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A RESEARCH REVIEW OF THE INTER-FAITH HARMONY AMONG VARIOUS RELIGIOUS SCHOOLS OF THOUGHT IN PAKISTAN

Dr. Abdul Rehman Khan[1], Dr. Syed Mehmood Ahmad Hasnain[2], Dr. Usma Anser[3], Dr. Asghar Ali[4]

[1]Assistant Professor, Department of Islamic, Studies University of Poonch Rawalakot AJK, Pakistan

[2]Assistant Professor, University of Education Lahore.

[3]The University of Haripur

[4]Assistant Professor Institute of Islamic Studies, Mirpur University of Science & Technology (MUST) AJK, Pakistan

Email: [1]drabdulrehmank@upr.edu.pk [2]saghajee@yahoo.com

[3]asmaanser88@gmail.com, [4]asghar111@gmail.com

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ABSTRACT

There are three main religious schools of thought existing in Pakistan, which are Hanafi Fiqh, Ahl-ul Hadith, and Shias. How to create Inter-faith harmony between these religious schools of thought are briefly discussed in this article. No doubt, there are different opinion among the religious schools of thought. But difference of opinion among the Jurists, it is proved, is based on rules existing since the very initial stages of the evolution of Fiqh. This difference of opinion reflects the beauty of the Islamic Shariah, the depth of the Islamic Fiqh and the compatibility of the Islamic Shariah with the demands of changing eras. Most of the differences are related to minor details _ not the fundamentals _ mostly reflecting what is better and what not. Most of the fundamentals are unanimously agreed upon. In the present age, we should focus on the agreed upon teachings and to preach them, and in case of controversies, we should respect our opponents and be broad-minded. So far as the approach of schools of Fiqh existing in Pakistan towards constitution and legislation are concerned, there is no fundamental difference between the Hanafi Fiqh and Ahl-ul Hadith. But there is some difference with the Shias. However, this

difference has never been a hindrance to the Islamization of laws in the country. We find some examples of this phenomenon in the classical jurists as well.

INTRODUCTION:

Most of the Pakistanis are Sunni Muslims, who are further divided into two major groups: Hanafi and Ahl-ul-Hadith. Then,the Hanafi School is sub-classified into two major groups, namely Deobandi andBarelvi; but these two groups have no difference in between them as regards Islamic Jurisprudence. Similarly, all the branches of Ahl-ul-Hadith are united with regards to their interpretation of Shariah and Islamic jurisprudence. Therefore, first we will briefly introduce the two main groups of Sunni Muslims i.e. Hanafi and Ahl-ul-Hadith.

The 2nd largest group in Pakistan is that of Shias. The total population of this group in Pakistan, according to survey conducted in 2009 by PEW, is 26.17 million (about 15.10 % of the total population).[1]

Some smaller Shia groups like Ismaili, Bohara, Agha Khanee, Noorbakhshia, etc. are also dwellingin some parts of the country. But in this article, we will discuss only Isna Ashri Shias _ the largest of the Shia groups _ because as regards the role played in jurisprudence, this group represents all the sub-groups of Shias. Now, we introduce these schools of thought one by one.

Hanafi School of Fiqh:

Hanafi School of Fiqh has been named after Imam Abu Hanifa. His real name was Noman Bin SabitTaimiKufi, but he is famously known by his Title Abu Hanifa. He belonged to Iraq and is believed to be the founder of Hanafi School of Fiqh. He was born in 80 A.H. when some of the Sahabaرضی اللہ عنہم (i.e. Companions the Holy prophet Hazrat Muhammad ﷺwere still alive. It is narrated that he met HazratAnas Bin Maalik, a Sahabi (i.e. acompanion of the Holy Prophet Hazrat Muhammadﷺ and hence is regarded a Taabi (i.e. the follower of a Sahabi).[2]

Allama Ibn- e -HajrMakki quotes with reference to Fatawa by Ibn Hajr Asqalani that Imam Abu Hanifa witnessed a group of Sahaba and is hence a Taabi. Imam Abu Yousuf, a renowned disciple of Imam Abu Hanifa, has quoted Imam Abu Hanifa himself say:“I saw Anas Bin Maalik offering a prayer in a mosque.” Similarly, Muhammad Bin Sama’a has narrated on the authority of Imam Abu Yousuf that Imam Abu Hanifa said, “I performed Hajj in the company of my father when he was 96 years old and I was 16. There, I saw an old man surrounded by a huge crowd of people. I asked my father what special that man

[1] Pew Research Center, Countries with More Than 100,000 Shia Muslims,http://www.pewforum.org/2009/10/07/mapping-the-global-muslim-population./visited:March12,2016.

[2]Ibn Kathir, AbulFidaImaadUd Din , Hafiz , Allama, Al-Bidayah wan Nihayah (Translator: Hafiz Abdur Rasheed Nadvi, M. A. Maulana Akhtar FAtehPuri , Tareekh Ibn KAthir, June 1988, V 10,(Karachi: Nafees Academy, Urdu Bazar), P 545.

had. Father replied that he had Ahadith which he had directly learnt from the Holy prophet Hazrat Muhammadﷺ Thereupon, I requested my father to take me closer to him. When I reached close to him, I heard him say:

من تفقه في دين الله كفاه الله همه،ورزقه من حيث لا يحتسب.[3]

"If a person acquires in-depth knowledge of the religion of ALLAH, ALLAH suffices him in his grief and supports him in ways beyond his imagination."

Imam Abu Hanifa has narrated many Ahadith on the authority of a large number of taabis, including Ata Bin Abi Rabaah about whom Imam Abu Hanifa himself said, "I have not seen a Jurist more proficient than Ata." Similarly, he also gained the knowledge of Hadith from AtiyaKufi, Abdur Rahman Bin Hurmuz Al-a'araj, Ikramah, Naafi, Adi Bin Sabit, Amr Bin Deenar, Salmah Bin Kuhail, Qadatah Bin Da'amah, Abu Zubair, Mansoor, Abu Ja'afar Muhammad Bin Ali Bin Hussain, etc. [4]

Similarly, a lot of Islamic Jurists have also narrated on the authority of Imam Abu Hanifa. Most prominent of them include Hammad, Ibrahim Bin Tahman, Ishaq Bin YousufAzaq, QaziAsad Bin Amr, Hasan Bin ZiadLului, Hamza Ziyaat, Dawood Tai, Zufar, AbdurRazzaq, Abu Noaim, Muhammad Bin Hasan Shaibani, Maseem, Wake'e, Qazi Abu Yousuf, etc.[5]

As already mentioned, Imam Abu Hanifa lived in Kufa. It was the city wherein also resided well-known Faqih Sahaba(i.e. those Sahaba who were expert in Fiqh) likeHazrat Ali and Hazrat Abdullah Bin Masood رضی اللہ عنہ. Hence, the methods of juristic deduction adopted by them were in vogue in the city. These Sahabaalso prepared a large group of FaqihTaabis(i.e those Taabis who were expert in Fiqh) .

According to Hazrat Shah WaliUllah, Ibrahim Nakha'i and his pupils are of the view that Abdullah Bin Masoodرضی اللہ عنہ and his students excelled their counterparts in Fiqh. According to Alqamah, No other Sahabi was more juristic-minded than Abdullah Bin Masoodرضی اللہ عنہ . Once Imam Abu Hanifa said to Imam Auza'i, "Ibrahim Nakha'i is more proficient in Fiqh than Salim Bin Abdullah". He also said "Had Abdullah Bin Omar رضی اللہ عنہ not been a Sahabi, I would have opined that Alqamah is more juristic-minded than him". According to Shah WaliUllah, the school of Fiqh established by Imam Abu Hanifa is based on the rulings and methods adopted by Hazrat Aliرضی اللہ عنہ , Abdullah Bin Masoodرضی اللہ عنہ ,QaziShuraih, etc. Ibrahim Nakha'i compiled

[3] Al-Kumlai, Muhammad Hifz Ur rahman, Makanatu Abi Hanifa fil Fiqhwal Hadith,(Dacca: Maktaba Sheikh ul Islam, 2nd Edition, November 2007), P 11 – 12.
[4] Al-Zahbi, Abu Abdullah Muhammad Bin Ahmad Bin Usman, Hafiz , Imam, Manaaqibul Imam Abi Hanifawa SahibaihiAbi Yousufwa Muhammad Bin Hasan ,(Idia:LujnatuIhyailM'arif in Nomania Hyderabad Deccan) P 14
[5]Ibn Kathir, P 548

these rulings and teachings of the Sahaba living in Kufain the same way as did Saeed Bin Musayyib in compiling the sayings of the Jurists of Madina. [6]

Chain of Teachers of Imam Abu Hanifa:

This chain is as under:

Imam Abu Hanifawas a student of Hammad Bin Abu Solaiman, Hammad a student of Ibrahim Bin Nakha'i (a famous tabii whose rulings are found abundantly in MusannafAbdurRazzaq and Musannaf Ibn E Abi Shaibah), Ibrahim Nakha'i was a student of Alqamah(a famous and adept jurist), Alqamah was student of Abdullah Ibn Masood**رضی اللہ عنہ** , and Abdullah Bin masood **رضی اللہ عنہ** was a student of the Holy Prophet HazratMuhammad ﷺ**.** Thus, there are four persons between the Holy Prophet Hazrat Muhammad ﷺand Imam Abu Hanifa.[7]

Distinguishing Features of Hanafi School of Fiqh:

Imam Abu Hanifa taught his students differently from other jurists. Only those already having in-depth knowledge of the subject under discussion used to attend his lectures and take part in debate. If some beginner ever was presentin these lectures, he was not allowed to take part in debate unless he had developed profound knowledge; and only the imam himself would allow him to take part in discussion. Imam Abu Hanifa would pose a question to the participants, and they would answer it in the light of the Quran and Sunnah. The debate would usually prolong for several days. At the end, Imam used to express his viewpoint. If the issue was unanimously resolved, it would be noted down; and had there been some difference, opposing opinions would also be penned down.Later on, these discussions were documented in dozens of books. It is crystal-clear that such sort of work is more important than that done individually. That is why the Fiqh compiled by Hanafi Jurists is also called "ShooraiFiqh" (i.e. the Fiqh compiled in the light of consultation among the members of the group). It was Imam Muhammad Bin Hasan Shaibani who compiled this juristic work more than other pupils of Imam Abu Hanifa.[8]

The most prominent of Imam Abu Hanifa's pupils are three: Qazi Abu Yousuf, Muhammad Bin Hasan Shaibani, and Imam Zufar. Hereunder is a brief introduction to these three:

Qazi Abu Yousuf:

His real name was Yaqoob Bin Ibrahim and was born in Kufa in 113 A.H. He was educatedby many Taabis, most prominent beingHisham Bin Urwa, Yahya Bin Saeed, A'amash, Yazeed Bin Ziad, Ata Bin Saib , etc.[9]

[6]Dehlvi , P 32
[7]Ghazi , P 243
[8]Ghazi , P 243 – 244
[9]Al-Zahbi, P 51 - 52

He learned Fiqh from Imam Abu Hanifa and became one of his most prominent pupils. Then, he himself also taught a lot of people including Bashar Bin Waleed, Ibn Sama'a, Yahya Bin Moeen, Ahmad Bin Hambal, Ahmad Bin Munee, Ali Bin Muslim Toosi, etc. He was the chief justice[10] in the reigns of Moosa Al-Hadi and Haroon Al-Rasheed respectively.

Yahya Bin YahyaNisapuri says that he heard Qazi Abu Yousuf say at his deathbed: "All the Fatwas I issued were based on the Quran and Sunnah, and I issued them only when they were in compliance with the two." Abbas narrates that he heard Yahya Bin Moeen say "Qazi Abu Yousuf liked Ashab-ul-Hadith (i.e. those scholars who, in principle, prefer the apparent words to Qiyas) and was inclined to them."[11]

The "Kitab-ul-Khiraj" is his most prominent book.
According to Bashar Bin Waleed, he died in 182 A.H.[12]

Imam Muhammad:

His name was Muhammad Bin Hasan Shaibani and was born in Iraq in 132 A.H. Later on, he resided in Kufa. He learned Fiqh from Imam Abu Hanifa and Qazi Abu Yousuf respectively. He was adept in Fiqh and was amongst the most intelligent jurists. He wrote many books including Al-Siyar Al-Saghir, Al-Siyar Al-Kabir, Al-jame Al-Saghir, Al-Jame Al-kabir, Al-mabsoot, and Ziadaat. These books are the backbone of Hanafi school of Fiqh. These are called Zaahir-ur-Riwayah. His other Books on Fiqh are called Naadir-ur-Riwayah. In case of any contradiction, Zaahir-ur-Riwayah are preferred. He also served as a chief justice in the reign of Haroon Al-Rasheed. He refrained from pomp and show and fame.[13]

He had a lot of students including Imam Shafi, Abu Ubaid Qasim Bin Salaam, Hisham Bin Ubaidullah Al-Razi, Ali Bin Muslim Toosi, Yahya Bin Moeen, and Muhammad Bin Sama'a.

Ahmad Bin Atiya says, "I have seen none who understands the Book of Allah more than Muhammad Bin Hasan." Rabi Bin Solaiman narrates that he heard Imam Shafi say, "If I say that the Holy Quran was revealed in the language of Muhammad Bin Hasan, this view of mine is because of his eloquence and command of rhetoric.[14]

Imam Muhammad is regarded the real compiler of Hanafi Fiqh. According to Shah WaliUllah, "Imam Muhammad fully concentrated on writing and compiling. He compiled the works of both the Imams (i.e. Imam Abu Hanifa and Imam Abu Yousuf) as well as his own, which benefitted countless people. Then, the successors took his work with great seriousness, sorted it out,

[10] Al-Zahbi, P 54
[11] Al-Zahbi, P 54
[12] Al-Zahbi, P 67
[13] Al-Zahbi, P 71
[14] Al-Zahbi, P 72

explained it, made it easily comprehensible, deduced other rulings on the basis of this work, and supported it with Shariah arguments. Then, his Fiqh work was transmitted to Khurasan and Tooran. All the Shariah rulings contained in these books were attributed to Imam Abu Hanifa. Thus, the Fiqh findings of Imam Abu Yusuf and Imam Muhammad were mixed up with those of Imam Abu Hanifa, and all this was regarded as a single school of Fiqh. But the fact is that Imam Abu Yousuf and Imam Muhammad were independent jurists, and the list of their Fiqh differences – not only in principle but also in implementation_ with Imam Abu Hanifa is very long. Despite this,however, all this (i.e. regarding the work of all the three as a single one) happened. The first reason is that the basis of the work by all these three is the same (i.e. all the three Imams claim their respective work to be based on the Fiqh teachings promulgated by Ibrahim Nakha'i. Secondly, the viewpoints of all the three Imams have been described simultaneously in Al-Mabsoot and Al-jame Al-kabir.[15]

Imam Zufar:

His full name was Abu HuzailZufar Bin Huzail Bin QaisKufi. He was born in Isfahan in 110 A.H. He was respected as a distinguished expert of hadith. He learned Fiqh from Imam Abu Hanifa and excelled in Qiyas (i.e. Analogy used in juristic deduction). He is regarded as an independent jurist. He died in 158 A.H.in Basra. [16]

Sources of Juristic Deduction in Hanafi Fiqh:

In this regard, the Hanafi Jurists follow these sources: the Holy Quran, Sunnah, Ijma, Qiyas, Istihsaan, MasaalihMursalah/Istislaah, Istishaab, Urf (i.e.customary practices), Mazhab of a Sahabi (i.e. school of Fiqh led by a Sahabi), Shariah teachings for the previous Ummahs,and Zarai.[17]

Ibn Hajr Asqalani narrates about the sources and methodology adopted my Imam Abu Hanifa for deduction of Shariah rulings in the following words:

آخذ بكتاب الله فإن لم أجد فبسنة رسول الله فإن لم أجد فبقول الصحابة آخذ بقول من شئت منهم ولا أخرج عن قولهم إلى قول غيرهم،فأما إذا انتهى الأمر إلى إبراهيم والشعبي وابن سيرين وعطاء فقوم اجتهدوا فأجتهد كما اجتهدوا.[18]

"(While Deducting Shariah rulings) I consult the Book of Allah (i.e. the Holy Quran). If I cannot find the solution in it, I refer to Sunnah; and if I cannot find

[15]Dehlvi, Shah WaliUllah, IkhtilaafiMasail Mein ItidaalkiRaah (Translator: Maulana Sadr ud Din Islahi)
(Lahore:Islami Publications, August 2000), P 43 – 44.
[16] Al-Zuhaili, P 53
[17] Al-Zuhaili, Wahba, Dr., Usool Il FiqhilIslami, Volume 1,
(Peshawar:KutubKhanaRasheedia,) P 217.
[18]Al-Asqalani, Imam Hafiz Sheikh ul Islam, Shahab ud Din Ahmad Bin Ali Bin Hajar, TahzeebutTahzeeb,
Edition 1st, 14014 A.H. / 1984 A.D. , Dar UlFikrLit taba'ah wan Nashr wat tauzi,
Volume 10, P 403.

it in Sunnah, I adopt the viewpoint of a Sahabi. I don't adopt the viewpoint of anyone else other than Sahaba. So, if the matter is to be resolved through the Fiqh of jurists like Ibrahim, Sha'abi, Ibn Sereen, and Ata (who resolve it in the light of their Ijtihad), I use my own Ijtihad in the same way as they do."

Juristic Deduction on the Basis of Quran:

There is difference of opinion among the Islamic jurists regarding rules about the Quran i.e. whether it is only text or a combination of both text and its connotation. Hanafi Jurists, including Imam Abu Hanifa, believe in the latter opinion. Some of the jurists, however, claim that Imam Abu Hanifa adopted the former one. But this claim is Marjooh (i.e. it has not been preferred); Imam Bazdawi has rejected it and has called it a Matrook (abandoned) opinion. This difference of opinion has led to a difference of opinion regarding resultant issues such as whether the recitation of Quran in the Salah(i.e. Muslim prayer) is permissible in a language other than Arabic or not. Those who believe the Quran to stand only for its connotation, they opine that it is permissible to recite it any language duringthe Salah. According to a narration attributed to Imam Abu Hanifa,it is permissible to offer Salah in Persian.[19] But Imam Bazdawi has declared this narration to be Faasid (invalid).[20]

Juristic Deduction on the Basis of a Mursal Hadith:

There is also some difference among the Islamic jurists regarding deduction of rulings from a Mursal Hadith. According to experts of Hadith, a Mursal Hadith is the one which a Taabi narrates with the words "the Holy Prophet ﷺsaid"without quoting the intermediary Sahabi narrator. On the contrary, according to the experts of Usool-ul-Fiqh (Principles of Fiqh), a Mursal Hadith is the one which the narrator attributes directly to the Holy prophet ﷺ and drops the intermediary narrator. The difference among the Islamic Juristsbelongs to this second type. Imam Shafi accepts a Mursal Hadith with some conditions. These conditions include: (1) if a trustworthy narrator narrates a Hadith similar to the Mursal Hadith in question, he accepts this Mursal hadith as well; (2) if the Mursal Hadith is Munfarid (i.e. it has been narrated by only that single narrator) and some other narrator acceptable to the experts of Hadith also agrees to it in Irsaal (i.e. in attributing it directly to the Holy Prophet ﷺ without mentioning the intermediary narrator), it is also acceptable but is Zaeef (i.e. with

[19]It has also been narrated that he turned back upon this view. Hence, it has been quoted in Hashia Rad ul
Muhtaar Ala Al-DurUlMukhtaar: (ولا مسند له يقويه) أي ليس له دليل يقوي مدعاه لأن الإمام رجع إلى قولهما في اشتراط القراءة بالعربية لأن المأمور به قراءة القرآن وهو اسم للمنزل باللفظ العربي المنظوم الخاص المكتوب في المصاحف المنقول إلينا نقلا متواترا والأعجمي إنما يسمى قرآنا مجازا ولذا يصح نفي اسم القرآن عنه فلقوة دليل قولهما رجع إليه. (Shami, Ibn Abideen, Allama, Al-Muhaqqiq, Syed Muhammad Ameen Afandi, Hashia Ibn Abideen, Part 1,(Beirut: Publisher: Dar ulFikr Lit taba'ah wan Nashr, , 1421 A.H. / 2000 A.D.), P 484.)

[20] Saeed Al-Khan, Mustafa, Dr.,FuqahaKaIkhtilaafAurFiqhiMasail per Is KaAsar (Translator: Hafiz Habeeb Ur
Rahman), (Islamabad:Shariah Academy, International Islamic University, , June 2002), P 387.

a lesser degree of acceptance for Ijtihad) as compared to the previous type; (3) if majority of the Hadith experts issue a fatwa on the basis a Mursal Hadith, it is also acceptable.

But despite all these conditions, Imam Shafi does not regard a ruling based on a Mursal Hadith equal to the one based on a Muttasil Hadith (i.e. a Hadith which has none of its narrators missing). Similarly, he does not accept as basis for Shariah rulings those Mursal Hadith which arenot narrated by senior Taabis.[21]

On the other hand, Hanafi jurists accept a Mursal Hadith without any conditions; rather, some of them even regard it stronger than a Muttasil Hadith and prefer it in case of contradiction. Shariah arguments for the acceptance of a Mursal Hadith in Hanafi school of Fiqh are as under:

First of all, there is Ijma among Sahaba رضی اللہ عنہمregarding the Hujjah of a Mursal Hadith (i.e. its acceptance as a source of Shariah rulings). Sahaba رضی اللہ عنہم have accepted the Ahadith narrated by Hazrat Abdullah Bin Abbas رضی اللہ عنہ as a source for Shariah rulings despite the fact that directly he had listed only a few Ahadith from the Holy prophet ﷺ. Most of the Ahadith narrated by him are Mursal and Sahaba رضی اللہ عنہم have accepted them as Hujjah.

Secondly, Taabis used to skip the Sahabi narrator while quoting a Hadith. Thus, acceptance of Mursal Ahadith by Sahaba رضی اللہ عنہم and Taabis without any condition is equal to Ijma.

Naturally and reasonably, a trustworthy narrator would attribute some Hadith to the Holy Prophet ﷺ only when has no doubt about it.

Due to these arguments Hanafi scholars accept a Mursal hadith as a Hujjah without any condition.[22]

Owing to this difference about principles, Hanafi and Shafi jurists have dissimilar approaches to several resultant issues. For example,if a person laughs out loudly while offeringSalah, it nullifies both Wudhu (i.e. Muslim ablution) and Salah. The Shariah argument for it is the Hadith according to which the Holy Prophet ﷺ ordered those who laughed loudly during Salah to make Wudhu again, as Darqutni narrates:

عن قتادة عن أبي العالية : أن رسول الله صلى الله عليه و سلم كان يصلي بأصحابه فجاء ضرير فتردى في بئر فضحك القوم فأمر رسول الله صلى الله عليه و سلم الذين ضحكوا أن يعيدوا الوضوء والصلاة.[23]

On the other hand, Imam Shafi is of the view that laughter during Salah does not nullify Wudhu because the Hadith in which laughter has been shown with this effect is Mursal. Ibn Qudaamah, in his book "Al-Mughni" writes that a thing

[21]Saeed Al-Khan, P 405 - 406

[22]Saeed Al-Khan, P 408

[23] Darqutni, Ali Bin Omar Abul Hasan, SunanDarqutni, Part 1, Kita but Tahara, BaabuAhadithilQahqaha
fis Salah wailaliha, Muwasisa tur Risala, Beirut, Lebanon, Edition 1st, 1424 A.H / 2004 A.D.

which does not invalidate Wudhu outside Salah does not invalidate it during Salah as well. He also adds that laughter is not filthy. [24]

Let's see another example. According to the Hanafi school of Fiqh, if a person breaks a Nafl (supererogatory) fast, it is Wajib (obligatory) to compensate for it later on. The Shariah argument for it is the Hadith narrated by Hazrat Ayeshaرضی اللہ عنہا that the Holy Prophet ﷺordered Hazrat Hafsaرضی اللہ عنہا to perform its Qaza when she broke such a fast.[25] On the other hand, Imam Shafi says that there is no Qaza for a broken Nafl fast, and the Hadith presented in support of Qaza is Mursal. [26]

Deduction of Shariah Rulings on the Basis of Khabr Wahid:

If a Khabar Wahidis against Qiyas, which one is preferable? Imam Shafi and Imam Ahmad Bin Hambal and majority of the experts of Hadith are of the view that in such a case Khabar Wahid will be preferred. On the contrary, Hanafi jurists opine that if the narrator of the Khabar Wahid is not a Faqih, Qiyas will be preferred. As quoted in Sharh Jam-il-Jawame by Muhalla, the Shariah argument forHanafi is that the Holy prophet was blessed with Jawame-Ul-Kalim (i.e. very short phrases or sentences carrying comprehensive connotations), and the Sahabaرضی اللہ عنہم used to narrate a Hadith and its meaning indirectly. Therefore, it is likely that the narrator might have not remembered the Hadith accurately due to his/her lack of knowledge or understanding; whereas in Qiyas there is no such likelihood.

Another Shariah argument is that the Sahabaرضی اللہ عنہم themselves used to prefer Qiyas to Khabar Wahid. For example, when Hazrat Abdullah Bin Abbasرضی اللہ عنہ heard the hadith narrated by Hazrat Abu Hurairah رضی اللہ عنہthat eating something cooked on fire invalidates the Wudhu, he rejected it due to Qiyas, raising the question: If someone makes Wudhu with hot water, the Wudhu is not invalid.

According to Hanafi scholars, there is Ijma among Sahabaرضی اللہ عنہabout the Hujjahof Qiyas.**[27]**
Another Shariah argument is that according to Kashf-ul-Asrar by Ala Al-Bazdawi, Qiyas is more valid than Khabar Wahid because in the latter there isa doubt that the narrator might have lied or he might have missed some

[24]Saeed Al-Khan, P 409

[25] عن عائشة قالت أهدي لي ولحفصة طعام وكنا صائمتين فأفطرنا ثم دخل رسول الله صلى الله عليه وسلم فقلنا له يا رسول الله إنا أهديت لنا هدية فاشتهيناها فأفطرنا فقال رسول الله صلى الله عليه وسلم لا عليكما صوما مكانه يوما آخر.
(Abu Dawood, Solaiman Bin Al-Ash'as Bin ishaq Bin Bashir Bin Shaddad, Bin Amr Al-Azdi al-sajistani, Sunan Abi Dawood, Kitab us Saum , Baabu Man R'aAlaihilQaza , Dar us Salam linnash wat Tauzi, Riyadh, Edition 1st, 1420 A. H. , 1999 A. D. Hadith No. 2457, P 356).

[26]Saeed Al-Khan, P 420

[27]Saeed Al-Khan, P 416 - 420

information whereas this is not the case in Qiyas. Therefore, Qiyas is preferable. [28]

Similarly, if the action of the narrator of a Hadith is against it, that Hadith is not a Hujjah for Hanafi scholars. However, it is Hujjah according to Imam Maalik and Imam Shafi. [29]

Hanafi jurists also prefer a Zaeef Hadith to Qiyas.An example is the Hadith regarding laughter during the Salah;they act upon it despite the fact that it is against Qiyas. Similarly, if a traveller does not have water, he / she can make Wudhu with Nabeez. This Zaeef Hadith is also against Qiyas, but the Hanafi jurists prefer it. [30]

Deduction of Shariah Rulings on the Basis of Ijma:

According to Irshad-ul-Fuhool, Ijma means "Unanimity among the Muslim Ummah on some issue in any era after the death of the Holy prophetﷺ**."[31]**

Ijma is a Hujjah according to the majority of Jurists exceptIsnaAshari / Imamia Shias and some Khawarij. However, there is some controversy among those who accept it as a Hujjah as regard some of its rules. For example, Imam Maalik is of the view that the Ijma of the people of Madina is Hujjah, whereas other jurists do not accept it because they opine that all the scholars _ not only those of Madina _ must be unanimous to constitute Ijma. [32]

Deduction of Shariah Rulings on the Basis of Qiyas:

According to Qazi Abu Bakar, if there is no Shariah ruling about a particular issue, it will be sought out on the basis of the underlying reason for the Shariah ruling about another similar issue. He adds that this process of applying a particular Shariah ruling (to two or more issues) on the basis of a common underlying reason is called Qiyas.

Ahl-ul-Zaahir are of the view that Qiyas is possible logically but is not permissible from the Shariah viewpoint.On the contrary, Sahaba رضی اللہ عنہم , Taabis, and Jurists of the four schools of Fiqh hold that it is permissible to act upon Qiyas both logically and from the Shariah viewpoint.[33]

[28]Ala ud Din Al-Bukhari , Abdul Aziz Bin Ahmad Bin Muhammad , Kashf -ul-AsrarunUsoole Fakhul Islam Al
Bazdawi, Dar ulKutubilIlmia , Beirut , Edition 1st, 1418 A.H. / 1997 A.D. , Volme 3 , P 402.
[29]Saeed Al-Khan, P 439
[30]Khaleel Al-Dimashqi, Shams Ud Din Yousuf Bin Khaleel and Yousuf Bin Abdul Hadi , Al-Hafizaan, Dar ul
Furfoor, Damascus, Edition 1st, 2001, P 15.
[31]Saeed Al-Khan, P 457
[32]Saeed Al-Khan, 459
[33]Saeed Al-Khan, P 473 – 474

Imam Abu Hanifa used to deduct Shariah rulings on the basis of Qiyas;and ifQiyas was inapplicable, he used to find a solution on the basis of Istihsaan; and if Istihsaan was inapplicable, he would look into to Taamul-un-Naas (i.e. the common practice of people). [34]

Juristic Deduction on the Basis of Qoul-us-Sahabi:

According to the experts of Hadith, a Sahabi is the person who saw the Holy prophet ﷺ after embracing Islam and died as a Muslim. But according to the expert of Usool (Principles), a Sahabi is the one who saw the Holy prophet ﷺ after embracing Islam and remained in his company for a long time. We will focus the saying of a Sahabi according to this latter definition.

There is controversy regarding the Qoul-us-Sahabi (i.e. Fatwa or juristic saying of a Sahabi) as a source for issuing a Shariah ruling. According to Allama Aamdi, all the scholars are unanimous that the saying of a Sahabi is not Hujjah for another Sahabi as regard the issues related to Ijtihad. The controversy is about its status for Taabis and the following generations.

According to the views of Ash'ari scholars, Mu'tazila and a view of Imam Shafi, Qoul-us-Sahabi is not a Hujjah. But according to another view by Imam Shafi, it is a Hujjah and preferable to Qiyas. [35] Hanafi Jurists are of the view that if an issue can be solved on the basis of Qiyas, Qoul-us- Sahabi is compulsory to be followed because, in such a case, Qoul-us-Sahabi is similar to Qiyas. In fact, it is a case of contradiction between two acts of Qiyas and one can be preferred to the other after deep thinking.[36]

Deduction of Shariah Rulings on the Basis of Istishab:

According to Kashf Ul Asraar, Istishaab is defined as under:

الذي هو ليس بدليل أو يشتبه حاله أي يجوز أن يكون مبنيا على دليل.[37]

"Something that is not based on a Shariah argument or that is doubtful in the sense that there is likelihood that it is based on some Shariah argument."

Jurists differ with one anotherabout the Hujjah of Istishaab. Allama Aamdi quotes that the majority of Hanafi jurists do not accept it as a Hujjah whereas some Shafi jurists do. Owing to this difference in principle, Hanafi and Shafi scholars differ about several resulting issues as well, including inheritance of a lost person,no demand for witness from the one who pursues Shufa'a (pre-emption), etc. [38]

[34]Khaleel Al-Dimashqi, P 16
[35]Saeed Al-Khan , P 527 - 528
[36]Ala ud Din , Abdul Aziz Bin Ahmad Bin Muhammad , Kashf -ul-AsrarSharhUsoolulBazdawi, Dar ulKitab ilIslami, Bab ulMuaraza, HukmulMuarazaBainaAayatain, Volume 3, P 78.
[37]Ala Ud Din , P 99
[38]*Saeed Al-Khan, P 537 - 538*

Maslahah Mursalah as a Source of Juristic Deduction:

There are three kinds of Maslahah (i.e. a thing wherein relaxation is given because of public interest although general rules do not allow it):

1) A Maslahahwhich is acceptable in Shariah on the basis ofa Shariah argument. It is related to necessities, needs (Haajah), and luxuries& facilities (Tahseen).

2) ThatMaslahah which is of no importance from the Shariah viewpoint, and hence invalid. For example, Suicide may give the committer some temporary benefit, but this benefit is not valid in Shariah. Hence, such Maslahahis given no value in Shariah.

3) ThatMaslahah about the status of which there are no Shariah rulings i.e. there is no Shariah argument on their permissibility or impermissibility. It is called Maslahah Mursalah.

Islamic Jurists are divided on the status of this type of Maslahah. Imam Maalik takes such Maslahah Mursalah into consideration whereas,in principle, the rest three imams do not. However, these Imams have taken it into consideration in their rulings based on Qiyas. For example, in Hanafi Fiqh, there are two types of MaslahahMursalah: (1) Urf and (2) Istihsaan, and both are given importance in Shariah rulings. These two are, in fact, types of Maslahah Mursalah. For example, if a Zindeeq is arrested and he performsTawba (i.e. Islamic way of repenting of crimes and sins) after arrest, this act of Tawba is not valid, and hence he will be killed (Dur Mukhtar). This ruling clearly belongs to Maslahah Mursalah.

This shows that Jurists do consider MaslahahMursalah in one way or the other although none other than Imam Maalik clearly regards it as a basis for the deduction of Shariah rulings. [39]

Ahl-ul-Hadith :

They associate themselves to Ahl–uz–Zaahir. This school of thought was founded by Abu Solaiman Dawood Bin Ali Al-Zaahiri. He was born in 202 A.H and died in 270 A.H. Ibn Hazm was the scholar who compiled Al-Zaahiri's views and spread them. Ibn Hazm wrote two famous books "Al-Muhalla" (onFiqh) and "Al-Ahkam Fi Usool –il-Ahkam" (onUsool –IL-Fiqh). Previously, Imam Dawood was a follower of the Shafi school of Fiqh, but later on he founded an independent school of thought.[40]

[39]Saeed Al-Khan , P 547 - 552

[40] Al-Zuhaili, Wahba , Al-Duktoor, Al-ustaz, Al-FiqhulIslamiwaAdillatuhu, 2012, (Translators: Mufti Irshad Ahmad Ejaz and Mufti Abrar Hussain), Volume 01, Dar ullsha'at , Karachi , Pakistan, P 60.

Beginning of Ahl –Ul- Hadith in the Sub-continent:

Hazrat Shah WaliUllah introduced a lot of religious reforms. One of thereforms was the issue that Taqleed of a particular school of Fiqh is not Wajib. Hazrat Shah WaliUllah is of the view that in Shariah rulings a jurist may opt any of the four schools of Fiqh on the basis of Shariah arguments.Moreover, if he finds a Saheeh Hadith against the ruling presented by a jurist, he should prefer that Hadith and shun the viewpoint of the jurist.

Syed Ahmad Shaheed and Shah Ismail Shaheed were impressed by the work of Shah WaliUllah and his son, Shah Abdul Aziz. They wrote "SiratMustaqeem" and other books. Simultaneously, Shaikh Muhammad Abdul Wahab was also working on Islam in Saudi Arabia. Both the scholars (i.e. Shah WaliUllah and Shaikh Abdul Wahab) had some similarity with regard to the purpose of their efforts. When Syed Ahmad Shaheed went for Hajj, he came to know about the work done by Shaikh Muhammad Abdul Wahab, which impressed him as well as his fellows. After the death of Syed Ahmad Shaheed and Shah Ismail Shaheed, these differences were further publicized, and a lot of the followers of these two scholars adopted the views of Shaikh Muhammad Abdul Wahab. Such people were called "GhairMuqallid "or "Ahl-ul-Hadith". The most famous Ahl-ul-Hadith scholars in the sub-continent include Nawab Siddique Hasan, Syed Nazeer Hussain, etc. [41]

Basis for Shariah Rulings in Ahl- Ul Hadith School:

The scholars of this school hold the view that there are four bases for the deduction of Shariah rulings: the Quran, Hadith / Sunnah, Ijma, and Qiyas.
Muhammad IshaqBhatti writes:

"All the minor and major matters _ relationship between authorities and subordinates, relationship between the ruler and the subjects, matters related to the free and the slave, relationships between Muslims and non-Muslims, nature of battles and Jihad, etc. _ in short, all the aspects of life have been mention in the Holy Quran in one way or the other. Some matters have been described and discussed in detail, others briefly. Some issues have only been hinted at _ sometimes metaphorically _ but the style is so attractive that it is full of eloquence and rhetoric; it absorbs the reader's attention and has a lasting impact on his mind. [42]

The second source of Shariah rulings, according to this school of thought, is Hadith and Sunnah. They regard it as Nass Qat'i (i.e. an unambiguous text). The foundations of the Islamic society are the sayings and actions of the Holy prophetﷺ, and hence the Shariah rulings will be based on them. All this lead

[41]Ikram , Sheikh Muhammad, Muaj e Kausar, June 2003, P 61 - 69
[42] Bhatti, MuhmmadIshaq, Bar e Saghir Mein Ahl Hadith kiAamad, MaktabaQudoosia , Urdu Bazar
Lahore, 2004, P 162 - 163

these scholars to regard hadith and Sunnah as a Qat'iShariah argument and do not at all base Shariah rulings on any other person' s saying or action.[43]

Ahl-ul-Hadith scholars also regard Ijma and Qiyas as sources for Shariah rulings, order of the sources being Quran, Sunnah, Ijma and Qiyas respectively. They do not consider any other source for the purpose. This order shows that the original sources of Shariah are the Quran and the Sunnah; but Ijma and Qiyas are the explanation of the teachings of the first two sources and also serve as a basis for the deduction of Shariah rulings for the new issues in the light of these teachings.[44]

So far as the viewpoint of Ahl –Ul-hadith about the Imams of Fiqh Schools is concerned, Ishaq Bhatti writes that they have no malice or prejudice against Islamic Jurists and Imams, and they appreciate the services rendered by them under various circumstances. [45]

But Ahl –ul-hadith alsobelieve that truth is not confined to any one particular school of Fiqh; rather, it is found in all the schools of Fiqh, say, the four schools of Fiqh followed by Sunni Muslims. More than that, these people even believe that such a Shariah ruling may also be issued which is not necessarily in compliance with these famous four schools of Fiqh. So, they themselves use Al-Saheeh by Imam Bukhari and any of the four schools of Fiqh as a source for Shariah rulings.[46]

Isna Ashri(Imamia) Shiahs:

Majority of the Shiahs belong to Isna Ashri Shia sect. Shias believe that after the death of the Holy prophet ﷺKhilafah(caliphate) and Imamah (leadership in Shariah issues) is the right of Hazrat Ali and his descendants. It is because of the saying of the Holy prophet ﷺ that there will be twelve Imams of Ahl-ul-Bait (i.e. the family members of the Holy prophet ﷺ and their descendants).

According to the Shias, when Hazrat Abu Bakar took charge as a caliph, he opposed this saying of the Holy prophet ﷺ and protested against it.It is because of this that they (i.e. Shias) separated themselves from the majority of Muslims. They also believe that the Holy Quran contains not only teachings about corporal needs but also about spiritual life which will remain intact till the Day of Judgment. But, according to them, it is compulsory to seek this knowledge from Ahl-ul-Bait.[47]

Shias also claim that they were oppressedeven in the reign of the enlightened caliphs. But in the era of the Umayyad caliphs, this oppression was intensified.

[43]Bhatti, P 163
[44]Bhatti , P 168
[45]Bhatti , P 166
[46]Bhatti, P 167
[47]Taba Tabai , Muhmmad Hussain, Allama, Pasdaran e Islam, Translator: Muhammad FazalHaq,
Publisher: Shaheen Packages, Karachi, JamiaT'aleemaat e Islami Pakistan, P 114 - 115

However, in the reign of the Abbasid caliphs, conditions were better for them in the 2nd century A.H.But again towards the end of the 3rd century A.H, circumstances turned against them. In the 4th and 5th centuries A.H, they progressed and gained a lot of power. The 7th century A.H. was mainly occupied by Crusade wars; and during that age the Shias were not oppressed so much by the Muslim rulers. In the meanwhile, in Iran Mongol rulers and others embraced Islam, leading to the rise of Shias in Iran and other Islamic countries. At the beginning of the 10thcentury _ during the reign of the Safvi rulers_ Shiah creed became the official religion of Iran, and it still enjoys this position. [48]

Isna Ashri Shiahs believe in the following twelve Imams:

Hazrat Ali Bin AbuTalibرضی اللہ عنہ, Hazrat Hasan Bin Aliرضی اللہ عنہ, Hazrat Hussain Bin Aliرضیاللہعنہ, Hazrat Ali Bin Hussain, Hazrat Muhammad Bin Ali, HazratJa'afar Bin Muhammad, HazratMoosa Bin Ja'afar, Hazrat Ali Bin Moosa, Hazrat Muhammad Bin Ali, Hazrat Ali Bin Muhammad, Hazrat Hasan Bin Ali, and Hazrat Muhammad Bin Hasan.[49]

Shias believe their 12th Imam to be Mahdi Maood. According to them, when he became Imam, he hid himself from public; however, he would appear before his deputies on special occasions. His deputies included Usman Bin Saeed Omari, Muhammad Bin Usman, Abu Qasim Hussain Bin RoohNaubakhti, and Ali Bin Muhammad Samari respectively. He used to answer the questions raised by Shias through these deputies. The death of the last deputy had already been predicted by the Imam, who also declared that after the death of this deputy, this series of deputies would come to an end. According to the Shia beliefs, Imam's disappearance from the public with occasional appearance before his deputies is called "GhaibahSughra" (i.e. Occasional Disappearance). With the death of the last deputy there started "Ghaibah Kubra"which means that the Imam disappeared completely and will not appear again until Allah allows him. That is why Shias call him Mahdi Maood, meaning that he has been promised to appear again before the Day of Judgment, and he will abolish tyranny. [50]

Shias believe their Imams to be as innocent as prophets علیہمالسلام .They supports this belief with this Aayah:

﴿قَالَ إِنِّي جَاعِلُكَ لِلنَّاسِ إِمَامًا ۖ قَالَ وَمِن ذُرِّيَّتِي ۖ قَالَ لَا يَنَالُ عَهْدِي ٱلظَّٰلِمِينَ﴾ (۲:۱۲۴)
They also believe that all these Imams are superior to others in terms of knowledge and their qualities. [51]

[48]Taba Tabai, P 116 -117
[49]Taba Tabai P 270 - 271
[50]Taba Tabai P 305 – 306
[51]Al-Ghta, Sheikh Muhammad Hussain Aal e kashif, Ayatullah, idaraTamaddun e Islam , 1986,
Translator: Hujatul Islam walMuslimeenAllama Syed Ibn Hasan Najafi , AslwaUsool e Shia , P 119

Shias Viewpoint about Shariah:

According to Shias, the Holy Quran is the only source of the revealed Islam, but there are three ways to contemplate on the Quran.These ways are Shariah (which is apparent), rational arguments, and the spiritual comprehension which is obtained through sincere obedience to Allah.[52]

The first way is for the general masses and the last two are meant for specific people only. Allama Taba Tabai writes:

The apparent way of religion guides to the principles&rules of Islam and the responsibilities promulgated byit. As a result, one gets aware of thebeliefs in Islam, reality of rites, Islamic disciplines, ethics,Fiqh, etc. From this angle, this way is different from the other two ways. By following reasoning, one may find out rulings related to the principles of faith, ethics and practical matters. But this way does not lead to the Shariah teachings contained in the Quran and the Sunnah. Since the way to the cleansing of NafsAmmarah (i.e. wicked human nature) leads man to the discovery of God-gifted spiritual facts, its benefits are countless. Those blessed with this knowledge disconnect themselves from all the creatures andconnect themselves to Allah, and hence directly guided and supervised by Allah. So, they are able to know what Allah wants them to know, not what they wish. [53]

Shias also regard Hadith a source of Shariah rulings. But they accept only those Ahadith which are narrated by Ahl-ul-Bait. Hence, Allama Al-ghata says:

"If a Hadith is narrated by Ahl-ul-Bait, it is acceptable; otherwise it is unreliable and unacceptable. We give no value to the narrations quoted by Abu Hurairah, Sumrah Bin Jundub, Marwan Bin Hakam, Imran Bin HuttanKharji, and Amr Bin Auf."[54]

Shias also believe in Ijtihad, but they do not believe Qiyas to be a source of Shariah rulings. According to their scholars, if Shariah rulings are based on Qiyas, religion will be marred.[55]

It is pertinent here to explain that Qiyas is resorted to only when there is no clear-cut Shariah guideline about some issue. Shias believe in the Imamah. They also believe that their Imams are as innocent as the Prophetsعلیہمالسلام . So, if they do not find any clear-cut guideline about something in the Quran or the Sunnah, they adopt the ruling issued by their Imam. There had been Imams among them until the first quarter of the 4th century A.H. "Ghaibah Kubra" of the last Imam started in 329 A.H. But after that, there have been Mujtahid among them who guide them in religious matters. It is because of all this that they do not accept Qiyas as Hujjah.

[52]Taba Tabai P 122
[53]Taba Tabai P 127 - 128
[54] Al-Ghata , P 161
[55] Al-Ghata , P 160 - 161

Shiahs think that religion is basically a combination of two things: Knowledge and action. They explain that those issues related to intellect are called knowledge and are termed Usool-ud-Deen (i.e. principles of religion). Usool-ud-Deen, according to them, are five: Tauheed (Oneness of Allah), prophethood, Imamah, Justice, and the hereafter. On the contrary, the issues related to the body are actions.[56] Each action of man will fall under any of these categories: Wajib (obligatory), Haraam (impermissible), Mustahab (preferable),Makrooh (disliked) and Mubah (optional).[57]

Compilation of Fiqh in the Era of the Holy prophet and Sahaba:

Islamic Fiqh started its evolution in the very era of the Holy prophet ﷺ, when he was sought guidance to several issues. When Sahaba رضی اللہ عنہم faced an issue solution to which they could not find clearly in the Quran and they could not access the Holy prophet ﷺ at that time, they would utilize Ijtihad and later on they would put forward their solution to the Holy prophet ﷺ for confirmation. Thus, Ijtihad started in the very days of the Holy Prophet ﷺ. In other words, the Holy prophet ﷺ himself was the pioneering teacher of the Islamic Fiqh; and the Sahaba رضی اللہ عنہمwere the pioneering compilers of it. The more a Sahabi رضی اللہ عنہ learnt from the Holy Prophet ﷺ, the more he contributed to the compilation of Fiqh. [58]

Reasons for Differences among Sahaba:

1. Some of the Sahaba رضی اللہ عنہم were aware of a particular Hadith, while others not. So, those who knew that Hadith, acted upon it; but those who did not know that one utilized their own Ijtihad.

2. Sometimes, there occurred difference of opinion about the nature of an action of the Holy prophet ﷺ. Some Sahaba رضی اللہ عنہم would regard it as an act of worship while others thought it to be a normal action. For example, when during his journey for Hajj the Holy Prophet ﷺ stayed for some time in the valley of Abtah, some Sahabaرضی اللہ عنہم declared it to be a Sunnah whereas others believed it to be a normal action for taking some rest.

3. Sometimes, different Sahaba رضی اللہ عنہم had a different perception of an action of the Holy prophet ﷺ. For example, the Holy prophet ﷺperformed only one Hajj throughout his life. But Some Sahaba رضی اللہ عنہم thought it to be Hajj Qiran , Some thought it to be Hajj Tamattu, and some others thought it to be Hajj Ifrad.

4. Some Sahaba رضی اللہ عنہم forgot the reality an action of the Holy prophet ﷺ. For instance, Ibn Omar رضی اللہ عنہ narrates that the Holy prophet ﷺ performed Umrah in the month of Rajab; but when Hazrat Ayeshaرضی اللہ عنہم

[56] Asal wa Usool e Shia, P 127
[57] Al-Ghata , P 155 - 156
[58] Ghazi, Mahmood Ahmad, Dr, MuhaazraatFiqh, Al-Faisal NaashraanwaTajraanKutubLahore, P 217 -218

came to know about this narration, she said that Ibn Omar had forgotten because the Holy prophet ﷺ did not perform any Umrah in the month of Rajab.

5. Some Sahaba رضی اللہ عنہم differed about the purpose of a saying the Holy prophet ﷺ. For example, Ibn Omar رضیاللہعنہ thought that the Hadith which shows that mourning the dead results in punishment to him / her in the grave is generic; but Hazrat Ayesha رضی اللہ عنہا thought that this Hadith was specifically related to the incident of a Jewish woman.

6. Sometimes, there was difference regarding the determination of the underlying reason of some commandment. For example, when the Holy prophet ﷺ stood for a funeral, some Sahaba رضی اللہ عنہم thought it to be in reverence to the angels while others believed it to be because of the horror caused by death. This also led to difference of opinion among them.

7. There was also some difference in terms of the method for applying the Shariah rulings to issues at hand. For example, during the battle of Khyber, the Holy prophet ﷺ allowed Mut'a but later on prohibited it. Then again, he allowed it during the battle of Autaas. This led Ibn Abbas رضی اللہ عنہ to say in the beginning that it may be allowed when the need arises[59]; but the majority of the Sahaba رضی اللہ عنہم held the view that the permission of Mut'awas cancelled out forever.[60]

Difference of Opinion among Taabis:

Difference of opinion among Sahaba رضی اللہ عنہم took the form of independent schools of Fiqh. Later on, such differences continued among Taabis on the same grounds.As a result, there were various schools of Fiqh formed by various senior Taabis who followed the way of Ijtihad adopted by Sahaba رضی اللہ عنہم living in their locality,for example, Saeed Bin Musayyib in Madina, Ata Bin Abi Rubah in Makkah, Ibrahim Nakha'i in Kufa, Hasan Basri in Basra, Taus Bin Kisan in Yemen, etc.[61]

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[59]Ibn Abbas, although, changed his view. Hence, Tirmizi narrates:
عن ابن عباس قال إنما كانت المتعة في أول الإسلام كان الرجل يقدم البلدة ليس له بها معرفة فيتزوج المرأة بقدر ما يرى أنه يقيم فتحفظ له متاعه وتصلح له شيئه حتى إذا نزلت الآية{ إلا على أزواجهم أو ما ملكت أيمانهم }قال ابن عباس فكل فرج سوى هذين فهو حرام.
"Ibn Abbas narrates that Mut'a was permissible in the beginning of Islam. When a man travelled to a city where he had no acquaintance, he would marry a wman for the number of days he had to stay. The woman would take care of him and his belongings. (The practice continued) until Allah revealed the Aayah
إلاعلى أزواجهم أومامَلكت أيمانهم
So, all the women except these two types are Haram."
(Tirmizi, Abu Isa , Muhammad Bin Isa Bin Saura Bin Moosa Bin Zahhaak , SunanTirmizi, Kitab-un-Nikah Un Rasool-i-llahSallallahuAlaihiWasallam, Baabu Ma Ja a Fi Tahreem e NikahilMut'a, Altaf& Sons, Karachi , Pakistan , 2009, Part 1, Hadith No. 1122)

[60]Dehlvi, WaliUllah, Al-Insaaf Fi Bayan e AsbaabilIkhtilaaf , edition 2, 1406 A.H, 1986 A.D, DarulNafais, Beirut, P 23 -30.

[61]Dehlvi , P 30 -31

Era of Taba Taabis:

In the era of Taba Taabis (i.e. the followers of Taabis), Waleed Bin Abdul Malik,a member of the Umayyad dynasty, ruled the largest Islamic Empire. That age was full of junior Taabis and senior Taba Taabis. The famous Seven Jurists also belonged to that era.[62]

It was in this age that Schools of Fiqh formally evolved and Fiqh was compiled a various places, following the ways adopted by Sahaba رضی اللہ عنہم and Taabis.

Advisable and Moderate Approach:

Throwing light on the moderate approach in theface of these differences among schools of Fiqh, Shah WaliUllahcomments that both the approaches i.e.Takhreej of Hadith and Tatabbuof Hadith have been practiced by jurists since the very beginning. In Takhreej of Hadith, they gave less importance to the words of Hadith; on the other hand, in Tatabbu of Hadith they remained more inclined to the words of Hadith. Both these approaches are important. Hence, completelyrejecting one and declaring the other to be the only right way is against moderation. Moreover, the need of the hour is to harmonize the two. For this, those who follow the approach of Takhreej should develop in themselves a special taste for Ahadith because it is Hadith which is the basis of their Takhreej; they should not persist in their own opinion against an explicit Hadith. Similarly, those who follow the approach of Tatabbu should also benefit from the way of Takhreej because solution to new issues is not possible without it. Shah WaliUllah has quoted HasanBasrito have said that your approach should be moderate; it should neither cross limits nor be too narrow.[63]

CONCLUSION:

This article encompasses the beginning and evolution of the Islamic Fiqh. First of all, it briefly describes compilation of Fiqh in different ages and the reasons for the differences among Islamic jurists. Secondly, it discusses the start of various schools of Fiqh, sources and methods adopted by jurists for the compilation of Fiqh, and how these schools of Fiqh spread. Thirdly, it throws light on the importance of the two methods used for benefitting from Hadith: (1) Takhreej of a Hadith (i.e. its verification) and (2) Tatabbu of a Hadith (i.e. its quest and pursuit) as well as on how both the methods can be harmonized. Lastly, it briefly analyzes the existing schools of Fiqh including Hanafi, Ahl-ul-Hadith and Shia.

Discussion of the difference among Jurists regarding some issues showed that this difference of opinion is based on their respective principles which have been in practice from the very first era. These types of differences are the bright part of Islam and are a source of the expansion of Fiqh discipline and its harmonization with society. Most of these differences are Faro'i (i.e. related to the details of some issue and not to the basics of Islam); or they show which

[62]Ghazi, Mahmood Ahmad, Dr, MuhaazraatFiqh, Al-Faisal NaashiraanwaTaajiraan e Kutub,Lahore, P 241
[63]Dehlvi , P 61- 62

opinion is preferable. Most of the fundamental rules are unanimous among the jurists. In the present-day world, we should focus only unanimous views and should make them the subject-matter of our religious preaching. And, if there arises some difference of opinion, we should have unbiased respect for one another.

So far as the schools of Fiqh followed in Pakistan are concerned, there are no differences between the Hanafis and Ahl-ul-hadith with regards to the basic principles of legislation. There is some difference with the Shias, but it cannot be a hindrance to Shariah-compliant lawmaking. There are several precedents to support this claim. In addition, joint roadmap of the Sunnis and Shias for the implementation of Shariah in the current era also rejects the objection of sectarian disparity.

BIBLOGRAPHY

Abu Dawood, Solaiman Bin Al-Ash'as Bin ishaq Bin Bashir Bin Shaddad, Bin Amr Al-Azdi al-sajistani, Sunan Abi Dawood, Kitab us Saum , Baabu Man R'aAlaihilQaza , Dar us Salam linnash wat Tauzi, Riyadh, Edition 1st, 1420 A. H. , 1999 A. D. Hadith No. 2457.

Ala ud Din , Abdul Aziz Bin Ahmad Bin Muhammad , Kashf -ul-AsrarSharhUsoolulBazdawi, Dar ulKitab

Ala ud Din Al-Bukhari , Abdul Aziz Bin Ahmad Bin Muhammad , Kashf -ul-AsrarunUsoole Fakhul Islam Al Bazdawi, Dar ulKutubilIlmia , Beirut , Edition 1st, 1418 A.H. / 1997 A.D. , Volme 3.

Al-Asqalani, Imam Hafiz Sheikh ul Islam, Shahab ud Din Ahmad Bin Ali Bin Hajar, TahzeebutTahzeeb,

Al-Ghta, Sheikh Muhammad Hussain Aal e kashif, Ayatullah, idaraTamaddun e Islam , 1986,

Al-Kumlai, Muhammad Hifz Ur rahman, Makanatu Abi Hanifa fil Fiqhwal Hadith, Maktaba Sheikh ul Islam, Dacca, 2nd Edition, November 2007.

Al-Zahbi, Abu Abdullah Muhammad Bin Ahmad Bin Usman, Hafiz , Imam, Manaaqibul Imam Abi HanifawaSahibaihiAbi Yousufwa Muhammad Bin Hasan , LujnatuIhyailM'arif in Nomania Hyderabad Deccan, India.

Al-Zuhaili, Wahba , Al-Duktoor, Al-ustaz, Al-FiqhulIslamiwaAdillatuhu, 2012, (Translators: Mufti Irshad Ahmad Ejaz and Mufti Abrar Hussain), Volume 01, Dar ulIsha'at , Karachi , Pakistan.

Al-Zuhaili, Wahba, Dr., Usool Il FiqhilIslami, Volume 1, KutubKhanaRasheedia, Peshawar..

Bhatti, MuhmmadIshaq, Bar e Saghir Mein Ahl Hadith kiAamad, MaktabaQudoosia , Urdu Bazar

Darqutni, Ali Bin Omar Abul Hasan, SunanDarqutni, Part 1, Kita but Tahara, BaabuAhadithilQahqaha

Dehlvi, Shah WaliUllah, IkhtilaafiMasail Mein ItidaalkiRaah (Translator: Maulana Sadr ud Din Islahi) Islami Publications, Lahore, August 2000..

Dehlvi, WaliUllah, Al-Insaaf Fi Bayan e AsbaabilIkhtilaaf , edition 2, 1406 A.H, 1986 A.D, DarulNafais, Beirut, P 23 -30.

Edition 1st, 14014 A.H. / 1984 A.D. , Dar UlFikrLit taba'ah wan Nashr wat tauzi, Volume 10.

fis Salah wailaliha, Muwasisa tur Risala, Beirut, Lebanon, Edition 1st, 1424 A.H / 2004 A.D.

Furfoor, Damascus, Edition 1st, 2001,.

Ghazi, Mahmood Ahmad, Dr, MuhaazraatFiqh, Al-Faisal NaashiraanwaTaajiraan e Kutub,Lahore.

Ghazi, Mahmood Ahmad, Dr, MuhaazraatFiqh, Al-Faisal NaashraanwaTajraanKutubLahore, P 217 -218

Ibn Kathir, AbulFidaImaadUd Din , Hafiz , Allama, Al-Bidayah wan Nihayah (Translator: Hafiz Abdur

Ikram , Sheikh Muhammad, Muaj e Kausar, June 2003.

ilIslami, Bab ulMuaraza, HukmulMuarazaBainaAayatain, Volume 3.

Khaleel Al-Dimashqi, Shams Ud Din Yousuf Bin Khaleel and Yousuf Bin Abdul Hadi , Al-Hafizaan, Dar ul

Lahore, 2004.

Pew Research Center, Countries with More Than 100,000 Shia Muslims,http://www.pewforum.org/2009/10/07/mapping-the-global-muslim-population:/visited:March12,2016.

Publisher: Shaheen Packages, Karachi, JamiaT'aleemaat e Islami Pakistan.

Rasheed Nadvi, M. A. Maulana Akhtar FAtehPuri , Tareekh Ibn KAthir, June 1988, V 10, Nafees Academy, Urdu Bazar Karachi.

Saeed Al-Khan, Mustafa, Dr.,FuqahaKaIkhtilaafAurFiqhiMasail per Is KaAsar (Translator: Hafiz Habeeb Ur Rahman), Shariah Academy, International Islamic University, Islamabad, June 2002.

Shami, Ibn Abideen, Allama, Al-Muhaqqiq, Syed Muhammad Ameen Afandi, Hashia Ibn Abideen, Part 1, Publisher: Dar ulFikr Lit taba'ah wan Nashr, Beirut, 1421 A.H. / 2000 A.D.

Taba Tabai , Muhmmad Hussain, Allama, Pasdaran e Islam, Translator: Muhammad FazalHaq,

Tirmizi, Abu Isa , Muhammad Bin Isa Bin Saura Bin Moosa Bin Zahhaak , SunanTirmizi, Kitab-un-Nikah Un Rasool-i-llahSallallahuAlaihiWasallam, Baabu Ma Ja a Fi Tahreem e NikahilMut'a, Altaf& Sons, Karachi , Pakistan , 2009, Part 1, Hadith No. 1122)

Translator: Hujatul Islam walMuslimeenAllama Syed Ibn Hasan Najafi , AslwaUsool e Shia .

Usmani, Muhammad Taqi, Nifaz e Shariat awr usk masail , Maktabah Darul Uloom Karachi, 2002.