

The Stages of Development of Shi'a Jurisprudence

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Al-Islam.org

Message of Thaqaalayn Vol. 12, no.4, Winter 2012

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Publisher(s):

[Ahlul Bayt World Assembly](#) [2]

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Sayyid Mahmud Hashemi et al.

Translated by Amin Rastani

Abstract

The science of jurisprudence dates back to the earliest Islamic era. It deals with an array of problems confronting society based on Islamic principles, morals, and practical laws. These precepts are manifested in the Qur'an and tradition as these are the main sources in which legal rulings derive from, and these rules are firmly abided by without exercising one's own opinion.

In this article, the stages of the development of jurisprudence will be clarified, along with revealing its

prominent authors, major collections of narrations, and the notions that drove scholars to enhance jurisprudential progress.

What sets the school of the Ahlul Bayt apart from other schools of thought is that it considers Islamic precepts manifested in the Holy Quran as well as Sunnah to be the main sources for the origin of legal rulings. This school sees the whole of the literature and narrations issued by the Prophet Muhammad and the Imams of his household to be what constitutes the Sunnah – a tradition which all must abide by and against which none can exercise their opinion.

This school also deems it necessary that the whole process of jurisprudence is aimed at understanding these precepts and narrations. There are two stages (or eras) during the course of the history of this jurisprudence:

- 1) The stage of the issuance of Islamic precepts (fiqh of narrations), and
- 2) The stage of jurisprudence within the framework of Islamic precepts.

The stage of the issuance of Islamic precepts

This era extended from the date of the appointment of the Noble Prophet throughout the imamate of the Imams until the beginning of the fourth century AH, during the major occultation of the twelfth Imam (aj). Within this timeframe a great amount of Islamic literature was compiled, enabling the jurists to deduce the rulings of all jurisprudential branches and issues based on the understanding of these literatures and Islamic precepts.

Most of the focus and effort of the Imams – especially from Imam Baqir onwards – was spent on training the jurists and narrators of tradition to preserve religion and be its guardians.

The number of narrators of the Imams (beginning from Imam Ali (as) [d. 40 AH] until Imam Hasan al-Askari (as) [d. 260 AH]), that al-Sheikh al-Tusi enumerates in his *rijal* book reaches 5,436 narrators, 3217 were narrators of Imam al-Sadiq (as), with the remainder belonging to the rest of the Imams, including the narrators of Imam al-Mahdi (aj). The details are as follows:

1. Imam Ali– 442 narrators
2. Imam al-Hasan (as) – 41 narrators
3. Imam al-Husayn (as) – 109 narrators
4. Imam al-Sajjad (as) – 173 narrators

5. Imam al-Baqir (as) – 466 narrators
6. Imam al-Sadiq (as) – 3217 narrators
7. Imam al-Kadhim (as) – 272 narrators
8. Imam al-Ridha (as) – 317 narrators
9. Imam al-Jawad (as) – 113 narrators.
10. Imam al-Hadi (as) – 183 narrators.
11. Imam al-Askari – 103 narrators.
12. Imam al-Mahdi – 52 narrators.

Regarding the books of narrations compiled by the companions of the Imams, Sayed Muhsin al-Amin [d. 1371 AH] says:

The early Shi'a scholars who were contemporaries of the Imams from the time of the Commander of the Faithful (as) until the time of Abi Muhammad al-Hasan al-'Askari, have compiled over six thousand six hundred volumes on the narrations narrated from the Ahl al-Bayt, coming from the Holy Prophet, the city of knowledge.[2](#)

All of these books have been mentioned in rijal books. For example, Sheikh Muhammad b. al-Hasan b. al-Hurr al-'Amili [d. 1104 AH] has recorded them in the end of his fourth note of Wasa'il al-Shi'a. He in turn obtained this information from the biographies of the authors of these books, gathering what rijal scholars say about each one and putting them together to yield this number.[3](#)

Some scholars have categorized these books into two groups: 'usul' (principles) and non-usul. The usul are the books in which the authors have compiled the narrations they have directly heard from an Imam, or have heard from a narrator who has narrated directly from the Imam. In other words, the narrations found in usul books are ones that haven't been narrated from another book. Rather, only narrations heard from an Imam or from one who narrates directly from an imam have been relied on in compiling these books. On the other hand, non-usul books are ones to which or in which their authors have narrated their content even if it is a written book they are narrating from.

The authors of collections of narrations narrated from these books (both usul and non-usul ones) and compiled their own collections after the Imams. These books themselves would later become the main base, establishing the second stage of the school of the Ahl al-Bayt, the stage of jurisprudential Fiqh (al-Fiqh al-Ijtihadi), which will be covered later.

The majority of these usul and other books have been gathered in the four major collections of narrations: al-Kafi, Man la Yahdururu al-Faqih, al-Tahdhib, and al-Istibar. These collections

encompass a great deal of narrations regarding legal rulings from the prophet or one of the infallible Imams. And this is one of the advantages of the fiqh of the Ahl al-Bayt.

There are 16,199 narrations in al-Kafi alone, 13,590 in al-Tahdhib, 5,963 in Man la Yahduruhi al-Faqih, and 5,511 in al-Istibsar. After this came al-Sheikh al-Hurr al-'Amili in the eleventh century [d. 1104]. He gathered narrations from the four major narration collections, other books, and usul into his encyclopedia of narrations titled "Wasa'il al-Shia", containing a total of 35,852 narrations.

Al-Mirza al-Nuri [d. 1320 AH] was able to collect more narrations on legal rulings from other narration sources and added them to Wasa'il al-Shia to further complete it. He named this work of his "Mustadrak Wasa'il al-Shi'ah", which contained a total of around 23,000 narrations. This means that the total number of narrations in these two encyclopedias of narrations on legal rulings is close to sixty thousand, rendering them unmatched in any school of thought.

After the completion of the compilation of noble narrations and literatures on Islamic law, the graduation of many great scholars and jurists under the Imams, the high reception of the school of the Ahlul Bayt (a) by the people, as well as the spread of the Shi'a faith in every corner of Muslim countries, the later Imams began to make preparations for the independence of fiqh and scholars.

They began to pave the way for the gradual self-reliance of the Shi'a. This happened through the Imams ordering the people to refer to the scholars and narrators of their traditions. From then on, these individuals were called 'deputies' of the Imam (Nuwwab al-Imam). The religious responsibility they would carry out was called 'general deputyship' (al-Niyabah al-'Ammah) and the act of following their verdicts was referred to as Taqlid (emulation).

This era, the era of the issuance of Islamic precepts, where it was possible to contact an Infallible (a) and attain knowledge and narrations from him directly or indirectly through one of his special deputies, ended in the year 329 AH, marking the beginning of the second fiqh stage, the jurisprudential fiqh period.

It is important to note that the period of issuance (Sudur) possesses advantages and legal characteristics different than those in the second stage of jurisprudence, most notably:

1) Possession of the 'supreme imamate' and 'great authority' by the Prophet and the Imams after him, as well as their presence in this period, making it obligatory upon all to obey and refer to them in all affairs and abide by what they say, as the noble verse of the Quran says:

O you who have faith! Obey God and obey the Apostle and those vested with authority among you. And if you dispute concerning anything, refer it to God and the Apostle, if you have faith in God and the Last Day. That is better and more favourable in outcome. (4:59)

2) The possibility of reaching the actual legal rulings of issues in this period by referring directly to them, asking about the realities, rulings, and secrets of religion.

- 3) The impermissibility of anyone exercising opinion against their word and judgment by anyone, because that would be an example of *ijtihad fi muqabil al-nass* (exercising jurisprudential opinion when there is legal evidence on an issue), which is forbidden and false both rationally and religiously.
- 4) The impermissibility of the jurists assuming any type of position, be it of judgment, issuing verdicts, governance, collecting religious alms or anything else, except by referring to the infallible first and being appointed by him.
- 5) When practicing jurisprudence and deduction of rulings, it is unacceptable for the scholars to initially refer to the general principles and rules – in order to reach the ruling of an issue without asking the infallible first – because of the possibility of there being restrictions (*muqayyid*) and qualifiers (*mukhassis*) or an overruling precept (*bakim*). This would make the ruling they deduce from these general principles unbinding because such would be an instance of relying on generality without first searching for restricting conditions (*al-tamassuk bi al-'umum qabl al-fabs 'an al-mukhassis*) at a time when an Imam is present. Searching (*al-fabs*) takes place only by inquiring him.
- 6) Jurisprudence in this era was characterized by the study, memorization, and transmission of tradition and narrations in addition to issuing verdicts based on their clear and apparent contents. Regarding complicated jurisprudential matters, the Imams were referred to, except when it was not possible, as was the case when the school of the Ahl al-Bayt gradually expanded and spread, entailing more suppression and surveillance by the rulers of the time.

This is an important characteristic of the jurisprudential process during the time of the infallibles. It makes it limited in its essence, the reason being that in that time, its sources couldn't be completed and finished. This is because there was always the possibility that the infallibles would issue another restrictive, explanatory, or overruling precept.

This would hinder the generality of the narrations the narrators had at hand, and make it impermissible for them to restrict themselves to these narrations which they had preserved or narrated in the process of jurisprudence.

This matter has also been referred to by some of the 'remedial' ('*alaji*) narrations that have obliged halting (*tawaqquf*) or precaution (*ibtiyat*) when faced with two contradictory narrations and putting the matter on hold until referring to the Imam (as).⁴

The stage of jurisprudence within the framework of Islamic precepts

From the time it began to advance and develop until its completion and maturity, jurisprudential fiqh has passed many stages in the hands of the jurists of the school of the Ahl al-Bayt (as). The stages are titled as follows: 1) The Establishment Stage 2) The Developmental Stage, 3) The Period of Independence

and Completion, 4) The Period of Extremes, 5) The Period of Rectification and Moderation, and 6) The Period of Completion and Maturity.

1. Establishment Stage (Early fourth century – mid-fifth century AH)

Some of the most significant jurists of this period are:

- 1) Muhammad b. Ya'qub al-Kuleini [d. 329 AH]
- 2) The two Saduqs (Ali b. al-Husein b. Babwayh al-Qummi [d. 381 AH])
- 3) Ja'far b. Muhammad b. Qulawayh [d. 368 AH]
- 4) Muhammad b. Ahmad al-Katib (Ibn al-Junayd al-Iskafi) [d. 381 AH]
- 5) Mulhammad b. Muhammad b. al-Nu'man (al-Mufid) [d. 413 AH],
- 6) al-Sharif al-Murtadha [d. 436]
- 7) Abu al-Salal; al-I;lalabi [d. 446 AH]
- 8) I;lalzah b. 'Abd al-'Aziz al-Daylami (Sallar) [d. 463 AH]

What makes this period distinct is that the jurisprudential process therein was a recently developed one, showing itself in the distribution of the text of narrations in different fiqhi chapters. The process is shown as trying to draw conclusions from narrations through their own wording and text and reconciling contradictory narrations by 'conventional conciliation' (al-jam' al-'urfi) or preference (tarjih), 'classifying as issued out of dissimulation' (al-haml 'ala al-taqiyyah), etc. Other factors that contributed to such distinctness are as follows:

- The compilation of two of the most important new fiqhi encyclopedias i.e. al-Kafi and Man La Yabdhuruh al-Faqih;
- the presentation of verdicts (fatawa) with the same wording as that found in the narrations, distributed in their respective fiqhi chapters and issues, as is the case with the book of al-Sharaye' of Ali b. Husayn b. Babiwayh, and the books of al-Hidayah and al-Muqni'ah by his son, al-Sheikh al-Saduq.

During this period, fiqh developed according to the new issues that would occur as well as new problems that would arise. And, based on the issues and divisions, other schools of thought (and their fiqhi literatures) had addressed, the branches of fiqh expanded. This in turn led to the independence of the fiqhi method from narrated fiqh, both in its compilation and presentation.

The compilation of two books in the field of 'Principles of Jurisprudence' (Usul al-Fiqh), al-Tadhkirah bi-Usul al-Fiqh (by al-Sheikh al-Mufid) and al-Dhar'ah ila Usul al-Shari'ah (by al-Seyyid al-Murtadha), marked the beginning of the formation of the science of 'Principles of Jurisprudence' (Usul al-Fiqh) and the isolation of its rules (literary, rational, and legal) from fiqhi issues, making this yet another development in this period.

Another discipline that was set into motion during this period was comparative fiqh involving other

schools of thought; the works of Kitab al-I'lam (of al-Sheikh al-Mufid) and al-Intisar wa al-Nasiriyyat (of al-Seyyid al-Murtada) are examples of books written in this discipline.

This period ends with the shining of al-Sheikh al-Tusi in both the spheres of fiqh and usul al-fiqh, surpassing the rest in terms of his jurisprudential competence and the rich scholarly heritage he produced. This prompted the beginning of a new stage and era in jurisprudence.

2. Developmental Stage (mid-fifth century – mid-seventh century AH)

This period begins with the final years of the life of Sheikh al-Tusi [d. 460 AH] and continues until the emergence of al-Muhaqqiq al-Hilli [d. 676 AH]. Some of the most prominent jurists of the period are: al-Sheikh Muhammad b. al-Hasan b. al-Tusi, Muhammad b. Ali b. Abi Hamzah al-'Alawi [d. 570 AH], al-Qadhi 'Abd al-'Aziz b. al-Barraj al-Tarablisi [d. 481 AH], Hamzah b. Ali b. Zuhrah al-Husayni [d. 575 AH], Qutb al-Din al-Rawandi [d. 573] and al-Sheikh Muhammad b. Idris al-Hilli [d. 598 AH].

Some of the most important features of this period are the development of jurisprudential fiqh and it taking on the correct methodological form by al-Sheikh al-Tusi. This was a result of him making jurisprudence systematic in the framework of legal evidences (adillah shar'iyyah) and expressing his methodology in his usul al-fiqh book: 'Uddah al-Usul.

In this period, four sources of jurisprudence and fiqhi evidence were introduced by usul al-fiqh books in this period: The Quran, tradition (sunnah), consensus (ijma') and intellect ('aql). What was meant by consensus was a type of consensus that contained the actual opinion of an infallible within or the infallibles opinion could be concluded from it.

This would make such a consensus revealing of tradition, while what was meant by intellect was its axiomatic and definite judgments, not conjecture (dhann), analogy (qiyas) or discretion (istibsan).

This is how the jurisprudential process was refined by certain common, yet unorthodox, methods used by other schools of thought, and also of reliance on certain intellectual and theological discussions of the time. These discussions were substituted with reliance on the original jurisprudential method, meaning the deduction of legal rulings from the true legal sources which are the Quran and traditions issued by the Prophet and the infallible Imams.

One of the distinctive characteristics of this period is the compilation of two great narration collections by al-Sheikh al-Tusi: al-Tahdhib, which is an argumentative commentary of the narrations found in the book al-Muqni'ah (of Sheikh Mufid), and al-Istibsar, which is a book aimed at reconciling conflicting and contradictory narrations on legal issues. This led to Sheikh al-Tusi becoming the one to put together all of the necessary tools needed for endeavors in jurisprudential fiqh both in theory and application.

This new methodology was applied in a vast and developed form in fiqh and all of its branches, something that clearly showed itself in the book of al-Mabsut. This enabled Sheikh al-Tusi to establish

the strength of Imamate fiqh and its sources on their ability to address different legal issues and branches no matter how diverse and varied they would become.

At the same time, another feature that characterized this period is the development and completion of comparative fiqh, represented in the book al-Khilaf by Sheikh al-Tusi. A look at this book and comparing it with the book al-Intisar by al-Seyyid al-Murtadha will show the great amount of development that has been achieved in this regard.

Another feature of this period, is the attention given to Quranic studies, especially the science of 'Fiqh of the Quran⁵, embodied in the commentary (tafsir) of al-Tibyan by al-Sheikh al-Tusi and Fiqh al-Quran by Rawandi, a major development when compared to previous Quranic-fiqhi works.

This period ends in the mid-seventh century with the shining of yet another great figure in jurisprudence and other sciences, al-Muhaqqiq al-Hilli.

3. The Period of Independence and Completion (mid-seventh century – end of tenth century)

This period begins with the emergence of al-Muhaqqiq al-Hilli Najm al-Din Ja'far b. al-Hasan [d. 676 AH] and extends till the 'Second Martyr' Zayn al-Din b. Ali b. Ahmad al-'Ameli [d. 966 AH]. Some of the other prominent jurists of this period are al-'Allamah al-Hilli al-Hasan b. Yusuf b. al-Mutahhar [d. 726 AH], his son Fakhr al-Muhaqqiqin Muhammad b. al-Hasan [d. 771 AH], the 'First Martyr' Muhammad b. Makki al-'Ameli [d. 786 AH], al-Fadhil al-Miqdad Jamal al-Din al-Suyuri [d. 826 AH], al-Muhaqqiq b. Fahd al-Hilli [d. 841 AH], al-Muhaqqiq al-Karaki Ali b. al-Husayn al-'Ameli [d. 940 AH] and others (may God be pleased with them).

What makes this period stand out is the independence of Imamate jurisprudence from corresponding with that of other schools of thought, both in subject matter and methodology. Except in works on comparative fiqh, only Shi'a heritage was relied on.

In this stage, books such as Ma'arij al-Usul by al-Muhaqqiq al-Hilli and Nihayah al-Wusul ila 'Ilm al-Usul by al-'Allamah al-Hilli were written on the science of usul al-fiqh. They were distinguished by their originality, depth, and reliance on rules and principles derived from the narrations of the Ahl al-Bayt.

Also during this period, fiqhi thought came up with new theories in the science of dirayah, resulting in a fourfold categorization of narrations (al-sahih, al-hasan, al-muwathaq and al-da'if), in addition to the compilation of new rijal collections that were more precise than their predecessors, such works as the rijal books of 'Allamah [726 AH] and Ibn Dawud [d. 747 AH].

Another feature of this period is the classification of legal issues based on a logical division and confinement into the four groups of worship ('Ibadat), bilateral contracts (mu'amalat), unilateral contracts (lqa'at), and judgments (ahkam).

The compilation of 'fiqhi principles' (al-qawa'id al-fiqhiyyah) and its isolation from legal issues and branches were another thing that took place in this period; the 'First Martyr' (Shahid I) authored the book al-Qawa'id wa al-Fawa'id, and after him, al-Fadl al-Miqdad al-Suyuri wrote Nadd al-Qawa'id al-Fiqhiyah and the 'Second Martyr' (Shahid al-Thani) penned Fawa'id al-Qawa'id.

One other feature that sets this period apart is the expansion and precision employed in the application of usuli and fiqhi principles (qawa'id usuliyyah wa fiqhiyyah) to legal issues, most notably in the fiqh of binary contracts. This can be observed by comparing the jurisprudential argumentative works of al-'Allamah, his son, the two Martyrs, al-Muhaqqiq al-Karaki and other great figures of this period with those of al-Mufid, al-Murtaza, and al-Sheikh al-Tusi.

In this stage, the method of comparative jurisprudential studies was continued in a broader and more accurate fashion, with 'Allamah compiling the book Mukhtalaf al-Shi'ah fi Ahkam al-Shari'ah on the comparison of Shi'ah jurists and the books of Tadkirah al-Fuqaha' and Muntaha al-Matlab with the theme of comparing different jurisprudential schools of thought.

During this period, the Imamate jurists took on the formulation and legislation of the fiqhi laws of government and Islamic rule according to the school of the Ahl al-Bayt (as). They also took on the role of 'general deputyship' of Imam Mahdi during his occultation either through attending to the different responsibilities of being Islamic legal authorities (marja'iyyah) or through their supervision of the government and its divisions, as was the case for al-Muhaqqiq al-Karaki during the time of the Safavid dynasty.

4. The Period of Extremes (end of tenth century – end of twelfth century)

This stage begins with the era of al-Muhaqqiq al-Ardibili (rah) [d. 993 AH] and continues until the end of the rise of Akhbarism, closing towards the end of the twelfth century.

The reason this period has been titled 'The Period of Extremes', is because it is therein that two opposing jurisprudential currents emerged, each rejecting the other. On the one hand, there was the rationalist idea that was severely against only referring to narrations [in jurisprudential argumentation], while on the other hand, there was the akhbari notion that was totally against utilization of reason and the surface meanings of verses pertaining to legal rulings. Al-Muhaqqiq al-Ardebili and some of his students, such as al-Seyyid Muhammad b. Ali al-'Ameli, author of Madarik al-Ahkam [d. 1009 AH] and al-Sheikh Hasan b. Zayn al-Din, author of Ma'alim al-Din [d. 1011], were the pioneers of the jurisprudential current, the most notable features of which are as follows:

- Consideration of the science of Usul al-Fiqh and the employment of rational and philosophical reasoning for proving some of its issues.
- Narrowing the scope of the authority (hujyah) of 'single source narrations' (khabar al-wahid).

- Doubt in the true value of many of the consensuses of the early jurists' views that were famous or widely accepted without question, and the rational and methodological critique of these views.
- Utilization of rational and philosophical principles in jurisprudential arguments.
- More dependence on absolute (mutlaq) and unconditional ('ulum) precepts asserted in legal Qur'anic verses and definite tradition [i.e., tradition that has definitely been issued by the infallibles], and the derivation of legal verdicts (fatawa) based on them and the refutation of any narrations that might restrict or qualify them as a result of strictness implemented in the rijal authentication of their chains of narrators.

As for the latter jurisprudential current (the akhbari notion) opposite to the first, it was represented by a group of scholars, some of which were: al-Amin al-Astarabadi [d. 1033 AH], who is considered the peak of this pole of extremism, al-Muhaddith al-Fayd, al-Kashani [d. 1091 AH], al-Muhaddith al-Hurr al-'Amili [d. 1104 AH] and al-'Allamah al-Majlisi [d. 1111 AH].

The most important features of the akhbari current are as follows:

- a) The unreliability of rational and philosophical reasoning in jurisprudence and derivation of legal rulings, as in the case of exercising personal opinion (al-ijihad bi al-ra'y). Their employment was considered erroneous in the fiqh of the Ahl al-Bayt.
- b) More utilization of narrations recorded in narration collections and deeming all of them as definite (qat'iyyah) and authentic. This freed the scholar of unneeded rijali and usul al-fiqh discussions pertaining to the authority of narrations (hujyat al-akhbar).

As a result of this importance given to narrations, some of these jurists embarked on the collection of narrations recorded by early scholars, compiling them into dense narration collections: al-Wafl (by Fayd, Kashani), Wasa'il al-Shi'a ila Tahsil Masa'il al-Shari'ah (al-Hurr al-'Amili) and Bihar al-Anwar li Durar Akhbar al-A'imma al-At'har (al-'Allamah al-Majlisi).

- c) Denial of the authority of consensus (ijma') and counting it as one of the sources of legislation in the fiqh of other schools of thought.
- d) The invalidation of ijihad and taqlid (emulation/following the legal verdicts of a jurist) and making it obligatory to directly refer to the narrations of the infallibles [to learn of one's religious duties]. This was a stance belonging to the most radical of them, from which some of their scholars turned away, such as al-Muhaddith al-Bahrani, author of al-Hada'iq al-Nadira [d. 1186 AH] and al-Sheikh Husayn Al 'Ufur [d. 1216 AH].

This stage of 'extremism', in both of its poles, only constituted a very short period of the lifetime of the Imamate fiqhi school of thought; an exceptional state that befell this school and whose dark clouds and ignorance soon scattered and ceased. Both of these extremes vanished and disappeared; the Imamate jurisprudential fiqh returned to its genuine approach and original methods.

5. The Period of Rectification and Moderation (end of twelfth century – first half of thirteenth century)

This period begins with the efforts of a group of jurists to confront the akhbari movement, most notably: al-Seyyid Husayn b. Jamal al-Din al-Khansari al-Kabir [d. 1098 AH], al-Sheikh Muhammad b. al-Hasan al-Shirwani [d. 1098 AH], his son Jamal al-Din [d. 1125 AH], and his son's student Sadr al-Din al-Radawi al-Qummi [d. 1160 AH]. These individuals set the stage for the establishment of the comprehensive usul al-fiqh school by the great jurist, al-Seyyid Muhammad Baqir al-Wahid al-Behbahani [d. 1205 AH]. This school was able to put an end to the akhbari jurisprudential current and put Imamate jurisprudential fiqh back on its sound usul al-fiqh course.

Thus, on the one hand, al-Wahid al-Behbahani was able to defend the views of the majority of the early Imamate jurists against the severe criticism that al-Muhaqqiq al-Ardebili posed regarding some of their judicial verdicts. He also showed how a portion of al-Ardebili's critique was incorrect and unacceptable from a scholarly point of view.

He was also able to resolve the problem of authentication of narrators (rawi) and chains of transmitters (sanad) in his rijal book of Manhaj al-Maqal.

At the same time, he firmly resolved to confront the akhbari movement and all the arguments supporting it using Imamate usul al-fiqh.

One thing that he succeeded in clarifying was the difference between usul al-fiqh according to the Shia perspective and usul al-fiqh according to the perspective of other schools of thought. He was also able to show the need for such a science and that without it, jurisprudence would be infeasible.

As a result of the open and continuous scholarly debates of al-Wahid al-Behbahani and al-Muhaddith al-Bahrani (an akhbari), the presence of these two great figures in Karbala' and the Islamic seminary therein factored greatly into this awakening and its momentum.

Their piety also played a major role in the disclosure of knowledge and realities to their students. Eventually, this led to al-Muhaddith al-Bahrani's inclination towards moderation and the acceptance of jurisprudential fiqh and consensus (ijma') – when it is revealing of tradition (which is what Imamate fiqh means by the term 'consensus') – and caused him to withdraw from some of the stances the first generation of akhbaris had gone to extremes in.

A series of great jurists and scholars graduated from the school of al-Wahid al-Behbahani such as al-Seyyid Muhammad Mahdi Bahr al-'Ulum [d. 1212 AH], al-Sheikh Ja'far Kashif al-Ghita' [d. 1228 AH], al-Seyyid Muhammad al-Mujahid [d. 1242 AH], al-Muhaqqiq Muhammad Mahdi al-Naraqi [d. 1209 AH] and his son Ahmad [d. 1244 AH].

In turn, more great jurists graduated from under these students, such as al-Sheikh Hasan b. Abd al-Rahim al-Tehrani author of al-Fusul al-Gharawiyah [d. 1250 AH], al-Sheikh Muhammad Taqi al-

Isfahani author of *Hidayat al-Mustarshidin fi Sharh Ma'alim al-Din* [d. 1248 AH] and al-Sheikh Hasan al-Najafi author of *Jawahir al-Kalam fi Sharh Sharaye' al-Islam* [d. 1266 AH].

6. The Period of Completion and Maturity (mid-thirteenth century – present)

In reality, this period is seen as a continuation and extension of the previous period, the base of which was further consolidated by al-Wahid al-Behbahani's school and his prominent students.

This stage went on to reach the pinnacle of maturity, depth and comprehensiveness through two generations of jurists of this school, especially one of the most outstanding of them, al-Sheikh Murtaza al-Ansari (rah) [d. 1281 AH]. The progress made at this stage was to the extent that this period can be considered a new era in the history of fiqh and usul al-fiqh.

This matter becomes especially manifest when one compares the books of al-Makasib fi Fiqh al-Mu'amalat and *Fara'id al-Usul* by al-Sheikh al-Ansari with other works of the same themes by previous jurists from the same school; there is a great difference between them in content, methodology, and argumentation technique.

Many great jurists have graduated under al-Sheikh al-Ansari, most notably: al-Muhaqqiq al-Shirazi al-Kabir [d. 1312 AH], al-Sheikh Habibullah al-Rashti [d. 1312 AH], al-Sheikh Mulla 'Ali al-Kani [d. 1306 AH] and al-Sheikh Muhammad Hasan al-Ashtiyani [d. 1319 AH].

In turn, generations of jurists and jurisprudents graduated under these jurists, such as: al-Muhaqqiq al-Khurasani author of *Kifayat al-Usul* [d. 1319 AH], al-Muhaqqiq al-Hamedani [d. 1322 AH], al-Seyyid al-Fisharaki [d. 1314 AH] and al-Mirza Muhammad Taqi al-Shirazi [d. 1338 AH], all of which were also followed by a series of eminent jurists extending to the present.

Conclusion

The school of Ahlul Bayt considers the Qur'an and Sunnah as the main sources for the origin of legal rulings. Everyone is expected to abide by the traditions of the holy Prophet Muhammad and the Imams of his household. The purpose of the process of jurisprudence is to understand these principles and narrations. In the first stage of the issuance of Islamic principles, jurists deduced the rulings of all jurisprudential issues based on the understanding of the literature.

This era extended from the time of the appointment of the Prophet until the beginning of the fourth century AH in which the later Imams prepared for the independence of fiqh, where people were ordered to refer to the deputies of the Imam, and follow their verdicts (taqlid). In this period, jurisprudence was characterized by the study, memorization, and

transmission of hadiths as well as issuing verdicts; the Prophet and Imams were present, making it obligatory upon all to obey and refer to them, as well as enabling people to reach actual legal rulings of

issues; exercising opinion against their word was impermissible; jurists claiming any type of position was impermissible; and scholars initially referring to general principles and rules was unacceptable.

Since the task did not reach its completion, the new era of establishing jurisprudence within the framework of Islamic principles emerged, and this stage is divided into six sub-stages. Within these stages, the majority of these principles were gathered in four major collections of narrations: al-Kafi, Man la Yahzuruhu al-Faqih, al-Tahdhib, and al- Istibsar.

- [1.](#) This paper is the translation of an extract of the Introduction of the following: Hashemi, Sayyid Mahmud and the Board of Experts of the Comparative Islamic Jurisprudence Encyclopedia, Comparative Islamic Jurisprudence Encyclopedia (Mawsu'ah al-Fiqh al-Islam! al-Muqarin), Qum: 1423 A.H. (2002), Islamic Jurisprudence Encyclopedia Institute. pp. 20-31.
- [2.](#) Al-Shia fi Masarihim al-Tarikh: 422.
- [3.](#) See: Wasa'il al-Shia 30:165.
- [4.](#) Tahdhib al-Ahkam 6:303.
- [5.](#) The science that examines the verses on legal rulings in the Quran [trans.].

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