

Imam al-Baqir (A.S.) Proclaimed Islamic Jurisprudence

<"xml encoding="UTF-8?">

As for the jurisprudence of the members of the House (ahl al-Bayt), peace be on them, most of it was taken from the two Ima`ms al-Ba`qir and his son al-Sa`diq, peace be on them. The Ima`mi jurisprudence encyclopedias - such as al-Hada'iq, al-Jawa`hir, and Mustamsak al-'Urwat al-Withqa` - are full of the traditions reported on their authority.

Ima`mi jurists depend on them when they conclude legal precepts and give religious opinions. As for traditions in the encyclopedias- such as Wasa`'il al-Shi'a, al-Tahtdhil, Man La Yahdarahu al-Faqih, and the like- most of them were taken from them. These encyclopedias are regarded as important references for Islamic jurisprudence, for they wonderful and rich in traditions. Ima`m al-Ba`qir and his son al-Sa`diq, peace be on them, did their best to proclaim Islamic jurisprudence. They took care of it at the time when the Moslem community was absorbed in the political events. Moreover, the governments at those times neglected completely religious affairs. Thus, Moslem communities were unable to understand their religious affairs.

Dr. 'Ali Hasan said: "When we studied the historical texts, we have concluded many examples of this phenomenon (i. e. neglecting religious affairs) that included rulers, scholars, and people in the first century. By that we mean that they had no knowledge of religious affairs and were irresolute in them even in worship. Among that is when b. 'Abba`s delivered a sermon on the pulpit of Basrah in the end of (the month) of Ramada`n.

He said: 'Take out the alms of your fasting.' However, the people did not know that. Thus, he said: 'Is there anybody from Medina here? Let him stand up to teach his bothers, for they do not know anything about the obligatory zakat fitir.(Ibn Hazm, al-Ahkam fi Usul al-Ahkam, vol. 2, p. 131)

This proves that the people in the Moslem countries did not know in detail their religious affairs. Moreover, the Syrians did not know even the number of the obligatory ritual prayers. So, they asked the Companions (of the Prophet) about it.(Abu Dawud, vol. 1, P. 142. Al-Nisa'i, vol. 1, p. 42)

'Umar b. Abd al-'Aziz did not know the times of the prayers. Some scholars did not know either. They thought that there was a certain year for that. However, the government opposed that. For this reason, it has been mentioned in the tradition: 'Rulers will come in the rest of time. They will deaden the prayers. Therefore, perform the prayers at their limited times.' The

early historians were unable to explain this condition for us, for they found imposed ways before them. That was the Umayyads had changed the times of the prayers according to their opinions.

Indeed, during the time of the Umayyads, who paid no attention to religious affairs, the people had little knowledge of jurisprudence and religious affairs. No one knew these religious affairs

except the people of Medina.(Nazra 'Ama fi Tarikh al-Fiqh al-Islami, p. 110)

Ima`m al-Ba`qir and Ima`m al-Sa`diq played an important role in proclaiming jurisprudence and explaining the rules of Allah's law. They offered a great service for the Moslem world. Were it not for them, Moslems would lose their great religious wealth. However, during those times, no one was more knowledgeable than the two Ima`ms, peace be on them, in the affairs of the Islamic law and the precepts of religion. So, the children of the Companions (of the Prophet) and of the next generation, and the heads of the Islamic doctrines-like Abu` Hanifa and Malik- hurried to the two Ima`ms to learn sciences from them. A large group of jurists- like Zara`ra b. A'yun, Mohammed b. Moslem, and Aba`n b. Taghlub- studied under Ima`m Abu` Ja'far (al-Ba`qir), peace be on him. Thanks to them the Ima`m's traditions were written. Besides they gave religious opinions to the Moslems. With that Ima`m Abu` Ja'far (al-Ba`qir), peace be on him, was able to renew Islam and preserve the religious wealth.

Worth mentioning, the Shi'ites were the first to write down jurisprudence.

Mustafa` 'Abd al-Razaq said: "It is natural that the Shi'ites were the first to record jurisprudence, for their belief in the infallibility of their Ima`ms urged them to write down their judgments and religious opinions.(Tamhid Li Tarikh Falsafa al-Islamiya, p. 202)

With that the Shi'ites took part in preserving the Islamic heritage. It is necessary for us to consider carefully the jurisprudence of the members of the House (ahl al-Bayt), peace be on them. That is because they took it from the great Prophet, may Allah bless him and his family.

Its Characteristics

The jurisprudence of the members of the House (ahl al-Bayt), peace be on them, has wonderful characteristics. They have put it in the top of Islamic and non-Islamic jurisprudence. The following are some of them:

1. Its Connection by the Prophet (may Allah bless him and his family)

The important characteristic of the jurisprudence of the members of the House (ahl al-Bayt), peace be on them, is that it is directly connected by the Prophet, may Allah bless him and his family. That is because the way to the Prophet, may Allah bless him and his family, were the

Ima`ms of the members of the House (ahl al-Bayt), peace be on them, from whom Allah took away uncleanness, whom He purified thoroughly, and whom the Prophet, may Allah bless him and his family, regarded as life boats, safety for people, and equal to the Holy Koran, according to the successive traditions reported on his authority.

Without doubt, they, peace be on them, were the closest of all the people to Allah's Apostle, may Allah bless him and his family, and the most knowledgeable of them in his law and its rules. So, their narration, if it is reported on their authority in a correct way, is the most correct of all narrations and the nearest of them to reality.

This urged the Ima`mi jurists to rely only on the narrations of the Ima`ms in concluding legal precepts. That is because the Ima`ms' narrations have reliable original proofs on which jurisprudence depends. Ima`m Abu` Ja'far (al-Ba`qir), peace be on him, talked about the narrations of the Ima`ms, peace be on them. He said that the traditions did not belong to them. Rather, they belonged to the Prophet, may Allah bless him and his family. He, peace be on him, said:

"If we talked according to our opinions, then we would go astray as those who had gone astray before us. However, we talk according to the proof which Allah explained to His prophet, may Allah bless him and his family, so the latter explained it to us.(A'lam al-Wara, p. 270)

He was asked about the tradition which he mentioned and did not attribute to (a certain authority). So, he, peace be on him, said: "When I mention a tradition and do not ascribe it (to a certain a authority), then my authority concerning it is my father Zayn al-'Abidin on the authority of his father al-Husayn, the martyr, on the authority of his father 'Ali b. Abi Ta`lib, on the authority of Allah's Apostle, may Allah bless him and his family, on the authority of Gabriel on the authority of Allah.(A'lam al-Wara, p. 270)

Is there an authority brighter or more correct than this authority? Can the Moslem who seeks Allah's pleasure and the hereafter find a way safer than this way to Allah?

2. Its Flexibility

The jurisprudence of the members of the House (ahl al-Bayt), peace be on them, goes along with life, keeps abreast with development, does not deviate from the natural disposition, and meets all needs of life. Praise belongs to Allah. In it there is neither sin nor narrowness nor harm nor mischief. Rather, it contains general interests and balanced rules. All of the jurists have admired it. They have testified that it is rich in deep genius and creative legislation. Indeed the jurisprudence of the members of the House (ahl al-Bayt), peace be on them, helps researchers find the legislative power that leads people to cultural scientific development. It is

a proof for absolute justice and pure truth, for it has solutions for all the problems of society.

3. It has opened a Door to Ijtihad

The jurisprudence of the members of the House (ahl al-Bayt), peace be on them, is distinguished from the rest of Islamic jurisprudence by opening a door to Ijtihad (concluding religious opinions). That proves the originality of the jurisprudence of the members of the House (ahl al-Bayt), its reaction with life, and its continuous solutions to man's affairs in general.

In other words it gives solutions to new discoveries and inventions which people face at this time, such as artificial vaccination and transplanting organs. The great Moslem scholars of al-Azhar have felt that they are in need of opening a door to Ijtihad.

Thus, they have supported the Shi'ites in this respect. Ahmed Amin said: "The Moslems have showed their feebleness when they have believed in closing the door to Ijtihad. That is because there will be no qualified mujtahid (one who gives religious opinions) among the people.

This is the opinion of some of those who imitate (others), for their confidence in themselves is weak, and they mistrust the people. (Yum al-Islam, p. 189)

Sayyid Rasheed Reza said: "We think that there is no advantage in leaving Ijtihad. As for the harms of leaving Ijtihad, they are many. All that has resulted from neglecting intellect, stopping the way of knowledge, and refraining from exploiting thinking. Indeed the Moslems have neglected all knowledge when they have abandoned Ijtihad. So, they have come to what we see. (Al-Wihda al-Islamiya, p. 99)

Indeed Islam, praise be to Allah, blames intellect for inactivity. It summons man to enter the fields of thinking and knowledge. It is not an act of wisdom to close the door to Ijtihad to impose imitation (on people). Ijtihad is possible. It depends on logic and proof. As for closing the door to Ijtihad, it was at a certain time. The governments standing at those times imposed it (on people), as the researchers said.

4. It resorts to the Judgment of Reason

The Ima`mi jurists, unlike the jurists of the other Islamic doctrines, have regarded reason as one of the four fundamentals (necessary for) concluding religious precepts. They have glorified it to the extent that they have regarded it as Allah's inward messenger, among the things with which (Allah), the Merciful is worshipped, and through steadfastness is obtained. It is natural (for jurists) to resort to the judgment of reason when they have no tradition concerning the

problem. Indeed reason occupies a large area in the science of fundamentals on which Ijtihād depends. Moslem jurists rely on this science to conclude religious opinions. In the light of the judgment of reason they have decided that the premise of the obligation is obligatory, and that the order to carry out a certain thing calls for forbidding the opposite thing. They have decided that the absolute conjecture is a proof according to the judgment (of reason), not according to the discovery. When they face two opposite traditions, they resort to the judgment of reason. When reason confirms one of them, they adopt it. Moreover, reason decides other problems. This urges us to boast of the vitality and originality of Ima`mi jurisprudence. With this we end our talk about the characteristics of Ima`mi jurisprudence.

Jurisprudential Problems

I cannot mention all the jurisprudential problems reported on the authority of Ima`m Abu` Ja'far (al-Ba`qir), peace be on him. Surely, that needs writing a vast jurist encyclopedia. That is because all the chapters and researches of jurisprudence have been narrated on his authority. However, I will mention a brief study on some of the problems which have been reported on his authority. They are as follows:

The Rules of Fighting in Islam

Ima`m Abu` Ja'far (al-Ba`qir), peace be on him, talked about the rules of fighting in Islam when one of his followers asked him about the battles of Ima`m 'Ali, the Commander of the Faithful, peace be on him. So, he said to him:

Allah sent Mohammed, may Allah bless him and his family, with five swords: three of them will not be sheathed till war comes to an end. War will not come to an end till the sun rises in the West. When the sun rises in the West, all the people will be believers on that day. Then such belief will not avail the person who had not believed (in Allah) before or had not done good with his belief. The forbidden sword, and the sheathed sword whose drawing is for other than us, and whose belongs to us.

As for the three unsheathed swords, they are: the first sword is against the Arab polytheists. Allah, the Great and Almighty, said: ' So, when the sacred months have passed away, then slay the idolaters wherever you find them, and take them captives and besiege them and lie in wait for them in every ambush.

(The Holy Qur'an, al-Touba, 5)

'However, if they repent and keep up prayer and pay the poor-rate, then they are your brethren

in religion.(The Holy Qur'an, al-Touba,11)

Nothing is accepted from these people except killing or embracing Islam. Their properties are regarded as war booty, and their families are taken as prisoners. Allah's Apostle, may Allah bless him and his family, practiced that when he took them as prisoners, forgave them, and accepted ransom from them.

The second sword is against the non-Moslem subjects. Allah, the Glorified, said: 'And you speak to men good words.(The Holy Qur'an, al-Baqara, 83)

This verse was revealed concerning the non-Moslem subjects. However, this verse was abrogated by these words of Allah: 'Fight those who do not believe in Allah, nor in the latter day, nor do they prohibit what Allah and His Apostle have prohibited, nor follow the religion of truth, out of those who have been given the Book, until they pay the jizya (tax) in acknowledgment of superiority and they are in a state of subjection.(The Holy Qur'an, al-Touba, 30)

Nothing is accepted from the non-Moslem subjects who live in the land of Islam except jizya or being killed. Moreover, their property is regarded as war booty, and their families are taken as prisoners. However, when they accept to pay jizya (tax), then it is forbidden for us to take them as prisoners and to regard their property as war booty.

Furthermore, it is lawful for us to marry from their women. It is lawful for us to take as prisoners those who are at the war-area and to regard their properties as war booty. It is unlawful for us to marry from their women. Nothing is accepted from them except adopting Islam and paying jizya or killing.

"The third sword is against non-Arab polytheists such as the Turkish, the Daylam, and the Khazar. Allah, the Great and Almighty, said: 'So, when you meet in battle those who disbelieve, then smite the necks until when you have overcome them, then make (them) prisoners, and afterwards either set them free as a favor or let them ransom (themselves) until the war terminates. (The Holy Qur'an, Mohammed, 4)

As for His words: 'And afterwards either set them free.' He means after taking them as prisoners. 'Or let them ransom (themselves).' He means the ransom between them and the people of Islam. Nothing is accepted from these people except killing or entering Islam.

As for the forbidden sword, it is the sword against the people of aggression and interpretation. Allah said:' And if two parties of the believers quarrel, then make peace between them. However, if one of them aggresses against the other, then fight that which has aggressed until it returns to Allah's command.(The Holy Qur'an,al-Hujueat, 4)

When this verse was revealed, Allah's Apostle, may Allah bless him and his family, said:' Indeed

one of you will fight on (the basis of) interpretation as I fight (on the basis) of revelation.' So, the Prophet, may Allah bless him and his family, was asked: 'Who is he?' Thus, he said: 'The one who mended the sandals (i. e. , the Commander of the Faithful).'

'Amma`r b. Ya`sir said: 'I fought beside Allah's Apostle, may Allah bless him and his family. I carried this standard three times This is the fourth time. By Allah, if they fought against us and reached al-Sa'afa`at at Hajr we would know that we were right and they were wrong.' The Commander of the Faithful, peace be on him, treated them in this manner as Allah's Apostle, may Allah bless him and his family, treated the people of Mecca. That was on the day when he conquered Mecca. Indeed he did not take their families as prisoners.

Then he (Allah's Apostle) said: 'Whoever closes his door is safe. Whoever lays down his weapons is safe. Such said the Commander of the Faithful, peace be on him, at the Battle of Basrah. He commanded his fighters, saying: 'Do not take their children as prisoners. Do not kill the wounded. Do not chase those who escape. Who closes his door and lays down his weapons is safe. And the sheathed sword: As for the sheathed sword, it is the sword through which the punishment is inflicted (for wrongdoing).

Allah, the Great and Almighty, said: 'The soul for the soul and the eye for the eye.(The Holy Qur'an, al-Ma'ida, 47) The blood heirs draw this sword, and we decide its rule.

"Allah sent Mohammed, may Allah bless him and his family, to carry these swords. So, whoever denies them or one of them, denies what Allah, the Blessed and Exalted, has revealed to His Apostle, Mohammed.(Tuhaf al'Uqul, p.. 288-290)

Wiping the two Light Leather Boots (khuffayn) with Water

The jurists of the Moslem doctrines have permitted the two light leather boots (khuffayn) to be wiped with water during performing the ablution. They have not considered the touching of the hand on the outward part of the two feet.

(Al-Khilaf, vol. 1, p. 18)

As for the Ima`ms of the members of the House (ahl al-Bayt), peace be on them, they considered the wiping and did not permit other than it. Al-Rabi` said: "I asked Abu` Isha`q about the wiping. So, he said: 'I saw the people wipe (the two light leather boots) with water. Then I met a Hashmite called Mohammed b. 'Ali b. al-Husayn. I had never seen a man like him. Thus, I asked him about wiping (the two light leather boots) with water. He prevented me from that, and then he said: 'The Commander of the Faithful, peace be on him, had not wiped (the two light leatherboots) with water. He said: 'The Book had come before wiping the two light leather boots (with water).

The great Book has proved touching the outward of the two feet. Allah, the Most High, said: "O You who believe, when you rise up to prayer, wash your faces and your hands as far as the elbows, and rub your heads and your feet to the ankles." The verse clearly denotes the opinion of the members of the House (ahl al-Bayt), peace be on them.

Touching the Vestibule of the Vulva does not invalidate Wudu'

Al-Sha'fi'i believed that touching the vestibule of the vulva was among the things that invalidated wudu'. In that he cleaved to what had been reported on the authority of b. 'Umar, Sa'd b. Abu' Waqa's, Abu' Hurayra, 'A'isha, and Sa'id b. al-Musayyab, who said: "Touching the vestibule of vulva is among the things that invalidate wudu'."

As for Ima'm Abu' Ja'far (al-Ba'qir), peace be on him, and all the Ima'ms of the members of the House (ahl al-Bayt), peace be on them, did not believe in that. Zara'ra reported on the authority of Abu' Ja'far (al-Ba'qir), peace be on him, who said: "Neither the kiss nor touching the woman's body nor touching the vestibule of the vulva invalidates wudu'." (Al-Khilaf, vo. 1, p. 23) Besides invalidating ritual purity requests a proof.

Raising the Voice during the quiet Prayer

The Jurists of the Moslem doctrines believed that raising the voice intentionally during the quiet prayer or lowering it during the loud prayer was not among the things that invalidated the prayer. As for the jurists of the doctrine of the members of the House (ahl al-Bayt), peace be on them, they believe that it is among the things that invalidate the prayer. Zara'ra reported on the authority of Ima'm Abu' Ja'far (al-Ba'qir), peace be on him, when he was asked about the man who performed the quiet prayers loudly and the loud prayer quietly. Thus, he, peace be on him, said: "If he did that intentionally, then he invalidated his prayer. So, he must repeat it. If he did that when he was forgetful or heedless or did not know (that), then nothing was against him. Thus, his prayer was perfect." (Al-Khilaf, vo. 1, p. 130)

Asking Allah to bless Mohammed and his Family in Tashahhud

Most Moslem jurists believe that it is obligatory to ask Allah to bless the Prophet, may Allah bless him and his family, in tashahhud (i. e. , I bear witness that there is no god apart from Allah, Who is unique and without partners. I also bear witness that Mohammed is His servant and His Apostle. O Allah, bless Mohammed and his family.) Ja'bir al-Ju'fi reported on the authority of Ima'm Abu' Ja'far (al-Ba'qir), peace be on him, who said:

"Allah's Apostle, may Allah bless him and his family, said: 'He who performs a prayer and does
.not ask Allah to bless me and my family, his prayer is not accepted from him