EDUCATIONAL JURISPRUDENCE

(Al-Fiqh Al-Tarbawī)

Volume One

Essentials and Presuppositions

Alireza A'rafi

Translated by:

Mostafa Hodaee

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Publisher's Forword

To begin and execute a research is like walking in the path of development and evolvement. 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 dearly 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!

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Foreword

Considering necessity of preparing appropriate Islamic texts in English for the modern world and aiming at satisfying that need, Al-Mustafa International Research Institute (M.I.R.I.) was established in 2009. This centre has accomplished that duty in the best way by producing, translating, and reprinting tens of such appropriate texts. The present book entitled *Educational Fiqh*, which is published in Farsi by *Ishrāq wa 'Irfān* Cultural Institute in 1391 S.A.H. (2012 C.E.), is among works translated by the Institute.

Taking into consideration the fact that education has always been a fundamental requirement for man' excellence and thus education is regarded as the most essential social institution, conducting specialized and scholarly religious studies in this area is of special significance. *Educational Fiqh* is a committed answer to this need that can be used by both academic institutions and all individuals who wish to improve their knowledge of Islamic educational system.

We take this opportunity to express our gratitude to "Islam and West Research Centre Ltd" for publishing this book and hope that the latter should form a link showing the way for those who seek advancement.

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The Institute's Note

As the responsibility of Islamic seminaries is doubled at the present time due to the changes occurring in the world, they have to extend the boundaries of Islamic sciences to new topics and develope human sciences – i.e. the humanities – which adopt an Islamic approach. The necessity of scientific endeavor aimed at satisfying the increasing and rightful demands of the religious community is felt when the following are taken into consideration: a) novel transformations have occurred within human knowledge in general, particularly in the humanities; and b) the life of the modern man has undergone astonishing transformations as a result of advancements in modern sciences and technologies.

Beginning its activity in year 1386 S.A.H. (2007 C.E.) under the scholarly supervision of Āyatullāh A'rāfī, the *Ishrāq wa 'Irfān* Institute stresses the validity of seminaries and also attempts to fulfill the cognitive needs of the contemporary man. With that in mind, to be able to play an effective role in this matter it has set its missions to be "research on novel jurisprudences and modern philosophies based on the method of *ijtihād* with the aim of Islamic system-making", "training prominent researchers in the fields of

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novel jurisprudences, modern philosophies, and Islamic system-making", and "making humanities religiously."

Taking into consideration the fact that education has always been a fundamental requirement for man's excellence and thus education is regarded as the most essential social institution, conducting specialized studies in this area is of special significance. Obviously, any educational action's effectiveness and advancement toward perfection is dependent upon its conformity to religious criteria. Thus the necessity of jurisprudential attention in studying educational matters becomes clear. With the aim of research in the domain of education and presenting new views, the educational *fiqh* research group presents this work – the first volume of the *Educational Fiqh* collection – to the academic and seminary elite as well as the decision makers and executives in the realm of education.

It must be noted that the present volume of the *Educational Fiqh* collection was published along with the second volume by the Seminary and University Research Center in 1387 S.A.H. What is presented to experts here is a newer version, with content revisions, completions and new additions, with the hope that it would prove useful to the audience.

The "*Ishrāq wa Irfān* Institute" deems it essential to express its gratitude and appreciation toward Master A'rāfī, who made the production of this work possible by presenting courses of educational *fiqh* and by undertaking the final supervision and evaluation; Ḥujjat al-Islam Sayyid Naqī Mūsawī, the researcher who undertook the task of researching and writing the present work; and Ḥujjat al-Islam Dr. Maḥmūd Noudharī, Dr. Majīd Ṭuruqī, and Ḥujjat al-Islam 'Alī Ḥusaynpanāh for their efforts in the

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criticism and evaluation of the present work.

It is hoped that the experts and intellectuals in seminaries and universities would provide the *Ishrāq wa 'Irfān* Institute with their constructive opinions and suggestions in order to improve future products.

The Ishrāq wa 'Irfān Institute

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Preface

The work presented here to scholars and the learned in the field of *fiqh* and education is the result of classes taught on "educational *fiqh*," which began in 1377 S.A.H. and still continues, despite a shutdown which lasted a few years. In preparing the present work, a prominent role was played by both those who attended the classes – by their knowledgeable participation and criticism – and the people in charge of compiling this work.

It would be worthwhile to begin with a brief overview of the general transformations, developments, and periods of Islamic seminaries. From a general standpoint, one may divide these transformations into three periods:

Period of the first expansion: Islamic seminaries used to cover a vast range of fields studying a diverse collection of specific Islamic and human sciences, and seminary education covered an extensive domain of Islamic and human fields of knowledge. Of course, those scientific centers and schools varied in terms of their views, their governing atmosphere, and their cultural and educational components, just as different periods and countries witnessed differences between Shiite seminaries and Sunnite schools. For instance, certain schools and periods focused more on philosophy and intellectual sciences, some others on mathematics

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and natural sciences, and still others on *fiqh*, *ḥadīth*, and scriptural-traditional sciences. In any case, however, all such sciences were being studied in Islamic seminaries in general.

Period of the contraction of seminaries: in this period, which Islamic seminaries experienced for several centuries, several sciences (human sciences and possibly religious ones) were cut off from the seminary's scientific and educational system due to various historical reasons as well as inward and surrounding factors. The period in question reached its peak in recent centuries and the contemporary age, when the advancement of Western civilization, the infiltration of colonialism, and the popularity of sciences developed in the West put a lot of pressure on seminaries and scholars and they fell behind to a great extent, resulting in the separation of several sciences from seminaries and the formation of new scientific and academic centers apart from the seminaries.

Period of the modern expansion: this is the period when seminaries were once again expanded in the contemporary era. One may consider its center and pivot to be the seminary of Qum, particularly in the period following the Islamic Revolution. Nevertheless, the seminary of Najaf as well as certain centers and figures in the Islamic and Shiite world notably contributed to this transformation and advancement as well.

Despite the fact that the seminary of Qum has a continuous historical background, it has been rebuilt and re-established in the contemporary age, so far having gone through four periods:

Establishment and formation of the Seminary by the late Āyatullāh Ḥā'irī Yazdī.

The period of stability and establishment of the foundations of the Seminary in the time of Āyatullāh Burūjirdī.

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The period of expansion and development in quantity and quality of the Seminary after the late Burūjerdī by Grand Āyatullāhs, seminary scholars, and Imām Khumaynī.

The period of flourishing and advancement following the glorious Islamic Revolution, by the hands of Imām Khumaynī, the great leader of Islamic revolution, Āyatullāh Khāmene'ī, grand Āyatullāhs, and young scholars, as well as the formation of new institutions in the seminary.

The Islamic Revolution, which itself had been inspired and initiated by the seminary of Qum, in turn had extensive impacts on the seminary, and reflections of the seminary can be observed in administrative, educational, cultural, research, social, life-related, etc. transformations. Of course, the sociological study of the seminary after its establishment, especially after the Islamic Revolution, requires a greater scope.

From another viewpoint, one may divide the third period (the modern expansion) into different stages:

The serious proposition of philosophy in the seminary's educational system. In this stage, the seminary breaks free from the exclusivity it had gradually adopted in the areas of *ḥadīth*, interpretation, and scriptural-traditional sciences, creating an opening for the discussion of philosophy and intellectual sciences in the seminary.

This period brings into attention philosophical thoughts and schools of the West – e.g. existentialism and Marxism – to the extent that even the social, political, and educational topics of Islam are observed from a comparative standpoint with their counterparts in Western thought and the modern philosophies. 'Allama Ṭabātabā'ī and Martyr Muṭahharī may be regarded as the pivots of this stage in the seminary of Qum.

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In this stage, in addition to further expansion, cultivation, explanation, and clarification of Islamic thought in the domain of philosophy and in new areas, newer theological matters are brought forward, fields of the humanities are observed with a more specialized eye, attention is paid to relations of the humanities and Islamic sciences, and there is increased diligence in dealing with modern philosophies with an Islamic outlook. Considerable roles were played in this stage by such thinkers as Martyr Ṣadr and Master Miṣbāḥ and by various academic and seminary-based institutes, such as the "Seminary and University Research Center" (the center of cooperation between the seminary and universities) and the "Imām Khumaynī Institute of Education and Research."

In the fourth stage, which the seminary is currently entering and experiencing, it is attempted to consider the territories of philosophy and theology in a more specialized and detailed fashion and the territory of the humanities in an absolutely specialized manner. This stage has brought to the area of theology and *fiqh*, with a novel outlook, a transformation and expansion which is basic and methodological and observes the needs of human sciences. It has prepared the ground for comprehensive and field research aiming at producing theory and an Islamic human science. The appearance of "*educational fiqh*" may be evaluated in this position.

On the other hand, different stages may also be suggested with respect to the seminary's encounter with discussions of Islamic education and modern education in the realm of theory:

Managing Islamic education with a new formation and a new outlook without any academic and professional course of action.

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This stage is more concerned with reviewing the ideas in the legacy of the past and Islamic sciences and presenting them in a modern form, with the presumption that those ideas are practically present within Islamic sciences and only need to be clarified and presented; also assumed is that they must be delivered to the modern world with new questions or a modern classification and arrangement. Among the valuable works residing within the first stage are numerous writings such as those of Master Amīnī.

This stage follows the previous one; one may say that after the Islamic Revolution and the formation of the office of cooperation between the seminary and university, the "Dār al-Rāh Ḥaq" (in the path of truth) Institute, Bāqir al-'Ulūm Institute, and Imām Khumaynī Institute, educational sciences entered the seminary in a more academic and consistent form and with a more specialized outlook in educational areas. The most significant role in the establishment of this movement was played by educational departments in the Seminary and Academy Research Center, Imām Khumaynī Institute, as well as some centers and certain young scientific figures.

The other stage we must advance toward consists of strengthening the academic outlook and reorganizing the sciences of theology, *fiqh*, and ethics in the domain of education. Islamic educational sciences must also be formed, with the same scientific identity, based on these cognitive and intellectual foundations.

To explain the two pivots in question, one may add that the relations between Islamic sciences and educational sciences can be conceived in two forms and approaches:

The first approach: the domain of Islamic sciences (theology,

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fiqh, and ethics) must grow with new educational enquiries and topics and by stressing the identity of Islamic sciences in the domain of education, for a general classification divides Islamic sciences into three general parts:

The descriptive and theoretical discussions of Islam in a single domain, technically called *kalām* and divided into the two kinds of "general *kalām*" and "particular *kalām*." The former is the same as traditional theology to which, of course, new areas are added; it deals with general descriptive issues concerning existence and the universe with an Islamic outlook. The latter is the same as modern philosophies (such as educational philosophy) which deals with the descriptive theories and propositions of Islam in specific territories and domains.

Fiqh, which determines the rules for man's voluntary actions from the viewpoint of whether an action deserves reward or punishment.

Ethics, which deals with the domain of spiritual attributes and possibly behaviors from the viewpoint of goodness and reprehensibility.

The common threefold classification above applies to all Islamic sciences. In this approach, Islamic sciences are extended with a look upon the territory of educational sciences. In fact, Islamic method and identity, including theology, *fiqh*, and ethics, shall be preserved in new domains and with new topics and enquiries. What the Islamic seminary has thus far dealt with falls within the same atmosphere. To expand and deepen Islamic sciences in the domain of educational sciences in the three parts of theology, judgments, and ethics, one may point out the following domains:

The First: educational philosophy or particular *kalām* for the domain of education. It is called particular *kalām* so that its relation

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with general *kalām* and theological essentials as well as its logical stats is preserved. In fact, general *kalām* deals with the views of anthropological and ontological theology, and, with the same assets and bases, particular *kalām* deals with fundamental and descriptive propositions in social, cultural, educational, etc. domains.

The Second: the domain of educational *fiqh*. In fact, *fiqh* must be expanded and extended in the realm of issues concerning education, and educational propositions must be studied from a jurisprudential viewpoint.

The Third: the domain of educational ethics, namely ethics in the domain of education.

The three domains mentioned above form the basis and foundation of Islam's educational system, and the succeeding pivots are either their requirements or their outcomes.

The Fourth: methodological discussions of Islamic education: *Uṣūl al-Fiqh* must be extended. Inferring philosophical and theological as well as jurisprudential and ethical thoughts in the educational domain requires a methodology. Our current one is rich and efficient, but it is not enough and needs to be expanded.

The Fifth: the system of Islamic education: systematization is a general view which links the first three domains and provides general theories, following which are special systems of Islamic education in different areas.

The Sixth: interpretation of religious texts from an educational viewpoint: to achieve the main five domains mentioned above, interpreting religious texts with an educational view is essential. Upon entering the domain of educational philosophy or educational *fiqh*, one must refer to the Qur'an and *Sunna*, hence the necessity of educational interpretation of religious texts – be it

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the Qur'an, *ḥadīths*, or other kinds such as *Nahj al-Balāgha* and *Ṣaḥīfa al-Sajjādiyya* – owing to the fact that part of the point-finding which is achieved through educational interpretation cannot be obtained with jurisprudential and philosophical views.

The Seventh: educational methods. This domain deals with the analysis of the educational acts of the Prophet (A.S.) and *Ahl al-Bayt* (A.S.).

The Eighth: the history of Islamic education. Also falling within this discourse is the history of Islamic seminaries. Sufficient and proper research has not been conducted in this respect.

The second approach: Dealing with the production of religious science in the domain of educational sciences. In this approach, educational sciences gain an Islamic identity and appearance without losing their scientific identity.

It is clear, however, that Islamic educational sciences and forming theories concerning Islamic education hinge upon the philosophy of Islamic education and educational *fiqh*. The purpose of establishing educational *fiqh* is to supply this fundamental necessity and to provide an answer to the issues with which the society is afflicted in the territory in question.

The series of discussions regarding educational *fiqh* began in 1377 S.A.H. in the form of *Dars Khārij*; its participants have been knowledgeable and skilled clergymen who have mostly had university degrees in educational sciences as well as works of educational research. Up until 1379 S.A.H., the class in question was held two hours a week, following which it stopped for three years and restarted in 1382 S.A.H.; it is currently being held two hours a week. The present work consists of the first volume and contains four chapters which are presented here with additions and completions.

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There are other volumes to be nearly published and more than ten researchers are engaged in researching and writing. This jurisprudential encyclopedia shall be published in more than 20 volumes, God willing. Thanks to these series of discussions, educational *fiqh* was born and has joined many disciplines in the form of courses and educational subjects. Also, educational *fiqh* as a discipline has been designed in the three seminary levels of three and four and Ph.D. course is commenced at al-Mustafa International University.

Alireza A'rafi

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