

ISLAMIC JURISPRUDENCE-1

SCHOOLS OF THE ISLAMIC LAW:

SUNI SCHOOLS OF ISLAMIC FIQH (JURISPRUDENCE):

The schools of Islamic law are not sects but they are systems of interpretation. Each school of Islamic law has its own independent set of principles which cannot be mixed up with the principles of other schools without causing inner contradictions and analytical inconsistency. The set of principles adopted by each school is followed by the jurists in the schools. It is obvious that the use of one set of principles may lead to a different legal opinion on the derived law. For example, it is an established principle within the Hanafi school that the legal opinion of a Companion of Prophet (PBUH), especially a jurist companion, sets a binding precedent for the later jurist, it has to be followed. The Shafi'i school does not follow this principle. Following are the major four schools of Islamic law:-

1. The Hanafi School:

The Hanafi School, was founded by Imam Abu Hanifa an- Numam ibn Thabit is one of the oldest and largest of the sunni schools. He was an eminent scholar and was widely known for his outstanding logical reasoning and technical legal thought. Imam Abu Hanifa was born in Kufa (Iraq) in the year of 80 A.H. (699 A.D.) during the time of Umayyads caliph and died in 150 A.H. (767 A.D.). at an advance age, eighteen years after the Abbasids came to power.

He began his early education in scholastics (kalam) and later he developed an interest in jurisprudence under the tutorship of his sheikh Hammad Ibn Abu Suleiman (d.120 A.H).

He was textile merchant by profession and it is said that due to this reason his Fiqh reflects his practical approach to legal problems. Abu Hanifa was later given the title of the leader of the school of Ahl al-Ra'y. He is reported to have met some companions as well, foremost among-st them is Imam Malik ibn Anas.

Among his other pupils, four are famous: Abu Yusuf Ya'qub ibn Ibrahim al-Ansari (113-182 A.H.), Zufar ibn Hudhayl ibn Qays (110-158 A.H.), Muhammad ibn al-Hasan ibn Farqad al-Shaybani (132-189 A.H.) and Hasan ibn Ziyad al-Lu'lu'i. Through these disciples, the fame of the Hanafi school spread far and wide.

Abu Yousuf was judge in Baghdad and later became Chief Qazi with authority to appoint judges all over the kingdom. He also wrote books on traditions called al-Athar and Kitab al-Kharaj. Muhammad ibn al-Hasan al-Shaybani recorded books of not only the Hanafi school but of the entire Islamic legal system. The books written by him were of two types, the first were called *zahir al-riwayah* (books of the primary issues) and the second were called *zahir al-nawadir* (usual cases). Additionally, he wrote book on traditions known as *al-Athar*, and another book on the use of traditions *Kitab al-Hajjah 'ala Ahl al-Madinah*.

Abu Hanifa's tried to find out the law in the text of Quran itself through analogical deductions instead of having blind reliance on the traditions. According to this school, the law must be formulated in accordance with the changing needs of the society and in the absence of Quran it may be obtained by Qiyas and Doctrine of Raa'y (personal opinion). He suggested that justice must be imparted on the principle of juristic equity (Istihsan) while interpreting the law. The Hanfi School only recognized original and authentic traditions, and customs in conformity with texts of Quran were recognized as valid. He is therefore, rightly called the 'upholder of private judgments' and the founder of Muslim jurisprudence. Some of the important books on Hanafi law are Radd-ALMakhtar, Durr-ul-Mukhtar, al-Hidyaya and Fatwai Alamgiri.

The Hanafi School was predominant in Iraq during Abbasids Caliphate. It was also the official school the Ottoman state and in the Mughal Kingdom in India. It adheres to constitute more than one third of the Muslims of the world and its followers are in a majority in Pakistan, India, Bangladesh, Afghanistan, Turkey and Iraq.

2. **The Maliki School:** This school is considered as the second-oldest and second-largest school. And emerged as the school of the people of Madina or the people of Hijaz.

The founder of this school, Imam Malik ibn Anas, was born in 93 A.H. (711 A.D.) in Madina, lived his all life in Madina and died in the year 179 A.H. (795 A.D.). He received his early education from Abd al-Rehman Harmaz and then became a student of Rabi'ah ibn Abd al-Rehman, as Rabi'at al-Ra'y. He started giving lessons in traditions and fiqh just by the age of 17 years. He enjoys an excellent reputation among the scholar as a jurist and theologian. He was also a narrator of traditions and his chain of narrations is considered exceptionally strong and reliable. He wrote *Muwatta* over a period of 40 years, which includes many authenticated *ahadith*, and it formed the base of the Maliki school of *fiqh*. Al-Shafi said of his text: "No book on earth, after the book of Allah, is more accurate than the book of Malik".

The pupils of Malik include Muhammad ibn al-Hasan of the Hanafi school and Muhammad ibn Idrees al-Shafi'i, the founder of the Shafi'i school. Those belonging to the Maliki school were: Yahya al-Laythi, the narrator of alMuwatta, Asad ibn al-Furat al-Tunisi, Abd al-alam al-Tanhuki, Abd al-Rehman ibn al-Qasim, Ashhab ibn Abd al-Aziz al-Qaysi, Abd Allah ibn Abd al-Hakam and Sidi Khalil. The earliest work of this school was *al-Mudawwanah al-Kubra*. Abd al-Rehman ibn al-Qasim issued ruling on cases already decided by the jurists of Iraq. Sidi Khalil wrote *al-Mukhtasar*.

Malik's name and method are usually associated with the Ahl al-Hadith because he was the first traditionist. This school considers traditions as most important and exclusive 'source of law'. If it is not possible then only Qiyas and Ijma (only of jurists who lived in Madina) may be taken into consideration. The

methodology of this school is closer to that of Hanafis as both schools accept *istihsan* and the opinion of a Companion. The Jurists of this school had to solve the daily life problems of people which made their approach to law more practical, resultantly a new element called *Istidlal* (inferring a thing from another thing for public welfare) was introduced by the Maliki jurists. This school maintains the sources of fiqh as: the *Quran*, the *Sunnah*, *ijma*, *qiyas* (analogy), practice of the people of Madina (*amal*), opinion of a Companion, *istihsan*, *maslaha mursalah*, and *sadd al-dhari'ah* (blocking the lawful means to an unlawful end). This is the only school in which a married woman and her properties are always supposed to be under the control of her husband.

This school was quite influential in Muslim Spain (Andalus). Its followers can be found today in North Africa, Central and West Africa and Eastern Arabia.

- 3. The Shafi School:** The founder of this school was Abu Abd Allah Muhammad ibn Idrees ibn al-Abbas ibn Uthman ibn al-Shafi'i al-Hashmi al-Matlabi, shortly known as Muhammad ibn Idris al-Shafi'i. He was born in Palestine city of Gaza in 150 A.H. (767 A.D.) and died in Egypt in the year 204 A.H. (819 A.D.). He moved to Makkah along with his mother after his father's demise, where he memorized Quran at the age of 7 years. He lived in desert with the tribe of Hudhayl, where he learnt language and poetry. Later on, he studies under the Mufti of Makkah Muslim ibn Khalid al-Zanji. He had earlier been the student of Malik and studied *al-Muwatta* under him.

The prominent jurists of this school are: Ismail ibn Yahya al-Muzani, the author of *al-Mukhtasar*, Yusuf ibn Yahya al-Buwayti, Rabi ibn Sulayman and Ahmed ibn Hanbal. Later, Shafi'i school produced outstanding personalities like al-Shirazi, al-Juwayni, al-Ghazali, al-Razi, al-Nawai and many others.

Imam Shafi'i wrote *al-Risalah* which is considered to be the first systematic work on *usul*, *al-Umm* and *Ikhtilaf al-Hadith*. This school also relied upon the traditions of the Prophet, but he relied upon and examined the traditions in the light of legal reasoning and logic in order to get a very balanced and systematic rule of law. According to al-Shafi'i, "there was not a single problem of human life which could not be solved by Quran or the traditions of the Prophet, such solutions may be obtained either directly in these texts or from analogical deductions". He accepted the four sources of law: the Quran, the Sunnah, *ijma* and *Qiyas*. He does not consider opinion of companions and *istihsan*. Further, the Shafi'i jurists recognized the custom and principle of *Istadlal* (public welfare). Famous books are *Kitab-ul-umm* by Shafi, *Tuhfat-alMuhtaj* by Hajar, *Nihojat-al-Muhtaj* by Ramli and *Al-Wajiz* by Ghazzali. The principles of this school are spread over lower parts of Egypt, Hejaz, Indonesia, Malaysia and South-East Asia and some of the Muslims in the Western Coast of India are followers of this school.

- 4. The Hanbali School:** This is the fourth and the last school of the Sunni sect. It was founded by Abu Abd Allah Ahmed ibn Hanbal ibn Asad al-Shaybani

alBaghdadi. He was born in 163 A.H. (780 A.D.) in Baghdad and dies there in 241 A.H. (855 A.D.). He visited Syria, Hijaz, Yemen, Kufah and Basrah for purpose of collecting traditions. He was pupil of al-Shafi'i for some time.

Among the jurists of this school are: Muwaffaq ul-Din ibn Qudmah, the author of al-Mughni, Shams al-Din ibn Taymiyah, author of the Fatawa and other works, and Abu Abd Allah ibn Bakr al-Zari'I better known as Ibn Qayyim al-Jawziyah. He relied so much upon the traditions that other sources of law namely Ijma and Qiyas were neglected by him. He only recognized the Ijma of the Companions of the Prophet. His famous books are Musnad-ul-bnam Hanbal, which is collection of about 40,000 traditions by Ibn Hanbal; and Kitab-ulMashaekh and Kitab-ul-Alal. This school faced extinction before it was rejuvenated by Ibn Taymiyah and his pupil Ibn Qayyim al-Jawziyah in the seventh and eighth century. It was the official school of Saudi Arabia during the time of king Abd al-Aziz al-Sa'ud. The followers of this school are sometimes called Wahabis are found in central Saudi Arabia and in Pakistan and India as well.

Conclusion:

The four Imaams and founders of the schools of Islamic fiqh (Imam Abu Hanifa, Imam Malik, Imam Shafi'i and Imam Ahmad ibn Hambal) – may Allah have mercy on them all – all followed the texts of the Shari'ah and their efforts were all focused on teaching and spreading sound Islamic knowledge. All of them were on the right path, and all were devoted followers of the Prophet (peace and blessings of Allah be upon him). The person who is suitably qualified can examine what the scholars said and see what is supported by sound daleel. The Rank and field Muslim who does not know how to examine the evidence and weigh it up should follow a scholar or school of thought whose religious commitment and knowledge he trusts, and act according to his fatwas. And Allah knows

best.