

# **The Formation of the Jaʿfari Shiʿa Islamic School of Law from its Inception to the Occultation**

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*Imam al-Sadiq (d. 148 AH / 765 AD) and the other Shiʿa Imams both prior to and succeeding him contributed to the Jaʿfari madhhab’s development and were well known and respected contemporaries of the scores of legists who formed personal schools of law during the first and second century.*

*Indeed many of these early legists including the eponyms of the four existing Sunni legal schools had scholarly interactions with and transmitted from the Imams ʿAli ibn al-Husayn (d. 95 AH / 713 AD), Muhammad ibn ʿAli (d. 114 AH / 743 AD), Jaʿfar ibn Muhammad, and ʿAli ibn Musa (d. 203 AH / 818 AD), as will be shown during the course of this essay, and held them in high repute.*

*Writers of Islamic law history avoid mentioning Imam as-Sadiq (pbuh) and Imam al-Baqir (pbuh) despite their importance. Thus the importance of this work that is trying to provide the people with the true events and the true sources of the foundations of the Islamic law and its history.*

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## Introduction

The history of the development of the Jaʿfari Shiʿa Islamic legal school has always fascinated me, all the more so when I continuously observed that existing academic works in the English language purporting to discuss the origins and development of the Islamic legal schools almost always ignored discussions of the inception and development of this school.

This is even though Imam al-Sadiq (d. 148 AH / 765 AD) and the other Shiʿa Imams both prior to and succeeding him, who contributed to the Jaʿfari *madhhab*’s development, were well known and respected contemporaries of the scores of legists who formed personal schools of law during the first and second century of the *hijrah*, many of which schools are now defunct except for the four existing Sunni schools. Indeed many of these early legists including the eponyms of the four existing Sunni legal schools had scholarly interactions with and transmitted from the Imams ʿAli ibn al-Husayn (d. 95 AH / 713 AD), Muhammad ibn ʿAli (d. 114 AH / 743 AD), Jaʿfar ibn Muhammad, and ʿAli ibn Musa (d. 203 AH / 818 AD), as will be shown during the course of this essay, and held them in high repute.

Yet even though the four Sunni legal schools had and continue to have many areas of differences

between them, with some of them rejecting the tools of legal deduction prominently used by another, their development tends to be discussed together in one volume and mention will even be made of those legists whose legal schools are non-existent today, yet Imam al-Sadiq or al-Baqir will hardly get a passing mention! Indeed, I was surprised at how studiously Wael Hallaq avoided mentioning Imam al-Sadiq or al-Baqir throughout his otherwise worthy book on the history of Islamic law.

Perhaps this is a reflection of past legacy, which was to view the Ja'fari *madhhab* as being one completely out of the ordinary or perhaps it is due to many scholars' lack of knowledge of Shi'a resources and literature.

This essay will endeavor to sketch a general outline of the development of the Ja'fari *madhhab* during the time of its founding Imams.

## The Period of the Imams

Between 80 and 120 AH, there arose specialized circles of learning (*halaqahs*) held by groups of intellectually oriented Muslims in the Muslim lands. These men possessed deep religious commitment and engaged in the study of law, Qur'anic exegesis, and the narration and study of Prophetic narratives<sup>1</sup>. From these study circles which used to be held in mosques, emerged the personal legal schools of Islam where a leading jurist would gather round him a group of students and teach and discuss with them the finer points of law and the intent of Qur'anic verses and Prophetic narratives. By the second century of the *hijrah*, the major centers of religious intellectual activity were Medina, Mecca, Kufa, Basra, Damascus, and Fustat<sup>2</sup>. The most important of these centers however, based on the number of prominent scholars it generated, were Medina, then Kufa and then Basra.<sup>3</sup>

Imam al-Sadiq and Imam al-Baqir before him were active participants in this religio-intellectual effervescence. The significance of Imam al-Sadiq in non-Shi'a circles can be gauged by his description given by al-Dhahabi (d. 748 AH / 1348 AD) the Damascene Shafi'i hadith scholar who describes him as authoritative and further reports that both al-Shafi'i (d. 204 AH / 820 AD) and Yahya ibn Ma'in (d. 233 AH / 847 AD) considered him reliable (*thiqah*).<sup>4</sup> Ibn Hajar al-Asqalani (d. 852 AH / 1449 AD) the Egyptian Shafi'i scholar quotes Ibn Hibban (d. 354 AH / 965 AD), another prominent Shafi'i hadith scholar as saying that al-Sadiq was trustworthy, a master in jurisprudence and (other) sciences from the family of the Prophet, and that al-Nasa'i (d. 303 AH / 915-16 AD), the compiler of the famous *sunan* which constitutes one of the six *sihah* works of Sunni traditions, held him to be reliable (*thiqah*).<sup>5</sup> Al-Tabari (d. 310 AH / 923 AD) reports that al-Sadiq knew many *hadith* and was reliable.<sup>6</sup>

Sunni and Shi'a sources depict Imam al-Sadiq having scholarly interactions with the other scholars of his time such as Abu Hanifah (d. 150 AH / 767 AD), Sufyan al-Thawri (d. 161 AH / 778 AD), Malik ibn Anas (d. 179 AH / 796 AD) and Ibn Abi Layla.<sup>7</sup> Al-Dhahabi in *Tadhkirat al-Huffadh* reports a quote attributed to Abu Hanifah in praise of Imam al-Sadiq, where the former is reported to say that he has never seen anyone more knowledgeable in *fiqh* than al-Sadiq.<sup>8</sup> Al-Dhahabi also mentions al-Sadiq as

being one of the authorities of traditions for both Abu Hanifah and Malik ibn Anas.<sup>9</sup> Indeed, traditions on his authority can be found in all the Sunni *sihah* works of traditions except for the collection of al-Bukhari (d. 256 AH / 870 AD). His traditions can also be found in Malik's *al-Muwatta*. However, the five *sihah* works narrate a meagre 80–90 of his traditions collectively whilst the *Muwatta* records just 10 of his traditions!<sup>10</sup>

The significance and contribution of Imam al-Sadiq to Shi'a Islamic law can best be illustrated by the following insightful observation made by R. Buckley who writes that in *Man La Yahduruhu al-Faqih* of Shaykh al-Saduq (381 AH / 991 AD), 60 percent of the traditions are on the authority of Imam al-Sadiq, 15 percent on the authority of al-Baqir, 7 percent on the authority of the Prophet, 5 percent on the authority of Ali ibn Musa, 5 percent on the authority of Ali ibn Abi Talib (d. 40 AH / 660 AD) and the remaining divided between al-Hasan ibn Ali (d. 49–50 AH / 670 AD), Musa ibn Ja'far (d. 183 AH / 799 AD) and Ali ibn al-Husayn.<sup>11</sup>

Imam al-Sadiq used to have enormous *halaqahs* as depicted in the following report by al-Hasan al-Wahshah who was a companion of the eighth Imam Ali ibn Musa. The former claimed that he had met 900 masters of *hadith* in the mosque of Kufa who used to say: 'It was related to us by Ja'far ibn Muhammad al-Sadiq that...'<sup>12</sup> A report of a similar import is reported by Shaykh al-Mufid (d. 412 AH / 1022 AD) in *al-Irshad*, Ibn Shahr Ashub (d. 588 AH / 1192 AD) in *al-Manaqib*, al-Fattal (d. 508 AH / 1114 AD) in *Rawdhat al-Wa'iz* and al-Tabarsi (d. 548 AH / 1153 AD) in *Jam al-Wara* that (and the wording is that of al-Mufid):

People transmitted knowledge from al-Sadiq (A) far and wide and his reputation and fame spread in the towns and cities. The knowledge, which was transmitted from him, was such that the like of which was not transmitted from any of the scholars of his house. None of the traditionists met or transmitted from any of them (scholars of his house) as they transmitted from Abu Abd Allah (A). Thus the narrators of traditions have gathered the names of the narrators who narrated from him, from among the trustworthy and reliable ones, regarding their differences in (their) opinions and writings, and they were four thousand men.'<sup>13</sup>

Imam al-Sadiq encouraged his *ashab* (i.e. his students and disciples) to transmit the traditions he conveyed to them from his forefathers as well as his juristic deliberations, making it a criterion by which to judge a student's importance and closeness to the teacher. He said 'Acknowledge the status of the *rijal* among us in accordance with the number of *riwayat* reported on our authority.'<sup>14</sup> He also maintained that any student who wished to become an accomplished jurist must first train himself in becoming a credible *muhaddith* – i.e. a narrator of traditions.<sup>15</sup>

Obviously, this was logically important at that time because the Shi'a believe and continue to do so that the answers of many practical questions were given by the Imams either in the form of Prophetic reports or the Imam's own juridical answers in his capacity as a divine guide. Thus in that period, the greater the proficiency that a student had in the narrations of the *ahl al-bayt* the greater was his knowledge, fame,

and utility. From among these thousands of disciples of Imam al-Sadiq, the Imami biographers have identified a number of them as those who formed the core circle and confidantes of the Imam. Al-Kashshi (d. 340 AH / 951 AD), the Imami biographer who lived during the early part of the fourth century *hijri* recorded the following:

The Imamiyyah scholars have unanimously agreed on the authenticity and correctness of that which is definitely (or authentically) derived from the following companions/disciples (of the Imam), and they have unanimously agreed on their truthfulness. The Imamiyyah scholars have acknowledged them in matters of jurisprudence... They are six in number, these being: Jamil ibn Darraj (died late in the second century *hijri*), ʿAbd Allah ibn Maskan (died before Imam Musa al-Kazim, so sometime in the middle of the second century *hijri*), ʿAbd Allah ibn Bukayr, Hammad ibn ʿUthman (d. 190 AH / 805 AD), and Aban ibn ʿUthman. The Imamiyyah scholars said that... the most erudite of these was Jamil ibn Darraj and that these [the above-mentioned six companions] were the youthful<sup>16</sup> companions of Abu ʿAbd Allah (A).<sup>17</sup>

Observe the comment made by al-Kashshi above regarding these six *ashab* of Imam al-Sadiq, that they were the ‘youthful companions of Abu ʿAbd Allah (A)’. This is because Imam al-Sadiq also had other companions (whose mention will be made shortly) who were actually the disciples and students of his father and therefore truly speaking his associates who transmitted like him from his father, save that Imami doctrine would insist that on gaining the office of Imamate, al-Sadiq’s epistemic and spiritual status suddenly gained an extraordinary divine leap thereby overcoming by far any superiority that these disciples of his father might have had due to their seniority.

Imam al-Sadiq lived in Medina and therefore held his lessons there, but he also had a huge following in Kufa. R. Buckley observes that more than eighty percent of the 3,000 *rijal* mentioned in Shaykh al-Tusi’s (d. 460 AH / 1067 AD) book of biographies who are supposed to have transmitted on al-Sadiq’s authority have the *nisbah* adjective ‘Kufi’ to their name!<sup>18</sup>

Thus Medina and Kufa were also the main centers of Shiʿa legal activity along with being generally the main centers of Muslim legal scholarship.

Imam al-Sadiq is also credited with having written several epistles in answer to the questions sent to him or whilst participating in the legal and theological debates taking place during his time such as his letter to the people of Ahwaz, recorded by the biographer al-Najashi (d. 450 AH / 1058 AD);<sup>19</sup> his epistle written on the rules of the greater and lesser ritual ablutions, the ritual prayers, and the alms-tax which Shaykh al-Sadiq has mentioned in his book *al-Khisal*;<sup>20</sup> his letter to the people who favored *raʿy* and *qiyas*;<sup>21</sup> his treatise on *al-Ghanaʿim* and the obligation of *khums* payable on it, which is recorded in *Tuhaf al-ʿUqul*; and many other treatises on ethical and theological topics as well as personal letters written to specific people in the form of exhortations.<sup>22</sup>

Apart from Imam al-Sadiq, there were other Imams who also contributed significantly to Shiʿa Imami *fiqh* as is apparent from the above observation of R. Buckley. The Imam whose contributions come

second to Imam al-Sadiq was that of his father and teacher Imam al-Baqir. In Sunni *hadith* collections Imam al-Sadiq's traditions are always transmitted on the authority of his father. The following statement of al-Sadiq himself best describes the seminal significance of Imam al-Baqir to Shi'a Imami law. He said:

Before Abu Ja'far (al-Baqir) the Shi'a did not know the rites of pilgrimage and what was permitted and what was forbidden to them. But Abu Ja'far opened these up to them and explained the rites of the pilgrimage and what was permitted and what was forbidden. Thus the people came to have need of them (i.e. the Shi'a), whereas before they (i.e. the Shi'a) had need of the people.'<sup>23</sup>

Qadhi al-Nu'man (d. 363 AH / 974 AD) the Fatimid jurist records in his book *Sharh al-Akhbar* that al-Baqir recounted the stories of the beginnings of history while the stories and military campaigns of the Prophet were written down on his authority. He also writes that 'people followed the practices (*sunan*) of the Prophet on his authority and relied on him with regard to the rites of pilgrimage which he reported on the authority of the Messenger of God, may God bless him and his family.'<sup>24</sup>

Al-Baqir was esteemed in non-Shi'a circles as being one of the trustworthiest narrators of Prophetic traditions, i.e. of being *al-thiqah*.<sup>25</sup> He is also described in very flattering terms to possess a mysterious aura and charisma, which humbled even those scholars who were his seniors. Thus 'Abd Allah ibn 'Ata' al-Makki is reported to say that he had never seen scholars feel so small in front of anyone as they did in front of al-Baqir and that even the famous traditionist al-Hakam ibn 'Utaybah (d. 113 AH / 731 AD) behaved before al-Baqir as a student would in front of his teacher, despite his seniority in age and eminence.<sup>26</sup> Another prominent non-Shi'a scholar Muhammad ibn al-Munkadir (d. 129 AH / 747 AD) is reported to say that he had not seen anyone surpass 'Ali ibn al-Husayn until he met his son Muhammad ibn 'Ali.<sup>27</sup>

Imam al-Baqir is depicted in non-Shi'a biographical literature as a famous scholar from whom numerous traditionists and legists who are credited with founding legal schools transmitted (irrespective of whether these schools still exist or have become extinct). Ibn Hajar lists the following as having had narrated traditions from him: Abu Ishaq al-Sabi'i (d. 127 AH / 745 AD), 'Amr ibn 'Abd Allah (d. 128 AH / 745 AD), al-A'raj (d. after 140 AH / 757 AD), al-Zuhri (d. 124 AH / 741 AD), 'Amr ibn Dinar (d. 126 AH / 743 AD), al-Awza'i (d. 157 AH / 773 AD), Ibn Jurayj (d. 150 AH / 767 AD), al-A'mash (d. 148 AH / 765 AD), Makhul ibn Rashid (d. 115 AH / 733 AD) and others.<sup>28</sup> Yet Abu Nu'aym al-Isfahani (d. 430 AH / 1038 AD), the famous Shafi'i hadith scholar, and al-Dhahabi offer more names such as that of Rabi'ah al-Ra'iy (d. 136 AH / 753 AD) and 'Ata' ibn Abi Rabah (d. 114 AH / 732 AD).<sup>29</sup> As for the Imam's Shi'a followers, although he resided in Medina and held lessons there in the Prophet's mosque, his chief disciples were from Kufa, Basra, and Mecca. The biographer al-Kashshi writes as follows regarding this Imam's important disciples:

The Imamiyyah scholars have unanimously agreed on the truthfulness of these foremost of the companions of Abu Ja'far and Abu 'Abd Allah (A), and have submitted to them in matters of

jurisprudence. The Imamiyyah scholars have said: ‘The most erudite of these foremost are six: Zurarah (d. 148–149 AH / 765–66 AD), Maʿruf ibn Kharrabudh, Burayd ibn Muʿawiyah al-ʿIjli (d. 150 AH / 767 AD), Abu Basir al-Asadi (d. 149–50 AH / 766–67 AD), Fudhayl ibn Yasar (died during the lifetime of al-Sadiq), and Muhammad ibn Muslim al-Taʿifi (d. 150 AH / 767 AD).’ And they said: ‘The most erudite of these six is Zurarah, and some of them...’<sup>30</sup>

Thus whilst Zurarah, Muhammad ibn Muslim, Burayd, and Abu Basir al-Muradi were his Kufan disciples<sup>31</sup> among many other Kufan disciples, Maʿruf ibn Kharrabudh was his Meccan disciple.<sup>32</sup>

Other important disciples of al-Baqir worthy of mention from Kufa were Jabir al-Juʿfi (d. 128 AH / 745 AD), Aban ibn Taghlib (d. 141 AH / 758 AD) (who was an outstanding jurist-traditionist and had been the disciple of al-Baqir’s father ʿAli ibn al-Husayn), Abu Khalid al-Kabuli, Abu Hamzah al-Thumali (d. 148–150 AH / 765–67 AD), and Kumayt ibn Zayd (d. 126 AH / 743 AD), a renowned poet who composed the famous poem titled *al-Hashimiyyat*. And lastly we have the Kufan disciple Muhammad ibn ʿAli ibn Nuʿman al-Ahwal who was famous for his theological and dialectic skills.

In Mecca some of his important disciples apart from Maʿruf ibn Kharrabudh, were Maymun ibn Aswad al-Qaddah, and Abu Harun al-Makfuf.<sup>33</sup>

The report by al-Kashshi above singles out Zurarah as the most erudite of all of al-Baqir’s disciples. This is further augmented by many glowing accounts in favor of Zurarah such as the report of Jamil ibn Darraj, the most important of al-Sadiq’s younger disciples who says that ‘We used to visit Zurarah frequently and sit around him like small boys around the Qurʾan teacher.’<sup>34</sup> Al-Najashi describes Zurarah in his work of biographies as ‘a reciter of the Qurʾan, a jurist, a theologian, a poet, and a man of letters,’<sup>35</sup> while al-Kashshi reports a tradition from al-Sadiq saying ‘Had it not been for Zurarah, I think the traditions of my father would have disappeared.’<sup>36</sup>

Similar glowing praise is recorded for Muhammad ibn Muslim. He had spent four years with Imam al-Baqir in Medina and was held to have reported 30,000 traditions from him alone<sup>37</sup> while his capacity as a reliable transmitter of al-Baqir’s views and traditions was confirmed by al-Sadiq who encouraged ʿAbd Allah ibn Abi Yaʿfur (d. 131 AH / 748 AD) to seek him out for answers to religious questions in Kufa for ‘he has heard *ahadith* from my father and was highly esteemed by him.’<sup>38</sup> Yet four disciples of al-Baqir were particularly praised by al-Sadiq who said about them that ‘Had it not been for them the Prophetic traditions would have been obliterated!’ These were Zurarah, Muhammad ibn Muslim, Abu Basir al-Asadi, and Burayd ibn Muʿawiyah al-Ijli.<sup>39</sup>

Imams succeeding al-Baqir and al-Sadiq feature significantly less in the Shiʿa Imami legal collections. Those that do feature are Musa ibn Jaʿfar and ʿAli ibn Musa al-Ridha. The reason for this sudden drop in traceable legal activity in the sources may be due to the fact that most of the later Imams passed through harsh political conditions and were frequently subjected to incarceration, house arrest, and surveillance. Though their ruling Abbasid cousins looked at them suspiciously, they do not seem to have

engaged in any subversive activities. Yet it seems they did suffer on account of the fact that many of their cousins such as the progeny of al-Hasan, the progeny of Ja'far ibn Abi Talib (d. 7 AH / 629 AD) as well as other grandsons of al-Husayn did participate or stage revolts during the later part of the second century *hijri*, such as the sons of Musa ibn Ja'far who were the brothers of 'Ali ibn Musa. Yet, the two Imams Musa ibn Ja'far and 'Ali bins Musa were able to attract a circle of disciples and did carry on with scholarly pursuits. Al-Kashshi, the Imami biographer, delineates the following individuals as having acquired a special rank and closeness to these two Imams. He writes:

Our companions have unanimously agreed on the authenticity and correctness of that which is definitely (or authentically) derived from these, and on their truthfulness. They have acknowledged them in matters of jurisprudence and knowledge. They are six in number, excluding the six whom we enumerated from the companions of Abu 'Abd Allah (A) and they are: Yunus ibn 'Abd al-Rahman, Safwan ibn Yahya, Muhammad ibn Abi 'Umayr, 'Abd Allah ibn Mughirah, Hasan ibn Mahbub, and Ahmad ibn Muhammad ibn Abi Nasr. Some of our companions have preferred al-Hasan ibn 'Ali ibn al-Fadhdhal and Fadhalah ibn Ayyub instead of al-Hasan ibn Mahbub while others have preferred 'Uthman ibn 'Isa in place of Fadhalah ibn Ayyub. The most erudite of these were Yunus ibn 'Abd al-Rahman and Safwan ibn Yahya.[40](#)

As for the Imams preceding al-Baqir and al-Sadiq, we observe a similar phenomenon of greatly reduced traceable legal activity. One probable reason suggested by Sachedina, especially in light of al-Sadiq's statement that prior to al-Baqir the Shi'as were startlingly deficient in their knowledge of legal matters, would be that the disciples of the first four Imams were more interested in political issues rather than legal issues. He makes this suggestion on the basis of his observation of the reported conversations of the disciples of the earlier Imams in al-Kashshi's biographical work, which shows a preponderant interest in political rather than legal issues.[41](#)

Perhaps it may also be pointed out here that the probable reason why the Imams al-Baqir and al-Sadiq's legal contributions stand out so significantly in comparison to the other Imams is due to the relatively favorable conditions which they enjoyed during the upheaval that occurred in the course of the transition of political power from the Umayyads to the Abbasids.

Nevertheless, the imams who feature prominently preceding al-Baqirayn (i.e. the two Imams al-Baqir and al-Sadiq) are 'Ali ibn al-Husayn and 'Ali ibn Abi Talib. We will turn to discussing 'Ali ibn Abi Talib later as he presents an interesting case. As for 'Ali ibn al-Husayn, highly traumatised by the events of Karbala, he led a quiet scholarly life in Medina. Muslim ibn Hajjaj al-Nayshaburi (d. 291 AH / 875 AD) the compiler of *Sahih Muslim*, records in his work titled '*Rijal Urwah ibn Zubayr*' that 'Ali ibn al-Husayn used to hold private study sessions in his home.[42](#)

Perhaps due to the fact that he was the son of al-Husayn (d. 61 AH / 680 AD) who had expressed his opposition to the ruling Umayyads with such brilliant valour and whose actions served to inspire many later 'Alid rebellions, he may have been kept under regular surveillance. This could have made

attending his study circles difficult and perhaps even politically disadvantageous. This may explain the paucity of information regarding his scholarly activities as well as the lack of detail regarding his students and study associates. Nevertheless, al-Kashshi records that the famous Medinese legist Saʿīd ibn al-Musayyib (d. 94 AH / 713 AD), who is described by the Baghdad *hadith* transmitter and historian Muhammad ibn Saʿīd (d. 230 AH / 845 AD) as being among the most renowned jurists of Medina and the ‘learned of the learned’, was one such associate of ʿAlī ibn al-Husayn and is alleged to have accepted his Imamate.<sup>43</sup>

Ibn Saʿīd has also identified Ibn Shihab al-Zuhri as an admirer and student of ʿAlī ibn al-Husayn, whom he also reports as having described ʿAlī ibn al-Husayn as the most excellent of the Hashimites and the most learned person whom he had ever seen. He is also one of ʿAlī ibn al-Husayn’s main transmitters.<sup>44</sup> ʿAlī ibn al-Husayn’s main contributions however, apart from the traditions which he narrated on the authority of his forefathers, especially ʿAlī ibn Abi Talib, were in the field of religious devotions exemplified by the famous collection of supplications titled *al-Sahifah al-Sajjadiyyah* and ethical advice the most famous of which is the treatise on rights titled *Risalat al-Huquq*.

Turning our attention now to ʿAlī ibn Abi Talib, we know from the historical sources that he was counted among the most learned and wise of the Prophet Muhammad’s companions. Very soon after the Islamic conquests, many of the companions were sent to the newly conquered territories by ʿUmar I (d. 23 AH / 644 AD) to serve as Qurʾān teachers and religious guides, as well as to serve as judges and commanders. These companions went on to lay the foundations of the later legal schools of law as it was their Qurʾānic teaching, Qurʾānic interpretation, narration of Prophetic materials and legal activity which laid the basis for and the development of the legal schools in the later part of the first century and into the second and third centuries *hijri*. ʿAlī, who shifted his capital from Medina to Kufa during his reign as caliph and later passed away there, became one of the founding legal authorities of the Kufan legists, along with ʿAbd Allah ibn Masʿūd (d. 32 AH / 652–3 AD).<sup>45</sup> When Hajjaj ibn Yusuf (d. 95 AH / 714 AD) the ruthless Umayyad general and governor asked Shaʿbi (d. 103–10 AH / 721–8 AD) the Kufan successor, a question on inheritance, Shaʿbi gave him five different interpretations, one of which Hajjaj specifically rejected was that of ʿAlī.<sup>46</sup> This indicates ʿAlī’s legal activities and its relation with Iraq. The jurist Masruq ibn al-Ajdaʿ (d. 62 AH / 682 AD) says:

I examined the companions of the Prophet and found that their knowledge originated from six companions: ʿUmar, ʿAlī, ʿAbd Allah ibn Masʿūd, Muʿadh ibn Jabal (d. 19 AH / 640 AD), Abu Darda (d. 34 AH / 654 AD) and Zayd ibn Thabit (d. 44 AH / 665 AD). Then I examined the knowledge of these six and found that their knowledge goes back to two: ʿAlī ibn Abi Talib and ʿAbd Allah ibn ʿAbbas (d. 67 AH / 686–7 AD).<sup>47</sup>

ʿAbd Allah ibn ʿAbbas was a very learned and knowledgeable companion of the Prophet; however he was a junior companion and could hardly have been the teacher of these other senior companions mentioned above, yet we know that he attended ʿAlī’s lectures and learned a lot from him.

More significant regarding ʿAli is the mention in the sources – especially the Shiʿa sources of *hadith*, history, and biography – of an enigmatic book composed by him and dictated by the Prophet. It was known as *Kitab ʿAli* and also as *al-Jamiʿah*. This book seems to have been compiled during the learning sessions which ʿAli used to have with the Prophet and which he describes as follows:

Once every day and once every night I used to be alone with him. On such occasions he would reply to my queries and when I had exhausted my queries and fell silent, he would himself initiate further discussions. Never was there any case of revelation of any of the verses of the Qurʿan which the Prophet did not recite and dictate to me and which I did not write down with my own hand.[48](#)

This book is described by Imam al-Sadiq as follows: ‘with us is *al-Jamiʿah*. It is the dictation of the Prophet... and in the handwriting of ʿAli. It contains the knowledge of all *halal* and *haram* and whatever the people need.’ The length of its scroll is described as seventy cubits long.[49](#)

An eyewitness account by Sulaym ibn Qays (d. 76 AH / 678 AD) at the deathbed of ʿAli, preserved in al-Kulayni’s (d. 329 AH / 941 AD) *al-Kafi*, describes how ʿAli bequeathed these books to his son al-Hasan and also gave specific instructions to him as to how this book and other Prophetic heirlooms which he had inherited from the Prophet were to be handed down to al-Husayn, ʿAli ibn al-Husayn, and Muhammad ibn ʿAli respectively, one after the other in succession over the generations.[50](#)

Imam al-Sadiq reports that this book was indeed bequeathed to the aforementioned, one after the other and that on his father’s death he received it.[51](#) It seems from various disparate reports that this book was of a very comprehensive nature, possessing detailed rules and many chapters, which have been described in some reports as ‘books.’ Indeed, it seems to have been known among the ʿAlids that possession of this book by anyone gave the possessor a powerful source of knowledge and an edge and superiority in knowledge over all. Thus al-Kashshi preserves a report that when Zayd ibn ʿAli ibn al-Husayn (d. 122 AH / 740 AD) asked Sawrah ibn Kulayb how he ascertained the veracity of the claim to imamate of Jaʿfar al-Sadiq, Sawrah replied that during al-Baqir’s life whenever they posed any question to al-Baqir, he always gave satisfactory answers, however for a while after his demise they couldn’t find anyone among the ʿAlids with this capability till they came across al-Sadiq, whereupon Zayd smiled and said ‘this is because the Books of ʿAli are solely at his disposal.’[52](#)

The specific contents of this book are unknown to us and that is what makes it so enigmatic, however some scholars have attempted to form an idea of some of its contents from the disparate reports scattered in the Shiʿa collections. These reports draw a picture of a book which contained a lot of legal information such as on ritual purity, prayers, fasting, the alms-tax, pilgrimage, jihad, earnings, hunting, inheritance, foods and drinks, criminal penalties, retribution and compensation, marriage and divorce, arbitration and wills among many others.[53](#) Numerous reports in the Shiʿa collections describe the Imams ʿAli ibn al-Husayn, al-Baqir, and al-Sadiq drawing answers from this book for various legal questions with the following recurring phrases ‘I found this in the book of ʿAli that...’ or ‘I read in the book of ʿAli that...’ or ‘it is in the book of ʿAli that...’[54](#)

Perhaps the last report available to us of the whereabouts of this book is given to us by the historian al-Mas'udi (d. 344 AH / 956 AD) who informs us that this book was in the possession of the tenth imam 'Ali al-Hadi (d. 254 AH / 868 AD).<sup>55</sup> This book was also shown to some disciples of the Imam. Thus the famous Zurarah was shown the chapter of inheritance from this book by al-Sadiq at the behest of al-Baqir during the latter's imamate and Muhammad ibn Muslim was also shown the same chapter from the book.<sup>56</sup> When there arose a dispute between al-Baqir and al-Hakam ibn Utayba on an issue, al-Baqir had his son bring out this book and show the relevant prophetic *hadith* to him in support of his opinion.<sup>57</sup>

Having had described and discussed the robust teaching activities of those Shi'a Imams whose contributions to Shi'a Islamic law is most apparent, it is time to shed a little light on the legal methodology and practice of these Imams.

Hallaq writes that during the first century *hijri*, the *qadhis*, who were mostly responsible in his opinion for developing Islamic law in the various garrison towns, relied on three sources for legal deduction. The Qur'an, the *sunan* which included Prophetic practice, caliphal law, and companion practices, and lastly their own discretionary opinions *al-ra'y*.<sup>58</sup> By the second century *hijri*, the practice of *al-ra'y* had evolved into the more sophisticated rational tool of *al-qiyas* or analogy. Furthermore, during the second and third centuries there was a growing call in favour of relying solely on reported Prophetic traditions in the form of *hadith* rather than the amalgam of various *sunan*, where the latter had actually produced legal practices distinctly local in their form and content in the various cities.

A cursory study of the Shi'a sources shows that the Shi'a Imams also emphasised the central role of the Qur'an and the Sunnah, but insisted on the Prophetic Sunnah and strictly avoided utilising any other *sunan*.

When one of the companions of the Imam Musa ibn Ja'far asked him whether all that he taught could be found in the Qur'an and the Sunnah of the Prophet or did he also speak on his own authority, he responded thus: 'It is impossible that we should say anything on our authority. Whatever we say is to be found in the Qur'an and the Sunnah of the Prophet.'<sup>59</sup>

Imam al-Baqir is reported to have said:

If we were to narrate traditions based on our own views, we would surely perish. Know that we narrate only traditions that we have stored up from the Messenger of God just as people store up gold and silver. <sup>60</sup>

This might be taken to allude to the store of Prophetic knowledge which the Imams inherited as family traditions and which was taught to the succeeding generation by the preceding one, as well as to the store of valuable knowledge in the *Kitab 'Ali* which they inherited and drew from.

In a report describing the conversation of Imam al-Sadiq with Hisham ibn al-Hakam (d. 179 AH / 795-6 AD) in which the Imam specifies the Qur'an and the Sunnah of the Prophet as the two most important

criteria by which to judge their teachings, he concludes as follows: ‘Assuredly, when we relate anything we either say “God said it”...or “the Prophet said it”.’<sup>61</sup>

Another significant observation with regards to Shi‘a law is the consistent practice of the Imams to prefer transmitting Prophetic teachings and practices through family chains consisting especially of the previous Imams. R. Buckley also rightly makes this observation when he writes that Shi‘a *isnads* take one of three forms: (a) traditions related by an Imam on the authority of his forefathers, (b) traditions related on the authority of the Prophet Muhammad either directly or through the medium of his forefathers and (c) traditions related solely on the authority of the Imam. He then writes that the majority of the traditions are of the third type.<sup>62</sup>

This last category of traditions may be explained in one of two ways. First, that the traditions related solely on an Imam’s authority are actually of the first and second types. Thus a couple of the sixth Imam’s disciples relate that they heard him say:

*My hadith is the hadith of my father, and my father's hadith is the hadith of my grandfather, and the hadith of my grandfather is the hadith of al-Husayn, and the hadith of al-Husayn is the hadith of al-Hasan, and the hadith of al-Hasan is the hadith of the Commander of the Faithful, and the hadith of the Commander of the Faithful is the hadith of the Messenger of Allah, and the hadith of the Messenger of Allah is the word of Allah, the Almighty and the Glorious.*<sup>63</sup>

Or the report where the companion of the Prophet Jabir ibn ‘Abd Allah al-Ansari (d. 78 AH / 697 AD) is reported to have demanded from al-Baqir that he provide a chain of authorities when he related something, whereupon the Imam replied ‘Narrated to me my father, from my grandfather, from the Messenger of Allah, from Gabriel, from God, the Blessed and the Exalted, and whatever I narrate to you is with this *isnad*.’<sup>64</sup>

Indeed today, this feature of Imami reports seems to be especially conspicuous, however historically many of the early families of the Prophet’s companions shared this feature with the Shi‘a Imams. The late Nabia Abbott writes that family *isnads* appeared very early and persisted on a large scale. Family *isnads* would include both blood members and intimate *mawali*. Thus it is famously known among Sunni scholarly circles that ‘Every *hadith* narrated by al-Shafi‘i, from Malik, from Nafi‘, from Ibn ‘Umar is a golden chain of authorities (*silsilat al-dhahab*).’<sup>65</sup> Nafi‘ (d. 117 AH / 735 AD) was the *mawla* of Ibn ‘Umar (d. 73 AH / 693 AD), the son of the second caliph. She observes that family *isnads*, which start from a companion and continue for three generations are most frequent and that family *isnads* traced to prominent companions became greatly respected very early on and remained so throughout the centuries.

The success of such family *isnads* depended on whether the companion-ancestor was a literate person or at least in favor of recording Prophetic traditions and preserving the manuscripts, and/or that his progeny was a ‘hadith-writing’ family and interested in preserving their forebear’s manuscripts as well as

interested in passing them down to the next generation.

Thus Anas ibn Malik's (d. 93 AH / 711 AD) family had several direct generations of writers who cherished the documents that had been received from Anas, one of which was with Thumamah his grandson at the time when ʿUmar II (d. 101 AH / 720 AD) and al-Zuhri were seeking original documents for ʿUmar II's project for collecting Prophetic instructions and those of the first two caliphs.[66](#)

ʿAbd Allah ibn ʿAmr ibn ʿAs's (d. 65 AH / 684 AD) family *isnad* covered four generations of writers and manuscripts were found belonging to him which were sent to ʿUmar II and al-Zuhri. The written instructions on how to govern, which the Prophet had given to ʿAmr ibn Hazm al-Ansari (d. 51 AH / 671 AD) when appointing him the governor of Najran were preserved by his family and found with them when ʿUmar II and al-Zuhri were looking for materials for their project.

ʿAmr's son Muhammad is known to have transmitted his father's traditions to his son Abu Bakr who was a contemporary of ʿUmar II and al-Zuhri, and who in turn transmitted to his own sons, Muhammad and ʿAbd Allah.[67](#) Al-Zuhri is also known to have transmitted from the documents of Thumamah, grandson of Abu Bakr (d. 12 AH / 634 AD), from Salim and ʿAbd Allah, the sons of ʿUmar I, and from ʿAli ibn Husayn ibn ʿAli.[68](#) These traditions can be found in the *Musnad* of Ahmad ibn Hanbal (d. 241 AH / 855 AD) who as a rule copied down his materials from written manuscripts. He also urged his sons and pupils to follow this practice of writing down traditions and thus established a family *isnad* of three very active generations of traditionists.

The other way in which we may explain the traditions related solely on the authority of the Imam is that they were actually on the said Imam's authority. Traditions exist in the Shiʿa *hadith* collections where the Imams are seen to claim special capabilities to interpret and understand the Qurʾan due to their capacity as divinely chosen guides as well as their ability to regularly receive divine guidance from God. Therefore the Imam ʿAli ibn Musa says:

When someone is chosen by God to administer the affairs of men, God expands his breast for him, places the well-springs of wisdom in his heart, and inspires him with knowledge, *so that he will be able to solve any problem that arises*[69](#)...Such a one is none other than the Inerrant Imam, who enjoys the aid and support of his Lord....[70](#)

Imam al-Baqir is reported to have said: 'One of the forms of knowledge we possess pertains to the interpretation of the Qurʾan and its ordinances, while another form relates to the developments and occurrences that take place in time. Whenever God desires a certain group of men to attain virtue and purity, He bestows on them the capacity to hear. However, one whose ear is incapable of hearing will encounter God's word in a way that suggests he has no awareness of it.'

Imam ʿAli is reported to have said:

Try to make the Qurʾan speak; it will not speak to you. I declare to you that the Qurʾan contains

knowledge of the past and the future, as well as all the ordinances of which you stand in need, and the interpretation of matters concerning which you disagree among yourselves. If you but ask me, I will instruct you in all of this.

Another very important feature of the Shi'a observed at this early time is that, unlike the generality of the Muslims who utilised *ra'y* and *qiyas* at that time, the Shi'a legal school is seen to vehemently deny the utility of this tool in finding the law. This is portrayed in Imamite reports. Thus a certain al-Hasan ibn Rashid says:

I asked Imam al-Sadiq 'Should a menstruating woman repeat her prayer?' He replied 'No.' I asked: 'Should she repeat her fasts?' He replied, 'Yes'. I said 'Why is this so?' He said 'the first to use *qiyas* was the devil.'<sup>71</sup>

In the following report the Imam unequivocally rejects *qiyas* and the answer seems to allude that the Imam's answer was drawn from the *Sunnah* of the Prophet which seems to be unknown to others. Was the Imam drawing from the inexhaustible source of the *Kitab* *Ali*?

Aban asked the Imam about the compensation to be paid by a man who severs the finger of a woman. He [Aban] said: The Imam said, 'Ten camels'. I said, 'And if he severs two fingers?' He said, 'Twenty.' I said, 'And if he cuts off three?' He said, 'Thirty'. I said, 'And four?' He said, 'Twenty camels'. I said, 'Praise is to God! He cuts off three and the *diyah* is thirty camels, but for four fingers, the *diyah* is only twenty camels. If we had heard this in Iraq, we would have forgiven the one who said it, and maintained that Satan must have put the words in his mouth!' The Imam said, 'Relax. This is indeed the ruling of the Prophet of God. A woman is due the equivalent of a man until a third of the *diyah* is reached. When it reaches one third, the woman is given one half. O Aban, you took me to be using *qiyas*, but if *qiyas* is used in preference to the *Sunnah*, religion is ruined'<sup>72</sup>

Thus on the whole it seems the legal activity of the Imams involved drawing on the Qur'an and the abundant store of Prophetic *Sunnah* material at their disposal which they obtained through the agency of the previous Imams and their written legacies as well as the divine inspiration which allowed them to unearth solutions from the inexhaustible depths of the Qur'an for emerging situations. As for their disciples, though it cannot be denied that they may have been affected by the tools of legal deduction used around them such as *ra'y* and *qiyas* and that they may even have indulged in them, yet the more predominant activity among them would have been, in light of the Imam's authoritative knowledge, that of relating the Imam's teachings and answers to various problems.

This can be gleaned from the reports cited above where the sixth imam emphasizes a disciple's importance to be consonant to his transmissions from the Imam; his emphasis on being a reliable *muhaddith* in order to become a jurist, and his suggesting to Ibn Abi Ya'fur to refer to Muhammad ibn Muslim for answers since the latter possessed a store of knowledge from Imam al-Baqir. Also observe the statements of praise of the sixth Imam for some of his disciples where their significance seems to

stem from their possessing abundant traditions of his father. Thus when a lady whose daughter had died during child-birth but whose baby was discerned to be still alive in the womb approached Muhammad ibn Muslim in Kufa for an answer, apparently sent to him by Abu Hanifah, he replied by narrating the ruling of Imam al-Baqir which was to cut open the womb and remove the baby.[73](#)

In conclusion, I would like to quote the difference that H. M. Tabatabai mentions regarding the Sunni and Shi'a schools of law. He writes that the major difference between the two schools lie in how the Prophet's traditions were received by the adherents of each. So while the Sunnis received the Prophetic teachings from the companions, the Shi'a received them from the Prophet's family.[74](#)

This is correct; however it should be borne in mind that the Prophet's family were as much his companions if not more close to him than his other companions. H. M. Tabatabai further writes that whereas the Sunni legal schools follow the juridical opinions of some jurisconsults of Medina and Iraq, the Shi'as follow the opinions of their Imams who were descendants of the Prophet.[75](#)

Again, while this is correct, it must be borne in mind that the Imams from the Prophet's family were one of the most renowned jurisconsults of Medina, and if the jurists of the Sunnis were successors and successors of the successors, then the Shi'a Imams were also successors and successors of the successors.

Perhaps the only differences which I can evince is that like the early Muslims who appreciated the security and reliability of the 'family chains' due to a lesser possibility for fabrications occurring in them, the Shi'as stuck to this route to the exclusion of others. The other difference being the claim to special and authoritative divine knowledge which the Imams claimed for themselves and which the other jurists did not.

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15. Ibid.

16. The Arabic word used is *ahdath* which means 'youths' or 'youthful'.

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