

# The History of the Ahlul-Bayt (a) Jurisprudential

## The Three Stages of the Ahlul-Bayt (a) jurisprudence Sect

An important point about the history of the Ahlul-Bayt (a) jurisprudential sect is that it is divided into different stages. Each stage will be described. An important point about the history of the Ahlul-Bayt (a) jurisprudential sect is that it is divided into different stages. Each stage will be described.

### The First Stage

This was the stage of the narration of traditions from the Imams (a). This stage starts from the early days of Islam and ends at the Lesser Occultation in 260 A.H.

Jurisprudence, in this stage, was narrating traditions. Companions would hear a tradition from one of the infallibles (a) and spread it to their communities without organizing them into different subjects.

The first text that was written, other than what the Commander of the Faithful (a) wrote, was written by Abū Rāfiʿ, a companion of the prophet (s) and Imam 'Alī (a). He wrote a book called *Kitāb al-Sunan wa al-Ahkām wa al-Qadāyā*.

His son, 'Alī bin Abū Rāfiʿ, the Commander of the Faithful's (a) scribe, wrote a book using the different sections of jurisprudence, for example *wādʿ* and *salat*.

Jurisprudential texts increased during the imamate of Imam Bāqir and Sadiq (a) due to the weakness of the Umayyad dynasty during its last days and power being shifted to the Abbasid dynasty.

Jurisprudential texts continued to grow, so much so that during the time of Hurr al-'Amīl there were 6600 texts. 400 of these texts became famous and were called the 400 principles. The four great books of the Shia written by the three great scholars<sup>1</sup> were compiled from these books.

The city of Medina was the center of Islamic studies for the Ahlul-Bayt (a) during this period until Imam Sadiq (a) moved to Kufa and the second center of Islamic studies was formed.

Al-Hassan bin 'Alī al-Washī' said: "I witnessed 900 scholars who all said that they heard so and so from Ja'far bin Muhammad (a) in this mosque (Masjid al-Kūfa)."2

The Imām had great companions in Kūfa, such as Abūn bin Taghlib who related 30,000 traditions and Muhammad bin Muslim who related 40,000.

When we say that jurisprudence in this stage was just compiling and spreading traditions rather than organizing them into different sections, we do not mean that this includes the big scholars of the time. Each one of them was an authority in themselves, like Muhammad bin Muslim, Zarārah ibn A'yan and Abū Basr. Imām Sadiq (a) said: "Burīd bin Mu'awwiyah al-'Ajalī, Abū Basr Layth al-Bakhtarī al-Murādī, Muhammad bin Muslim and Zarārah will be given the glad tidings of Heaven. They believe in Allah about the obligatory actions and forbidden ones. The line of prophethood would have discontinued if it were not for them."3

The Imām considered them *mujtahids* who had the capability of deriving verdicts from the Qurān and prophetic traditions. Sometimes he (a) would order them practice it, for example he (a) said: "It is upon us to tell you the principles and it is upon you to branch them out."4 He (a) also told people to refer to some of his companions in religious rulings, like Yūnis bin 'Abd al-Rahmān. Someone asked the Imām: "It is not possible for me to come to you and ask everything that I need about religious sciences. Is Yūnis bin 'Abd al-Rahmān trustworthy; can I take whatever I need from him?"

The Imām answered: "Yes."5

He (a) also ordered some of his companions to give religious verdicts, such as Abūn bin Taghlib. The Imām (a) told him: "Sit in Medina's mosque and give religious verdicts to the people. Verily I love to see my Shia to be like you."6

## The Second Stage

This stage started at the Minor Occultation in 260 A.H., and lasted until the days of Shaykh Tūsī who lived between 385 A.H. and 460 A.H.

In this stage the Ahlul-Bayt (a) jurisprudential sect transformed from merely relating traditions without organizing them into different sections into writing jurisprudential books without adding anything to the traditions or changing their terminology. This is clear in the book *Shar'iyi'* which was written by 'Alī bin Bābaway for his son Muhammad. It is said that when someone needed a tradition they would find it in this book.

Other similar books are *al-Maqna'* and *al-Hidāyah* by Shaykh al-Sadūq, Muhammad bin 'Alī bin Bābaway and *al-Nihāyah* by Shaykh al-Tūsī.

We are not saying that there weren't scholars who were spreading traditions, but we are saying that now the traditions are organized into different subjects similar to the practice today. This is clearly seen in the

books *al-Kāfi* by Shaykh al-Kulaynī and *Man Lā Yaduruhu al-Faqīh* by Shaykh al-Sadūq.

This is what generally took place in this stage. This does not mean that there weren't any scholars who added to the traditions by using intellectual deductions, as seen in the works of al-'Ummānī and al-Iskafī.

If one wants to explain more he can say that this stage had three major schools:

1. The school of Qum and al-Ray: This school used traditions but did not use intellectual deductions. Some of the scholars of this school are the two Sadūqs. This was a strong school and was relied upon by many scholars.
2. The school of al-'Ummānī and al-Iskafī: This school preferred using intellectual deduction to such an extent that they accepted syllogism and voting. Al-'Ummānī's full name was al-Hassan bin 'Alī bin Abī 'Aqīl. It is said that he is the first person to apply his *ijtihād* to actions, while mentioning the different sections of jurisprudence and mentioning the reasons behind the verdicts. He wrote the famous book: *al-Mustamsik bi-habl al-Rasūl*. Unfortunately this book is not in existence today. Al-Iskafī is Muḥammad bin Ahmad bin al-Junayd who lived after Abī 'Aqīl. He wrote jurisprudential books, for example *Taḥṭīb al-Shāh li-ahkām al-Sharāh* and *al-Aḥmad fī al-Fiqh al-Muḥammadī*. Similarly, these two books do not exist anymore.
3. The school of Baghdād: This is also called the school of Shaykh al-Mufīd. This school tried to find a common ground between the schools of traditions and intellectual deductions. The reason behind this might be Shaykh al-Mufīd, who was a student of Ibn al-Junayd and Ja'far bin Muḥammad bin Qāwaym who was from Qum and a member of the Qum school of thought. Shaykh al-Mufīd wrote many books, such as *al-Maḥnā'ah* which was commented upon by Shaykh al-Tūsī in his book *Taḥṭīb al-Aḥkām*.

## The Third Stage

This stage started at the era of Shaykh al-Tūsī and is the prevalent one today. In this stage the jurisprudential books changed from imitating the traditions in form and language to writing with different terminology and mentioning different situations that did not occur at the time of the revelation of the Quran. All of this occurred with accepting intellectual deduction perfected by traditions and the acceptance of intellectual principles. The book *al-Mabsūṭ* by Shaykh al-Tūsī serves to ascertain the conclusion that we already reached about this stage.

Other important advancements that have been made during this stage:

1. The sections of jurisprudence have become more specialized.
2. More subjects were introduced in accordance with needs of the time.
3. Intellectual deductions have been made stronger and their proofs have become clearer.

4. The relationship between jurisprudential rulings and jurisprudential principles become clearer.
5. Putting more effort into investigating the chains of narration.
6. Disregarding some of the ancient texts which do not have relevance to the needs of today's world and writing books with today's world's needs.

## Sources of Religious Verdicts

### 1. The Book

What is meant by the book is the Qurʾān which was sent down by Allah to Prophet Muhammad (s). Our belief is that the Qurʾān that is in our hands today, its meaning and words has not been altered in any possible way.

وَمَا كَانَ هَذَا الْقُرْآنُ أَنْ يُفْتَرَىٰ مِنْ دُونِ اللَّهِ وَلَكِنْ تَصْدِيقَ الَّذِي بَيْنَ يَدَيْهِ  
وَتَفْصِيلَ الْكِتَابِ لَا رَيْبَ فِيهِ مِنْ رَبِّ الْعَالَمِينَ

***“This Qur’an is not such as can be produced by other than Allah; on the contrary it is a confirmation of (revelations) that came before it, and a fuller explanation of the Book- wherein there is no doubt – from the Lord of the worlds.”***<sup>7</sup>

It is a holy book and all of the Muslims agree that it was divinely inspired and that its content is entirely correct. It is the primary resource of Islam and it is an eternal authority and reference for mankind until the Day of Judgment. It says that Allah's religion is Islam and that the Muslims must always follow the Qurʾān. It is also a universal legislative reference for all of mankind.

### The Authority of the Book

It is unanimous amongst Muslims that the Qurʾān is an authority for Muslims. The proof behind this is twofold:

1. Certainty that it was sent to the Prophet (s): This was established by multiple and successive accounts passed down by Muslims from one generation to the next.
2. The Qurʾān being sent by Allah: The miraculous nature of the Qurʾān in regards to both the language and the content is a proof of its composer. Moreover, no one could produce anything like the Qurʾān or even a single verse, in spite of the challenge posed in the Qurʾān. Allah says:

تَنْزِيلُ الْكِتَابِ لَا رَيْبَ فِيهِ مِنْ رَبِّ الْعَالَمِينَ

**“(This is) the Revelation of the Book in which there is no doubt, from the Lord of the Worlds.”<sup>8</sup>**

## **Jurisprudential Verses in Quran**

There are around 500 verses in the Quran that deal with religious rulings. These verses are a part of the sources for obtaining religious verdicts and are called: *ayyat al-ahkam*.

## **2. Traditions (Sunnah)**

The Arabic term *sunnah* literally means a way of acting, but figuratively it means: the words, actions and affirmations of one of the *ma'sumeen* Infallibles. In order to understand this definition completely we must understand a few terms:

- Infallible: anyone whose infallibility is established. The Infallibles are the Prophet (s) and the twelve Imams from the Ahl al-Bayt (a).
- The sayings of an infallible: Whatever the infallible says that has anything to do with religious rules.
- The actions of an infallible: Whatever action an infallible takes.
- The affirmations of an infallible: The occurrences that happen in the presence of an infallible to which the infallible does not oppose.

### **The Authority of Traditions**

Muslims agree unanimously that the words, actions and affirmations of the Prophet (s) are considered an authority for all Muslims. Allah says:

وَمَا آتَاكُمُ الرَّسُولُ فَخُذُوهُ وَمَا نَهَاكُمْ عَنْهُ فَانْتَهُوا

**“So take what the Messenger assigns to you, and deny yourselves that which he withholds from you.”<sup>9</sup>**

The words, actions and affirmations of the Imams of the Ahl al-Bayt (a) are only considered an authority only if their infallibility and their place in the line of successors to the Prophet is proved. There are numerous proofs of their infallibility in key resource books about Imamate and theology. Please refer to them.

## **3. Consensus**

The Arabic term for consensus is *ijma'* which literally means unanimity.

Shiites view consensus as a tool to unearth an Infallible's verdict. Unlike the other jurisprudential sects, Shiites do not regard consensus as an independent proof as it is the case with the Qurʾān, the traditions and logic.

Whenever a consensus shows us what the Infallible's verdict is, it has authority. Otherwise, it does not have authority.

The question arises: Why do the Shia include consensus as one of the sources of religious verdicts when it is not considered an independent proof?

Shaykh al-Anṣārī answered this question in the following way: Consensus being a source for religious verdicts is a not an accurate statement. True Consensus is a tool to establish the truth, and in this case, both the means and the truth are considered a proof.

How does Consensus help determine the verdict of an infallible?

There is no single answer. Attempts to find an answer to this question started at the time of Shaykh al-Ṭūsī and continue to this day. The answers fall under two categories:

1. Internal consensus: A consensus of *mujtahids* who lived in a period of time in which one of the Infallible was present. He was part of the consensus but nobody knew him personally. Therefore, this kind of a consensus is an authority. How do we know that the infallible was amongst them? This answer to that is to be found in the books of the principles of jurisprudence.
2. Linguistic consensus: This consensus informs us, in an intellectual way, that the infallible agreed with the ruling but was not part of the consensus. His duty is to prevent all of the scholars from making an incorrect consensus. More answers are found in the books of the principles of jurisprudence.

#### **4. Intellect**

What is meant by the intellect here is anything that man's intellect can understand and a religious ruling can be derived from.<sup>10</sup>

An example is when Allah makes obligatory an action through a Quranic verse or reliable tradition, but one must perform another action to be able to perform this obligatory action and there is not any verse or tradition about this action. Man's intellect understands the relationship between an obligatory action and its precepts becoming obligatory. This leads to certainty about the action being obligatory.

An example of this is that Allah made the pilgrimage obligatory on anyone who has financial ability. This is found in both the Qurʾān and traditions. But, Allah did not mention that the travel from one's hometown to Mecca is obligatory, even though it is a necessary precept to performing the pilgrimage.

Man's intellect understands the relationship between performing the pilgrimage and having to travel. It is possible to say that the travel becomes obligatory by the *mukallaf* having certainty, like some have said.

having certainty, like some have said.

## The Authority of Intellect

It is self-evident that intellect itself is an authority; it does not need a proof. The reason for this is that intellect is a foundational proof for Islamic beliefs.

When Intellect is viewed as a fundamental proof for Islamic beliefs it becomes easy to reach the conclusion that it is an authority for religious rulings as well. The reason for this is that beliefs are more important than rules; they are the roots of religion.

- 
1. Muhammad bin Ya'qub al-Kulayni – al-Kafi, Muhammad bin 'Ali bin al-Hussayn al-Sadiq – Man La yahduruhu al-Faqih, Muhammad bin al-Hassan al-Tusi – al-Tahdhib and al-Istibsar.
  2. Al-Najsh, Rijal al-Najsh, under al-Wash'
  3. Shaykh al-Tusi, Rijal al-Kash, under Abi Basir Layth al-Muradi
  4. Al-Hurr al-'amil, Was'il al-Shah, the 6th chapter of the qualities of a judge, tradition 51
  5. Al-Hurr al-'umul, Was'il al-Shah, the 11th chapter of the qualities of a judge, tradition 33
  6. Al-Najsh, Rijal al-Najsh, under Abi'n
  7. Yunus: 37
  8. Sajdah: 2
  9. Hashr: 7
  10. Muhammad Baqir al-Sadr, Halaqah 2, al-Dalil al-'Aqli

---

### Source URL:

<https://www.al-islam.org/the-basics-of-islamic-jurisprudence-hassan-al-ridai/history-ahlul-bayt-jurisprudential>