

MADHHAB IN ISLAMIC LAW AND THE DISSEMINATION OF SUNNI'S LEGAL TEXT

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Abstract: The study aims to discuss the usage of the term “Madhhab” by the classical jurists to specify the opinions of a school of thought as well as the individual opinion in a specific case. The interpretation of the divine sources of Shariah the Quran and the Sunnah by the early jurists result towards the emergence of various schools of law. The emergence of two distinct schools ashab al-ray and ashab al-hadith during the 2nd century Hijri was the outcome of different approaches adopted by the classical jurists while take to mean the Quran and the Sunnah. The paper aims to discuss that during the life time of Prophet Muhammad (PBUH) no school of thought was emerged in Islam. After the sad demise of the Holy Prophet Muhammad (PBUH) in early period there were a number of personal schools out of these only four Hanafis, Malikis, Shafi’iis and Hanbalis could survive under the umbrella of Sunni schools of law. This paper intends to argue the use of reasoning in the development of fiqh doctrine caused the formation of rationalist schools (ashab al-ray). The teaching circles of early jurists in different cities of Islamic empire like Madinah, Kufa, Basrah, Baghdad, and Damascus resulted towards the formation of personal schools later disseminated by their devoted pupils and the progression of legal text.

Keywords: Madhhab, Hanafi, Maliki, Shafi’i, Hanbali, Qiyas (Analogy), Raa’y (personal opinion), Abu Yusuf, Muhammad al-Shaybani, Malik bin Anas, Yoosuf ibn Yahyaa al-Buwayti

Introduction

In the history of Islamic law there is a large number of Madhhabs in addition to the well-known Sunni and Shia Madhhab. The interpretation of the divine sources of Shariah Quran and Sunnah by the early jurists result towards the emergence of various schools of law. The emergence of two distinct schools ashab al-ray and ashab al-hadith during the 2nd century Hijri was the outcome of different approaches acknowledged by the classical jurists while assign a meaning to the Quran and the Sunnah. The use of reasoning in the development of fiqh doctrine caused the formation of rationalist schools (ashab al-ray). For the development of Islamic law, Muslim jurists developed a systematic methodology to sum up the reasoning and judgments of law in line with Shariah such as Ijma, Qiyas, Istihsan etc. There exists a difference among the Sunni schools of law on the point that the total number of factors that are to be practiced or stressed inspite of the fact that all of these contain Quran and the Sunnah as a principal source of Islamic law.

Madhhab in Islamic Law

Madhhab is a term usually taken for ‘school of law’, the Encyclopedia of Islam expressing it as a way of thinking, persuasion states its literal meanings as¹ :

“a way, course, mode, or manner, of acting or conduct or the like”

In former the term ‘Madhhab’ was also used ‘to go away to toilet’² contrary to this, its usage as a term of religion, philosophy and law was also to express doctrine, tenet or opinion upheld by a person³.

Classical jurists have used this term in order to specify the opinions of a school of thought and individual opinion in a specific case⁴.

Encyclopedia of Islam expressed it as⁵:

“....in law specifically, a technical term often translated as “school of law”, in particular one of the four legal systems recognised as orthodox by Sunni Muslims, viz. the Ḥanafīyya, Malikiyya, Shafi‘īyya and Ḥanbaliyya [q.vv.], and the Shia jafaria and Zaydiyya legal schools...”

At the time of the Prophet Muhammad (PBUH) no school of thought was emerged in Islam. After the sad demise of the Holy Prophet Muhammad (PBUH) many of the companions of the prophet followed to the commentary of the Sunnah laid by the Imam Ali (R.A), later on was known as the devotees of the teachings of the Holy Prophet as conveyed by Ali (R.A) and titled as ‘Al-Khassah’ express the senses of elite, the distinctive or the special. Later on they were expressed as Al- Shia whereas the common community of Muslims was denoted as ‘Al- Ammah’ in the sense of general public and later on were expressed as Al-Sunnah wal Jama’ah⁶.

In the history of Islamic law there is a large number of Madhhabs in addition to the well-known Sunni and Shia Madhhab. The significant enrichment towards the development of Islamic law was flourished by the vanished Madhhab. Some of these outstanding vanished Madhhabs are as follows.

- Madh'hab of Al-Thawri
- Madh'hab of Ibn U'yainah
- Madh'hab of Aw'zaa'i
- Madh'hab of Dawood Ibn Ali Al-Dhaahiri
- Madh'hab of al-Ibadiyyah
- Madh'hab of al-Zahiriyyah
- Madh'hab of Ibn Jarir al-Tabari

Nevertheless, not all of them have survived to the contemporary world and in a large part of the Muslim world, the significant Madhhabs remained among the Sunni school of thought are Hanafis, Shafi'is, Malikis, Hanbalis and al-Zaydiyyah, Jafariyyah of Shia school of thought. Other than these, the Madhhab of Ibadiyyah rests in practice in Oman. In below section we will present a brief of the four Sunni dominant legal Schools.

The Hanafi School

The eponym of Hanafi School is Abu Ḥanifa al-Numan bin Thabit (d.150AH/767). Abu Hanifa born in Kufa and was brought up in a family which has origin in Persia. His father was a Nobel trader of that time and he too activate his carrier as trader. He was engaged in the business of khazz (silk fabric) before going on board in search of knowledge. Historically, there is an interesting variance on the family status of Abu Hanifa, However, such reports are strongly denied by his grandson Ismail. The report contains that the grandfather of Abu Hanifa named Zuta was caught as slave in Kabul and later on was brought in the city of Kufa and after setting free he along with his descendants became mawlas of the tribe⁷.

Encyclopedia of Islam states⁸:

“Abu Ḥanifa al-Nu‘man b. ṬHĀBIT, theologian and religious lawyer, the eponym of the school of the Ḥanafīs [q.v.]. He died in 150/767 at the age of 70, and was therefore born about the year 80/699. His grandfather Zūṭā is said to have been brought as a slave from Kābul to Kūfa, and set free by a member of the Arabian tribe of Taym-Allāh b. Ṭhā‘laba; he and his descendants

became thus clients (*mawla*) of this tribe, and Abu Ḥanifa is occasionally called al-Taymi. Very little is known of his life, except that he lived in Kufa as a manufacturer and merchant of a kind of silk material (*khazz*).”

The Hanafi school of law is the creation of juristic rules and regulations as educated by Abu Hanifa. Likewise, other Sunni schools the Hanafi school of law deals with ‘tawhid’ oneness of Allah, fundamentals of faith, essentials of worship, ethics and fiqh of dealings.

Encyclopedia of Islam states the term ‘Hanafiyya’ as⁹:

“Hanafiyya, the Hanafi *madhhab* or school of religious law, named after Abū Ḥanīfa [*q.v.*] al-Nu‘mān b. Thābit. It grew out of the main body of the ancient school of Kufa, and absorbed the ancient school of Baṣra, too. As early as the generation following Abū Ḥanīfa (d. 150/767), we find Abu Yusuf [*q.v.*] (d. 182/795) refer to him as “The prominent lawyer” (*Kitāb al-Kharāj*), and al-Shaybani [*q.v.*] (d. 189/805) speaks of the “followers of Abu Ḥanifa”...”

Hanafi School of Thought is famed for pioneering more stress on Qiyas (Analogy) and Raa'y (personal opinion) than stress on adoptions and deductions from Hadith.

The Abbasid caliphate encouraged/patronized this school because it was originated in Iraq likewise promoted into Khurasan, the Indian sub-continent and other areas. The school was centered round the personality of Abu Hanifa and his two disciples, namely Abu Yusuf and Muhammad al-Shaybani¹⁰ well-known for their wide-ranging usage of qiyas, istihsan and amalgamation of urf. The traditional school of thought criticized their approach and the use of personal opinion in the matters of religion was opposed by them.

During early periods of time, Abu Hanifah intent was on the discussion of theology generally known *Ilm ul kalam*. Murjiah philosophy attracted both Abu Hanifa and Al-Hassan al-Basari but afterwards Abu Hanifa found himself detached from this movement. After that he persuaded towards Islamic jurisprudence¹¹.

For eighteen years, he was in direct concern of Hammad ibn Abi Sulayman, his association with Hammad ensured significant achievements for Abu Hanifa in the field of Jurisprudence. Hammad ibn Abi Sulayman was the pupil of Ibrahim al-Nakhai (d. 95/713-4) well famed successor, as he got educated from Abd Allah Ibn Masud companion of the Holy Prophet Muhammad (PBUH). The achievements of Abu Hanifa were supported at large. The famous jurist Al-Dhahabi (d.748/1348) titled him as a supreme jurist in Iraq¹².

In contrary to it, Abu Hanifa’s fame also faced a loud opposition as he employed several methods of legal thinking in deducing new legal rulings, thus he was perceived innovator in the eyes of traditionists¹³.

The spread of Hanafi School was placed round the personality of Abu Hanifa and his two disciples, Abu Yusuf and Muhammad al-Shaybani. After Abu Hanifa his notable pupils played a key figure role in the propagation of Abu Hanifa’s rulings; eventually it results towards the formation of a distinct school of law. Muhammad al-Shaybani got fame because of his distinct role towards the compilation of Hanafi’s legal texts known as ‘Zahir al-riwayah’. Al-Asl, Al-Jami al-Kabir, Al-Jami al-Saghir, Al-Siyar al-kabir, Al-Siyar al-saghir and al-Ziyadat are text credited to him. At the time of Abu Hanifa’s demise, Al-shaybani was of eighteen years. So bearing in mind his age it is not possible that he narrated all of the legal rulings of Abu Hanifa so it is perceived that al-Shaybani also studied from Abu Yusuf, a lot of narrations in his compilations will be from him¹⁴. Nawadhir al-riwayah is the texts of Hanafi’s based on the legal rulings not exists in Zahir al-riwayah; both set of the texts of legal doctrine were transferred to the later generation of jurists.

Moreover, Abu Yusuf was appointed as the first chief justice during (170-193/786-809) and this phenomenon played a vital role towards the propagation of the doctrine of Abu Hanifa under the ‘Abbasid caliphate of Haruun ar-Rashid and in this way Hanafi school of thought succeeded in gaining its official status. It is perceived that because of the influence of Abu Yusuf in the government many of other judges of Hanafi school were appointed in the Islamic state. This perception has been challenged and argued that Abu Yusuf does not enjoy such influential role regarding judges appointment or dismissal of judges¹⁵.

On the basis of local approval Judges (Qadi) from the local community were appointed in Khurasan, Egypt, Syria and Basra and this qadi then were the local community representative.

As for as, it is concerned to the progression of Hanafis legal texts, the works of Shaybani, 'Kitab al-Asl', 'Jami al-kabir' and 'al-Jami al-saghir' have served as a primary source for the progression of legal doctrine. A century later after the demise of Shaybani, an Egyptian Hanafi jurist Al-Tahawi (d.321/933) worked on the first commentary of al-Jami al-saghir and titled it 'Mukhtasar of al-Tahawi'. In the opinion of Yaakov Meron, the work of Tahawi did not contribute many more from Shaybani's texts. Legal reasons to support the rulings are not enlightened in Mukhtasar of al-Tahawi¹⁶.

Later on, in third century many other key works were written such as Mukhtasar of al-Karkhi, al-Kafi of Al-Hakim al-shahid al-Marwazi (d.334/945) and Khizanat al-Fiqh of Abu Layth al-Samarqandi (d.373/983). In fourth century a commentary of Mukhtasar of al-karkhi was written by al-Quduri (d.428/1037). The organization and arrangement of topics along with the introduction of new terminologies were made by Quduri¹⁷.

Other than Quduri's work, al-Mabsut of Sarakhsi is a significant and comprehensive text, was written by Al-Sarakhsi. This book is based on thirty volumes and covers all most all of the topics of Islamic law. Sarakhsi describes the grounding reasons used by Abu Hanifa, Abu Yusuf and Al-Shaybani to justify their rulings.

During fifth century, Badai al-Sanai of al-Kasani (d.587/1191) and Al-Hidayah of Ali al-Marghinani were produced¹⁸. Before of it al-Marghinani wrote a worthwhile study on the basis of the texts of Jami al-saghir titled Bidayah al-Mubtadi. The book Hidayah is the summary of al-Marghinani's bidayah al-Mubtadi, Hidayah have attained a remarkable place by the later jurists. In almost all the religious schools (Madaris) this book is being taught. Al-Inayah ala al-hidayah of Al-Babarti (d.786/1364) and Fathu al-qadir of Ibn Humam (d.861/1457) are the most famous commentaries of Hidayah.

In the Abbasid caliphate, Hanafi School of fiqh turned to be the official school of jurisprudence. The ottman and Moghul Empire adopted this school of thought as the legal standard and consequently, this arrived Asia Minor to the Balkans and was nourished far beyond the Oxus River (the Amu Darya) in to the center of Asia.

In Abbasid caliphate the Hanafi School fo fiqh got a status of official school of jurisprudence and was adopted also by the Ottoman and Moghul empires as the legal standard. Thus Hanafi School approaches from Asia Minor to the Balkans and was seeded in to the heart of Asia far beyond the Oxus River (the Amu Darya).

Hanafi school of thought enjoyed the status of primary school for the Muslim Nations including Pakistan, Turkey, Albania, Central Asia, Afghanistan, China, India, and Iraq¹⁹.

The Hanafi Madahab was widely accepted and this wide spread acceptance was greeted and gained dominance among the major portion of Sunni Muslims. Consequently, Abu Hanifa emerged as the tycon of Islamic law and he affected the existing different schools of thought relating to Islamic law. His services in this field, won him the status which has no parallel in the history of Islamic world.

The Maliki School of law

Malik bin Anas's (d.179AH/795AD) a jurist of Madina, established the doctrine of Maliki School of law. His forefathers belonged to Yemen and they migrated from Yemen to Madina due to some clashes with the governor of Yemen. The migration of his family was led by his great grandfather Abu Amir. He was one of the prominent companions of Prophet in Madina.

The birth of Malik was in the Holy city of Madina in 93 AH. As Madina was the base camp of the companions and successors of the Holy Prophet Muhammad that's why the city was the home of Shariah knowledge, especially the science of Hadith. Nafi (d.117/735), Ibn Shihab al-Zuhri (d.124/742) and Rabiah ibn Abd al-Rahman (d.136/753-4) was the successors and Malik narrated Hadith from them. The later Rabiah ibn Abd al-Rahman, commonly known as Rabiah al-ra'y was also the teacher of Malik in the field of Fiqh. The elements of

masalih al-mursalah (public interest) and sadd al-dharai (blocking pretences) were applied by Malik in developing his fiqh doctrine along with reliance on Hadith and the contemporary practices of jurists of Madina. On the influence of Rabiah al-ra'y, in developing fiqh doctrine ra'y was incorporated by Malik. For More than forty years, Imam Malik taught Hadith in Madina and compiled a book of Hadith named al-Muwatta on the request of Abbaasid caliph Abu Ja'far al-Mansoor²⁰. Malik was in love with the city of Madina because of the Holy Prophet's grave, he never like to go outside Madina except once when he travelled for Haj. Malik died at the age of 83 in the Holy city of Madina.

Like all other schools a great contribution was made by the pupils of Malik towards the propagation of Maliki School. Maliki School was cultured vastly in Spain and North-western Africa.

Almost 60 years after the death of Malik, a large number of Maliki jurists left Madina due to political upheavals in the city of Prophet in year 266 Hijri, and as a resultantly Maliki School did not last for long in Madina²¹. Internal battles of Ummayyad and Abbassid to get the control of Madina destroyed the peace of city and as a result the learning and knowledge could not remain as the first preference of rulers.

Uthman bin Kinanah (d.185/801), Ibn Naf'I (d.186/802), Abdul Malik bin al-Majishun (d.214/829) and Matraf bin Abdullah (d.220/835) was among the prominent personalities of Malik students who sustained the doctrine of Maliki's in Madina. Abd al-Malik Ibn Habib (d. 238/853) a jurist of Andalusia learned the Maliki's doctrine from al- Majishun and Matraf and thus caused to spread Maliki School in Andalusia.

Abdul Rahman Ibn al-Qasim (d.191/807) and Ibn Abd al-Hakam (d.214/829) were among thr prominent Malik's students who spread the doctrine of Malikis in Egypt. In spread of Maliki School, the position of Ibn al-Qasim was same as of al-Shaybani of Hanifi's. Muwatta's transmission of Ibn al-Qasim and his replies to the inquiries of Sahnun's in in al-Mudawwanah are obliged as the soundest and the most comprehensive collections of Maliki's doctrine²². It is of Ibn al-Qasim that Maliki School was acknowledged contiguous to the Malikis of Maddina in following the methodology and principles of Malik's. Re-emergence of Maliki School in Egypt was advanced by Abu Bakr al-Turtushi (d.520/1126). He was the student of Al-Baji. The Great jurists Ibn al-Hajib (d.646/1248), al-Qarafi and Khalil bin Ishaq were the product of Maliki School.

At present, Maliki school of thought is largely accepted in different Islamic states like Sudan, Egypt, North Africa i.e. Algeria, Tunisia, Morocco, West Africa (Mali, Nigeria, Chad, etc) and the Arabian Gulf states (Kuwait, Qatar, and Bahrain)²³.

The Shafi'i School of law

On the Mediterranean coast, Shafi'i born in the town Ghazzah. His full name was Muhammad ibn Idrees al-Shafi'i. He travelled to Madina to study Hadith and Fiqh from Imaam Malik. He was a genius student of Malik as he learned the whole book Malik titled al-Muwatta by heart. He remained under the supervision of Malik for about sixteen years from 163 to 179 Hijri. After the demise of Malik, al-Shafi'i left Madina and went to Iraq. There he attended the circles of well famed jurists and have a chance to debate on the Fiqh matters. He also attended the circle of famed Hanafi jurist Hassan al-Shaybani in Iraq. After that Shafi'i returned to Mecca to form his own circle. From Mecca Shafi'i migrated to Fustat, Egypt in 199 Hijri and till his death he remained settled there. Legal rulings of Shafi'i's doctrine are divided in to two phases. The first phase is termed as the old doctrine (al-madhab al-qadim) and the second phase is termed as new doctrine (al-madhab al-jadid). The first phase contains on the rulings given during the period he got settled in Iraq whereas the second phase (al-madhab al-jadid) contains on his legal rulings in Egypt. The validity of old doctrine is considered by the Shafi'i jurists when it is in accordance to the new doctrine; in case there is a contradiction in both, the new doctrine will override the old one.

Likewise other school of law, the spread of Shafi'i School was by his pupils. In Egypt Yoosuf ibn Yahyaa al-Buwayti (d.231/846), Ismaa'eel ibn Yahyaa al- Muzanee (d.264/878) and Rabi ibn Sulaiman al-Muradi (270/884) were the prominent figures in spreading the Shafi'i School of law. In Shafi'i school amongst the three prominent figuers al-Buwayti is on top ranking. In Baghdad, he was confined to prison and subjected to severe

torture which resulted in his death as he declined to accept the officially sanctioned Mu'tazilite philosophy on the creation of the Qur'an²⁴.

Al-Muzanee compiled a book titled al-Mukhtasar based on the legal rulings of Shafi'i's and his own exertions²⁵. The Mukhtasar is recognized as the utmost famed early legal text of Shafi'i's doctrine. Kitab al-umm, the most famous book of al-Shafi'i was primarily transmitted by Rabi ibn Sulaiman al-Muradi. All the Muslim scholars acknowledged him as the primary compiler of al-Shafi'i's writings.

In Iraq al-Karabasi (d.248/862) was the earliest student of al-Shafi'i. The old doctrine of al-Shafi'i was transmitted by him whereas the Anmati (288/902) transmitted this new doctrine. Shafi'i's jurisprudence was learned by Al-Anmati from al-Rabi and al-Muzani in Egypt.

In Khurasan Muhammad ibn Nasr al-Marwazi (d. 294/907) and Ibn Khuzaymah (d.311/924) were among the prominent jurists of Shafi'i's.

The majority of followers the Shafi'i School of thought is now founded in Egypt, Southern Arabia, (Yemen, Hadramout), Sri Lanka, Indonesia, Malaysia, and East Africa (Kenya, Tanzania) and Surinam in South America²⁶.

The Hanbali School of law

Hanbali School of law gets attributed to Ahmad bin Hanbal. He was born in Baghdad in an Arab family. Ahmad was just of three years old when his father died during his service in army in the city of Marw. After that his mother took him to Baghdad and was brought up there. He was the utmost memorizers and narrators of Hadith of his time; he devoted his life to seek the knowledge of Hadith since when he was just sixteen years of age. Ahmad gets the knowledge of Fiqh and Hadith from Abu Yousaf and al-Shafi'i. Legal reasoning taught to him by Hanafi master could not develop his interest and was attracted towards the science of Hadith. He travelled between the city of Kufah, Basrah, Macca, Madina, Yemen and Syria for the collection and preservation of Hadith text. Abd al-Razzaq in Yemen and Sufyan ibn Uyaynah in Macca were the prominent personalities contributed to quench his thirst in science of Hadith. He was one of the prominent personalities of Asshab al-hadith. Collection and narration of Hadith was the utmost concern of Ahmad. That's the reason his methodology of teaching was based on the dictation of Hadith from al-Musnad as well as on the opinions of the companions of the Prophet concerning the interpretation of a ruling. Al-Musnad of Ahmad is a vast collection of Hadith comprises of more than thirty thousand Hadith.

Beyond the regions of Iraq and Syria the Hanbali school of thought did not expand. The followers of Hanbali school of thought are in small number as compared to other three Sunni Schools of law.

The prominent students of Ahmad were his two sons Saalih (d.266/879) and Abdullah (d.290/903), other than this Abu Bakr al-Athram (d.260/873-4), Hanbal bin Ishaq (d.273/886), Abu Daud al-Sidjastani (d.275/887) and Abu Bakr al-Marwazi (d.275/887) were among the prominent pupils of Ahmad. Besides this, Bukhaaree and Muslim the great scholars of Hadith were also the students of Ahmad²⁷.

Abu Bakr al-Khallal (d.311/923) organized efforts for the collection of Hanbal's legal doctrine were of much importance and appreciated by the later Hanbali's jurists as the fullest possible sources of Hanbali's fiqh. In order to collect Hanbal's legal doctrine, he travelled far and wide, met with the students of Ahmad and compiled a text titled al-Jami. Mukhtasar of Al-Khiraqi was another effort from Abu al-Qasim al-Khiraqi (d.334/945) in this regard. Besides of these the most significance commentaries were of Qadi Abu Yala and al-Mughni of Ibn Qudamah. Ibn Qudamah added discussions of new positive legal rulings along with the inclusion of the rules of other sunni jurists who contradicted with the Hanbalis, this contradiction with Hanbalis has also been discussed in al-Mughni which resulted in making its volumes more comprehensive as compared to the commentary of Abu Yala²⁸.

Besides al-Mughni Ibn Qudamah organized his efforts to compose three other texts of hanbalis titled as al-Umdah, al-Muqni and al-Kafi.

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