



AL-MAHDI
INSTITUTE

The Practice of Fasting (Sawm) in the Modern World



*The Al-Mahdi Institute's Contemporary
Fiqhi Issues Workshop*

21st March 2013

The Practice of Fasting (Sawm) in the Modern World

Contributors Workshop

21st March 2013, Birmingham



Convenor: Dr Ali-Reza Bhojani

Al- Mahdi Institute

60 Weoley Park Road, Birmingham, B29 6RB



The Practice of Fasting (Sawm) in the Modern World

The fiqhi rules and regulations governing the practice of fasting (sawm), observed by adherents of the Muslim faith, are derived from textual sources - the Qur'an and Hadith - by traditional *usul al-fiqh* methodology. These regulations remained largely unchanged and unquestioned whilst Muslim peoples lived in similar geopolitical contexts to those prevalent in the formative years of Muslim history.

However, Muslims now reside in a diverse range of locations with very different contexts. This has increasingly resulted in these rules being questioned due to conflicts in the Muslim psyche regarding their applicability and relevance. New fiqhi questions relating to the practice of fasting have now arisen with a resultant need for scholarship to either offer contemporary justifications for traditional stances, or offer theoretically consistent alternatives. This workshop facilitated scholarship directly addressing the contemporary fiqhi issues facing the practice of fasting in the modern world.

This fiqhī workshop at Al-Mahdi Institute aims to facilitate scholarship directly addressing questions surrounding 'The practice of fasting in the modern world'



Programme Schedule

Panel ONE (9:30 – 11.00)

The Relevance of Time and Space in Religious Interpretation according to Sayyid Kamal al-Ḥaydari

Sheikh al-Mushtaq al-Khaqani (Imam al-Jawad Foundation for Thought & Culture, Iran)

Length of Fasting: A New Interpretation of the Relevant Texts

Dr Ali Fanaei & Riaz Walji (Al-Mahdi Institute)

Panel TWO (11.45 – 1:15)

The Juristic Principle of Feasibility (al-Qā'idatu al-Maysūr) and its Applicability to Fasting

Ayatullah Professor S. Mustafa Mohaghegh Damad (Shahid Beheshti University)

What Extent of Difficulty Relieves the Obligation of Fasting?

Professor S. M. Ghari Fatemi (Shahid Beheshti University)

Salat (1:30)

Lunch (2:15)

Panel FOUR: (3:15 – 4:00)

Rethinking the Fiqh of Fasting within a Broader Framework

Shaykh Arif Abdul Hussain (Al-Mahdi Institute)

Discussion Panel (5:00 – 5:30)

Closing remarks (6.00)



The Relevance of Time and Space in Religious Interpretation according to Sayyid Kamal al-Ḥaydari

Sheikh al-Mushtaq al-Khaqani - Imam al-Jawad Foundation



Shaykh Mushtaq Al-Khaqaani is the official representative of Ayatullah Sayyid Kamal al-Haidery, in Europe **Abstract: The Relevance of Time and Space in Religious Interpretation according to Sayyid Kamal al-Ḥaydari** Time and place plays an important role in the development of Shari'a, evidenced by the fact that humans have evolved through various stages, and the legal rulings pertaining to them have changed alongside them ("We have assigned a law and a path to each of you" (5:48)). So with regards to time and place, divine scripture in general has taken into account the varying conditions that humans experience throughout the passage of time and place, and it legislates a code of conduct that is suitable to the situations prevalent in that particular time.

Sayyid al-Ḥaydari considers that time and place are relevant and have an effect on religious interpretation in all its varying dimensions. Now this does not imply any change in the source text, but rather that time and place are essential factors that need to be taken into account when reading religious texts. Again, this does not mean making the text comply with the requirements of a particular era, but in actual fact, necessitates a much closer investigation into the meanings of the text, with the inclusion of time and place therein. This paper will seek to outline the theoretical basis for Sayyid Kamaal's conception of the relevance of time and space across the entire spectrum of religious interpretation, including the category of laws described as 'acts of worship' (ʿibādāt). The paper will examine the objections which form the basis of the assertion that time and place have absolutely no bearing as far as laws prescribing acts of worship are concerned, responding to each in turn and thus making space to draw out the implications of his theory across the scope of regulations dealing with 'acts of worship' and in particular the regulation of sawm.

Length of Fasting: A New Interpretation of the Relevant Texts

Dr Ali Fanaei & Riaz Walji – Al-Mahdi Institute



Dr Ali Fanaei completed 17 years of seminary studies in the Hawza Ilmiyya of Qum. His teachers included; Ayatullah Sayyid Muhaqqeqh Damad, Ayatullah Tabrizi, the Ayatullah Haeiri, Ayatullah Vahid, Ayatullah Montazeri, and the Ayatollah Ahmad Mianaji. He has an MA in Islamic Theology from the University of Qum taking special interest in modern theology and philosophy of religion. He then moved to the UK to conduct research at the University of Sheffield where he was awarded an Mphil for research on Moral Scepticism and Realism and a PhD for research regarding the epistemic justification of moral beliefs. Alongside training students at Al-Mahdi Institute, he has also published a number of influential works in Farsi, through which Dr Fanaei is beco-

coming known as one of the most important of a select group of roshan fikri ('enlightenment thinkers') whose engagement with questions pertaining to the modern world is informed with the deepest Hawzawi credentials. The paper was also compiled and presented by Riaz Walji

Abstract: Length of Fasting: A New Interpretation of the Relevant Texts Muslim jurists (mujtahids) have historically asserted that the length of fasting is from sunrise to sunset in all localities and epochs of the world, with the exception of those localities where the sun does not rise or set for more than a day. Muslims fast in both winter and summer because the Muslim months are defined by the lunar calendar. This has meant that Muslims residing in some localities of the northern and southern hemispheres can be required to fast up to 22 hours when Ramadan falls in summer. This juristic stipulation to fast from sunrise to sunset is an interpretation of religious texts. There can be no disagreement about the initial function of these particular texts, which was to convey instructions about the length of fasting to their primary audience, that is, the people of a particular locality and specific epoch. Subsequent juristic interpretation designating the stipulation to all localities and epochs is based on the application of two linguistic/interpretive principles to the religious texts: isalatul 'umum (the principle of generality) and isalatul itlaq (the principle of absolute absoluteness). This paper will demonstrate that the application of the aforementioned principles as hermeneutical tools for the interpretation of the religious texts is naïve and outdated. It will attempt to update them thereby providing a modified hermeneutical methodology resulting in an interpretation considerate of differing localities and epochs, allowing the juristic and Muslim communities to collectively choose from a variety of possible stipulations for the length of fasting. This paper will be divided into three sections. The first will present the religious texts pertaining to the length of fasting, as well as the jurisprudential arguments, presuppositions, and justifications for the application of isalatul 'umum and isalatul itlaq. The second section will critically analyse these arguments, presuppositions, and justifications, and will offer a new hermeneutical framework for interpretation of the religious texts. The final section will interpret the religious texts pertaining to the length of fasting and will offer possible fiqhi stipulations in light of this new interpretation, concluding with rational and pragmatic justifications for the stipulation endorsed by the authors.

The Juristic Principle of Feasibility (al-Qā'idatu al-Maysūr) and its Applicability to Fasting

Ayatullah Prof Mohaghegh Damad – Shahid Beheshti University



The founder of the Hawza of Qum- Ayatollah Mohaghegh Damad had two separate courses of education. He first attended the renowned Fayzieh School at Qum, Iran, where he received his traditional Islamic education in Arabic language and literature, Qur'an and hadith, Islamic philosophy, theology and jurisprudence. On this background he achieved the status of Mujtahid (Ayatollah) in 1970. Parallel to his traditional studies he pursued a modern academic education, first at Tehran University. There he was awarded a B.A. in Islamic Philosophy and an M.A. in Islamic Jurisprudence. After that he went to Belgium, to conduct research for a Ph.D. in Law at the Catholic University of Louvain-la-Neuve, being awarded his doctorate. Ayatollah Mohaghegh Damad is one of the very few high- level

Mujtahids in Iran to have been educated in international law in the West; he is also recognized as one of the most important philosophers of the Shia world, acknowledged to be one of the leading teachers in the Hawza of Qum. **Abstract: In Critique of Religious Self-Superiority** According to various verses of the Quran and authentic traditions transmitted from reliable religious authorities, many religious obligations are reduced when the obligated believers encounter unbearable hardships, or in order to forestall such unbearable cases. For example, in long journeys the canonical prayer (al-ṣalāt) is reduced due to the fact that travellers might face hard and untoward circumstances. In a similar manner, when there is a shortage of water, the duty of ablution (wuḍū) is changed into tayammum (purification by touching the dust). The analysis of such cases has established a legal principle in Twelver Shi'ism called "The Principle of Feasibility" (al-qā'idatu al-maysūr). According to this juristic principle (qā'idatu al-fiqhiyya), should a believer encounter any unbearable difficulty in performing any religious obligation, he is permitted to perform it only to the extent possible for him, and the remainder is abolished. For example, if a believer is unable to pray in a standing position, he can pray in a sitting position. However Muslim jurists have concluded that "the Principle of Feasibility" is not universally applicable to all religious duties. It is commonly believed that there are two kinds of religious obligations, those that can be divided and those that cannot. Canonical prayer is considered to belong to the first category, and fasting to the second category. Muslim jurists consider "The Principle of Feasibility" only applicable to the first category and not to the second, due to the uniqueness and nondivisibility of the latter in unbearable circumstances. Should such circumstances arise in a non-divisible obligation the duty itself might be abolished from the obligated believers altogether rather than being reduced to the extent that is feasible. Accordingly Muslim jurists have issued the verdict that a person cannot fast only the part of the day which he can bear, breaking the fast for the rest of the day. Fasting is abolished altogether for such a person and he is required to do the compensatory acts as provided by the religious law. This paper will seek to establish that the categorization of religious obligations into divisible and non-divisible is dubious and disputable, as a means to establishing the universal validity of the "Principle of Feasibility". Beyond this, should the categorization of divisible/non-divisible obligations be maintained, it will be shown that according to certain reliable traditions fasting can be construed as a divisible act and hence is not different from prayer in this regard. Accordingly, in line with the "principle of feasibility", it shall be argued that an obligated believer is only required to fast the extent of a day that he can bear.

What Extent of Difficulty Relieves the Obligation of Fasting?

Prof. Sayedd M Ghari S Fatemi – Shahid Beheshti University



Seyed Fatemi spent thirteen years studying to the highest level in the traditional educational seminaries of Qum under the direct instruction of some of the leading scholars of the present day. Alongside his traditional education Seyed Fatemi was also trained in Public Law at Tehran University, receiving the award of both an LLB and an LLM. In 1999 Seyed Fatemi was awarded with a PhD from the Faculty of Law at the University of Manchester for research engaging with Comparative Human Rights. Seyed Fatemi's teaching and research interests include; the Philosophical foundations of human rights, International and comparative Human rights, Islam and Human Rights, Usul al-Fiqh and Hermeneutics, the History and Development of Fiqh, and Mu-

slim Theology. **Abstract: What Extent of Difficulty Relieves the Obligation of Fasting?** While verse 183 of the suratu l-Baqara sees fasting written upon all believers as it was written upon others before them, verse 184 seems to relax the obligation by giving option to feed a poor person as a substitution for those who find it difficult (bearably hard) to fast. Neither of the above verses specifies any particular date or month for the obligation. Verse 185 declares that fasting should be observed by all Muslims who witness the month of Ramadan - yet it exempts "whoever is ill or on a journey", requiring them to instead fast an equal number of missed days later as a substitution. The reason for this exemption and then substitution is that "Allah intends for you ease and does not intend for you hardship".¹ Any apparent tension in these verses, particularly with reference to the exemptive clauses, is not easily resolved through reference to traditions of al-Sunna. The relevant traditions are so diverse that their systemization does not seem to be any less difficult than the reconciliation of the apparent meaning of the verses themselves. Many Sunni scholars argued for the abrogation of verse 184 by verse 185, but for many Shiite scholars such an abrogative systemization is not a satisfactory option. For instance, in line with his general denial of abrogation in the Quran the late Ayatollah Khu'i, both in his Quranic work al-Bayaan and in his fiqhi lectures, affirmatively argued against the abrogation of verse 184. Allameh Tabatabai's interpretation, which sees the internal contextual unity of the above verses as a normative package, also seems to be a distinct approach to the problem. Despite the considerable efforts of such jurists and interpreters of the Qur'an to offer a systematic reconciliation of the above verses and related traditions, this paper seeks to demonstrate that there is still significant space to revisit the question of the Quranic exemptions to the obligation of fasting particularly in light of the tension between two rival theories about the nature of the Quran, an orthodox theory that treats it as a 'legal text' and a contemporary reformist theory which treat the Quran as 'oral dialogue' evolved in a particular historical context.

Rethinking the Fiqh of Fasting within a Broader Framework

Shaykh Arif Abdulhussein – Al-Mahdi Institute



Shaykh Arif founded the Al-Mahdi Institute in 1993, and currently serves as its Director and Senior Lecturer in *uṣūl al-fiqh* and Muslim Philosophy. He has been at the forefront of developing and delivering Advanced Islamic studies for over twenty years and is committed to sharing the Human face of Islam at all levels of society through a combination of public lectures and intra and inter faith dialogue. Shaykh Arif was educated at the Madrassah Syed Al- Khoei, London and graduated with Honours in 1988 where he also taught Grammar, Logic, Islamic Law and *Uṣul al-Fiqh*. He then travelled to Iran to further his studies and received his training at Hawza Ilmiyyah of Qum. **Abstract: Rethinking the**

Fiqh of Fasting within a Broader Framework The Imamiyya adopt a value-based understanding of Sharia, where the criterion of precepts (*aḥkām*) is linked to substantive considerations. Such an outlook demands a reinvestigation of the *aḥkām* whose envisaged value does not seem reasonably attainable through the practice of the law in its literal capacity in differing contexts. The law of fasting from dawn till dusk in regions whose days and nights would be considered unusually long when compared with the Arabian context is one such instance. The values and very meaning of the fast as understood from the broader reading of the religious, social, spiritual, and legal texts seem to be lost when the literal understanding of the *aḥkām* pertaining to fasting are maintained irrespective of context. However any rethinking of the law of fasting is difficult and complex, not least because it is a law unambiguously addressed within the Quran and due to the practice of fasting being deeply enshrined as part of a way of life for the Muslim community. The acceptability of any rethinking of the law of fasting thus depends on a tenable interpretation of revelatory texts that maintains those elements of the law that underpin the uniformity of Muslim practice. The process of re-envisaging the law is possible within the current Fiqhi framework. The notion of the secondary law (*al-Hukm al-Thanawi*) remedies isolated instances by formulating compatible laws suitable to individuals in mitigating circumstances, such as the laws yielded by the judicial precepts of ease (*al-Maysur*), lack of detriment (*La Darar*), or unbearable hardship (*al-'Usr wa al-Haraj*)- the later two of which can abolish the duty of fasting altogether. However these traditional methods, notwithstanding the considerable debate regarding their validity and applicability, are only remedial procedures addressing exceptional circumstances and are restricted to individual application. Such methods do not provide a set standard to be followed by one and all, something that appears to be a requirement at a communal level for the law of fasting. Assuming Fiqh is a human interpretation of the normative prescriptions of revelation, Quranic verses and other Sharia texts in relation to fasting will be considered to demonstrate that the limits of dawn and dusk are not essentially connected to the duty of fasting. These texts will be used to demonstrate the need to reformulate the law in light of the values envisaged from the texts themselves. This paper will argue that through a meta-legalistic framework it is quite possible to arrive at an acceptable understanding of the regulatory *aḥkām* of fasting which is consistent with the variety of instructions given by the primary sources in relation to the overall understanding of the fast and the values associated with it. This can be achieved in a manner that also allows for a level of uniformity to accommodate the perceived communal aspects of the practice of fasting in the Muslim psyche. Reformulating the physical law to accommodate the values of fasting in such a manner does not transgress the limits of Sharia, instead it points the way to a more substantive reading of Sharia

The workshop addressed the issues surrounding the practice of fasting and how these considerations impact the norms in the contemporary world. For instance, Muslims now reside in a diverse range of locations with very different contexts. This has increasingly resulted in these rules being questioned due to conflicts in the Muslim psyche regarding their applicability and relevance. New fiqhi questions relating to the practice of fasting have now arisen with a resultant need for scholarship to either offer contemporary justifications for traditional stances, or offer theoretically consistent alternatives. This workshop facilitated scholarship directly addressing the contemporary fiqhi issues facing the practice of fasting in the modern world.

The workshop benefited by the attendance of international research specialists from various educational institutes from around the UK and the globe, students and faculty of the Al-Mahdi Institute and other Institutions alike, as well as interested members of the public.

To find out more about our Contemporary Fiqhi Issues Workshops visit;
www.almahdi.edu/research/workshops