

Development of Jurisprudence and Theology

A. The Shi'a School

During their life time the Imams remained the chief exponents of the shariah, the Islamic law. Many of the Imams, when the political atmosphere permitted, held theological classes and also taught other sciences.

Since the major occultation of the twelfth Imam the Shi'as have, as commanded not only by him but also most of the preceding Imams, sought guidance from mujtahids and followed the institution of taqleed.

Taqleed literally means to follow or to imitate someone. In Islamic jurisprudence it means to follow a Mujtahid in matters pertaining to law.

وَمَا أَرْسَلْنَا قَبْلَكَ إِلَّا رِجَالًا نُوْحِي إِلَيْهِمْ ۚ فَاسْأَلُوا أَهْلَ الذِّكْرِ إِنْ كُنْتُمْ لَا تَعْلَمُونَ

And we did not send before you any but men to whom we sent revelation, so ask the followers of the reminder if you do not (21:7)

وَإِذَا مَا أَنْزَلْنَا سُورَةً فَمِنْهُمْ مَنْ يَقُولُ أَيْكُمُ زَادَتْهُ هَذِهِ إِيمَانًا ۚ فَأَمَّا الَّذِينَ آمَنُوا فزَادَتْهُمْ إِيمَانًا وَهُمْ يَسْتَبْشِرُونَ

And whenever a chapter is revealed, there are some of them who say: Which of you has it strengthened in faith? Then as for those who believe, it strengthens them in faith and they rejoice. (9: 124)

Taqleed applies only to matters of shariah. There is no taqleed in matters of beliefs (the articles of faith). A Muslim must seek to attain conviction of their truth through reflection and rational examination.

A Mujtahid must be a person learned in all the Islamic sciences. At any given time there would normally be a number of persons qualified as Mujtahids and it is not uncommon to have two members of the

same family in taqleed of two different mujtahids.

Any muslim can address any question of law to any mujtahid, whether or not he is in the taqleed of that mujtahid and the mujtahid would issue a fatwaa giving his opinion on that subject. This would invariably be by way of a statement of the law which in the opinion of the mujtahid is the correct legal position. The fatwaa would be binding on all the persons in the taqleed of that mujtahid.

A mujtahid is so called because he does ijtehaad which term means to strive for deriving the laws of the shariah from its sources which are:

1. The Qur'an
2. The Sunnah which mean the traditions and the practice of the Prophet and the Imams.
3. Reasoning (Aql);
4. Consensus of the Mujtahids (Ijmaa).

B. The Sunni School

The ruling khalifah invariably assumed the mantle of the chief exponent of the shariah.

For nearly a hundred years following the death of the Prophet the State retained absolute control over authentication, collection and publication of the sayings (ahadees) of the Prophet. A few unscrupulous khalifahs did not hesitate to use this power to legitimize their misdeeds by arranging to have apocryphal ahadees produced.

After the Banu Abbas came into power in 132 A.H. (750 A.D.), the formation of the Sunni community was formalised. Although there are many sects and sub-sects in the sunni school of thought, the four main sects are–

- 1 The Hanafis, founded by Imaam Abu Hanifa an-Nu'maan ibn Thabit (died 150 A.H./769 A.D.). He is a scholar greatly respected not only by his followers but also the other sunnis.
2. The Malikis, founded by Imaam Abu Abdullah Malik ibn Anas (died 179 A.H./797 A.D).
3. The Shafeis, founded by Imaam Abu Abdullah Muhammad ibn Idris al- Shafei (died 204 A.H/819 A.D.)
4. The Hanbalis, founded by Imaam Ahmed ibn Muhammad ibn Hanbal (died 241 A.H./855 A.D.)

Although there are many irreconcilable differences in the four Sunni schools, in the main, however, they agree on the fundamental bases of their doctrines and laws. Each claims to have derived them from the following four sources:

1. The Qur'an
2. The Sunnah of the Holy Prophet and at times the Sunnah of the first four khalifahs
3. The Ijmaa (consensus among the companions of the Prophet or of the religious leaders or among the followers)
4. The Qiyas (deduction of legal prescriptions from the Qur'an and the sunnah through rational analogy).

The extent of the acceptance of the theological and legal doctrines of any of the above four sunni schools depended largely on the inclination of the ruler of the time. For example, although Abu Hanifa himself did not gain great popularity with the khalifah, his successor Abu Yusuf became a powerful figure in the court and held office of the Chief Kadhi.

The khalifah, however, always continued to remain the final arbiter in the exposition of the law and the jurists were relegated to an advisory role.

Since the abolition of the institution of khilafah following the fall of the Ottoman Empire the sunni schools have not developed as fast as they need to so as to keep pace with the social, economic, political and scientific development. Some Sunni sects have recognized the need for Ijtehaad, a few appear to concentrate on Ijmaa as the main instrument for reform.

In addition to their differences in jurisprudence, the Sunnis and the Shi'as hold divergent theological views on various aspects of the articles of beliefs e.g. human freedom of action and the Justice of God (both discussed above), whether God has a corporeal form. Some sunni sects believe in anthropomorphism.

The Shi'as and the Sunnis, however, agree on the following fundamental beliefs:

1. That Allah is One and has no partners;
2. That Muhammad is the last Prophet of God;
3. That there will be Resurrection and Judgement.

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