an. The opportunity is given to convert first, with the expectation of Yazidis who may be killed immediately. Shi'as are also a particular target.

There have been widespread reports of rape, violence, torture, violence against women, selling prisoners of war as slaves or given as gifts to militant fighters.

Shi'a Jihad against ISIL

The Shi'a cleric Sistani has issued a jihad against ISIL. Sistani is the Grand Ayatollah of Iraq .

His representative said citizens who are able to bear arms and fight terrorists , defending their country, their people and their holy places, should volunteer and join the security forces.

As Shi'as in Iraq they are faced with an oppressive group who have taken control of areas of their country. They are actively threatening and killing people for having a different interpretation of the religion

Issues for analysis and evaluation

Misunderstanding of the concept of jihad

The specification is vague in this matter and just says an evaluation of the misunderstanding of the term Jihad. This could therefore include discussion of the following:

- 1) How far jihad is open to misunderstanding?
- 2) How far the concept of Jihad is misunderstood?

How Far is Jihad open to misunderstanding?

Possible Lines of Argument include:

- Jihad should not be open to misunderstanding because the guidelines are clear on what is not allowed.
- Jihad should not be mistaken exclusively for holy war because Muhammad saw non-Muslim territories as full of potential converts.
- "Holy War" is not a term used in the Qur'an and is not seen as a good thing by Muslims.
- The Qur'an has clear teachings on the use of violence
- Jihad makes clear that internal struggles take precedent over internal ones
- While the Qur'an is clear, Muslims scholars have not agreed on the importance of lesser jihad over greater jihad and there is not widespread Islamic agreement over what constitutes a jihad
- Jihad was not fully developed into a fully fledged doctrine until long after Muhammad's death leaving it open to misunderstanding. During the Crusades, what is known as the 'classic' doctrine of Jihad was developed– this divided the world into two camps– the House of Islam and the House of War.
- However, this classical doctrine became rigorously challenged, notably by the scholar Ibn Taymiyya who argued the killing of non believers who refused to convert (as was sanctioned in the classical doctrine of Jihad) defied the example of Muhammad and the principles of the Qur'an.
- Taymiyya's work influenced many Muslims thinkers with Ahmed Khan saying a Jihad could not be waged by India's Muslims against the British occupation as they were will free to practise Islam there.

Islam T1 Religious Figures and Sacred Texts

This section covers AO2 skills and content

Specification Content

Misunderstanding of the term jihad

AO2 Activity—add support to the following arguments:

How far is the concept of Jihad misunderstood?

1. Western Media portray Jihad as been solely about holy war
2. Even lesser jihad is more complex than simply being 'holy war'
3. The Qur'an never says 'holy war' so Just war would be more accurate and then only a small part
4. Even Muslims themselves disagree on what Jihad is and which is most important
5. Jihad is misunderstood by non Muslims but not by Muslims themselves
6. Qur'an is very clear on Jihad
7. Muhammad set a very clear example for Jihad
8. In modern times there has been a resurgence of the application of the classical doctrine of Jihad (ISIS, al-Qaeda etc)

T1 D-F Jihad

To what extent are teachings about lesser jihad still relevant today?

There are those that would argue that teachings about lesser jihad are no longer relevant today. For instance Chiragh Ali argued that the example of Muhammad's ummah in Madinah has to be understood in its historical context and is not a basis for modern warfare. The Muslims were waging Jihads against their enemies at a time when all the known world was in a perpetual state of conflict. This is simply not the case now.

It could also be argued that as noble as the Qur'an's strict conditions for military jihad are they are not feasible with modern war techniques that have little one to one combat and are instead thought with bombs and weapons of mass destruction.

Others may argue that having a strict moral code for how to conduct war is as relevant as ever with the modern world facing many conflicts and especially in the Muslims world. Indeed a return to the true meaning of jihad and the example set by Muhammad would be a good thing and would stop Islamic extremists such as ISIL from misusing the concept of Jihad as a justification of violence and oppression based on political and ideological aims.

Some would argue that the classical doctrine of Jihad as developed during the time of the Crusades is not relevant as today we favour tolerance and religious pluralism but of course there will be those who argue that this was always a move away from the true doctrine of jihad anyway as the Qur'an states quite clearly "There is no compulsion in religion".

For many Muslims lesser jihad is not important to their day to day lives and something they will never have to engage in, it is greater jihad rather that remains relevant to them.

However, worldwide reporting seems to suggest the opposite with military jihad been mentioned constantly and greater jihad been little known by those outside of Islam. It seems therefore that lesser jihad is an important issue in modern politics and life for Muslims and non Muslims alike.

Ultimately however, many Muslims would argue that as lesser Jihad is a recurrent teaching from the Qur'an it will always be relevant as the word of God is timeless and binding on all Muslims at all times.

AO2 Activity

Listed below are 8 possible lines of argument.

Use your notes and info book to develop each argument with evidence, examples and quotes.

1. Lesser jihad is only relevant after the greater jihad has been fought
2. Chiragh Ali argues that the example of Muhammad's ummah cannot be used today
3. The Middle East is in a state of unrest and the presence of ISIL means it is very relevant in modern world
4. Classic doctrine is not relevant any more due to religious pluralism, and no threat like in times of Crusades
5. The true teachings on jihad as taught in Qur'an and demonstrated are relevant today as they are very similar with Aquinas' just war theory used by Christianity
6. Qur'an is always relevant and so jihad is always relevant
7. Lesser jihad is not just military jihad- fighting oppression is very relevant today through protests etc
8. Western media and Islamic extremists ignore the true meaning of lesser jihad suggesting that it is perhaps not relevant.