
LAW BASICS IN HANAFI MADHAB

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Abstract

The article outlines scientifically and extensively the methods of achieving legal rulings based on the Holy Quran and hadiths in the Hanafi School of Law. The article gives a fact-based analysis through showcasing irrefutable arguments in a comparative form to old and new non-traditional sects such as pseudo-Salafism, hashavism and wahhabism, which defy the Hanafi School of Law. The article analyses specifics of the Hanafi School of Law from others in terms of making legal rulings rationally and logically in line with the Quran and sunnah. In accordance with the Quran and hadiths, the Maliki, Shafi, Hanafi and Hanbali Schools of Law reject unfounded accusations and dubious ideas of the pseudo-salafism. The modern-day representatives of the pseudo-salafism who make legal rulings on their own through the prism of the Quran and hadiths, do not recognize the schools of law, including the Hanafi School of Law, and resort to extremes in legal issues, which give rise to disputes and disagreements. These factors caused the Muslim ummah to divide. The revealed facts are analysed scientifically based on the identification of the Quran and hadiths according to the Hanafi School of Law.

Keywords: Abu Hanifa, fiqh, ijtihad, taqlid, pseudo-salafism

1. Introduction

Ijtihad – is an authority to make a legal ruling that an Islamic lawyer attains after achieving a certain level of expertise in the faith-related matters. According to the Sunni Schools of Law (Hanafi, Shafi, Maliki and Hanbali), each Muslim must adhere in the faith-related issues to the opinions of scholars who have an academic knowledge of the Islamic law. Muslim scholars have been adepts of one of four Schools of Law. This is called adherence to Islamic School of Law.

Nowadays, in Central Asia, Russia, Turkey and Pakistan most Muslims follow Hanafi School of Law. Located in the heart of Central Asia, Kazakhstan has been adhering to Hanafi School of Law for centuries. Historically, Hanafi School of Law arguments that were based on Quran, hadith and logics fulfilled the spiritual needs of Turkic nations. However, today there are groups which

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reject adherence to Islamic Schools of Law. They call themselves Salafis – ‘pious predecessors’ followers. This sect is considered destructive in the Republic of Kazakhstan. Pseudo-salafis claim there was no adherence during the first three periods of Islam – companions, their successors and successors of the successors, as all Muslims of that time acted only according to Quran and sunnah (hadiths). Moreover, Islamic Schools of Law had not existed during the lifetime of Prophet Muhammad (be peace upon him). Pseudo-salafism is a sect which defies Madhabs, approved unanimously by Islamic Scholars. Before elaborating on this sect we need to explain the salafism. *Salafism* derived from Arabic *Salaf* (السلف) and means predecessors or ancestors. This term is referred in several verses of the Holy Quran. In Islamic world *salaf as-saliheen* (السلف الصالحين) is taken to be the first three generations of Muslims - Prophet Muhammad, his companions and their successors.

The modern day salafis claim they follow this first three generations of Muslims. However, those who declare this, derived from the path of the first Salafis.

Salafism and Wahhabism are currently used as interchangeable words as the sect adherents are called by most Muslims after its preacher and activist Muhammad ibn Abdul-Wahhab. Even those days the wahhabis were labelled to those who sided with Muhammad ibn Abdul-Wahhab. This sect was known for *Khariji* views. The Wahhabis were brutal and violent, declared apostasy to those who disagreed with them. This was what exactly Kharijis did early in history. For this reason the Wahhabis are deemed to be pseudo-salafis despite they claim to be successors of the first three generations of Muslims.

As far as it concerns this issue, majority of those who reject Islamic Schools of Law consider Prophet Muhammad’s companions to be the only pious predecessors. However, Muslims of subsequent two generations - successors and successors of the successors – are also considered pious predecessors by a consensus of Islamic scholars and based on Prophet Muhammad’s hadiths. It is thus made clear that individuals, defying Islamic Schools of Law, deem them irrelevant to Quran and sunnah. However, each Islamic School of Law makes religious ruling in strict compliance with Quran and Sunnah.

Defying Islamic Schools of Law is equal to claiming their imams were ignorant, which is in fact a direct accusation in perverting the Quran and sunnah. Only illiterate individuals spread such a slander. The first slander spread by non-traditional sects: “Abu Hanifa is just a scholar, an ordinary person; he was also mistaken as he was not prophet. We should not follow his words, hadith narrated by Imam al-Bukhari is enough for us. Abu Hanifa made legal rulings through logical conclusions, why we need his personal opinion, we must adhere to the Quran and sunnah only.” [1] Such words were cited in books by the Saudi scholars Ibn Baz and Salih Uthaymeen [1].

The words of prominent imams of four Islamic Schools of Law can be quoted as response. Firstly, the imams Maliki, Shafi, Hanafi and Hanbali were Islamic law experts who had an in-depth knowledge of the Quran and sunnah and have been recognized as such. They made legal rulings in line with Quran

and sunnah by examining arguments. These imams are recognized in the entire Islamic world. One of them is Hanafi School of Law founded by imam Abu Hanifa. He was born in 80 AH in Kufa, Iraq [2]. He would make sharia rulings based on rational and logical identification of Quran and sunnah, using common sense to reason his rulings. Pseudo-salafism adepts believe that religious rulings must be made based on Quran and sunnah only. They reject common sense, which they think can be mistaken, referring to the words of pious predecessors. An answer to their stance is following information: “during his pilgrimage to Mekkah, imam Abu Hanifa had a conversation with and studied hadiths from a successor Ata Ibn Abu Rabaha (died in 115 AH) and Nafi (died in 117 AH). Both saw and learned from the prophet’s companions” [3].

Abu Hanifa indicated the prophet’s companions Umar Ibn Khattab, Ali Ibn Abu Talib, Abdullah Ibn Masud and Abdullah Ibn Abbas as sources of his knowledge. Hazrat Ali Ibn Abu Talib and Abdullah Ibn Masud had indeed moved to Kufa after the death of Prophet Muhammad (peace be upon him), who was the primary source for Abu Hanifa’s knowledge. The companions Ali Ibn Abu Talib and Abdullah Ibn Masud imparted their knowledge to Shagbi and Ibrahim an-Nakhai (died in 96 AH), who then passed it on to Hammad Ibn Abu Suleiman. The latter would teach imam Abu Hanifa [3, p. 19]. The generation of Prophet Muhammad is considered companions and their successors are called *tabi'un*. Our prophet (be peace upon him) said: *“The best Muslims are those living in my generation and then those who will follow them and then those who will follow the latter”* [M. Buhari, Sahih al-Buhari, Saudi Arabia, h.2530, 1200 (Hadith narrated by Abdullah Ibn Masud Sahih)] – about the first three generations of Muslims, known as pious predecessors. Some sources mention that Abu Hanifa had seen four companions. This confirms that he belonged to the successors of golden age. It is not allowed to criticize the successors as they were honoured by the prophet Muhammad (peace be upon him). In the Holy Quran Allah also mentions the successors who were promised the Paradise. Abu Hanifa gradually became prominent and the number of his students increased. Among the mosque teachers he became the one with the highest number of students. He shared his knowledge with the next generation throughout 30 years of his life.

Abu Hanifa is the founder of Hanafi School of Law practiced by 48% of the Islamic world population according to statistics. He nurtured such renowned Islamic scholars as Abu Yusuf, Muhammad Ibn Hasan, Zufar Ibn Huzail and Hasab Ibn Yazeed [4]. Mujtahid is an Islamic law expert who makes legal rulings based on the Quran and sunnah, not on other scholars’ opinions. Mujtahid Mutlaq or absolute mujtahid is an Islamic scholar recognized by all.

Pseudo-salafism adepts quote Abu Hanifa’s own words: “If you find my legal ruling contradicting to hadith, then leave my statement and adhere to that hadith” and oppose them against hadiths from Sahih Bukhari [1]. These words, quoted by the pseudo-salafis, are not mentioned in the books of Abu Hanifa and other scholars of Islamic Schools of Law. This demonstrates the inaccuracy of quoted words. On the contrary, Abu Hanifa explained his approach to making

legal ruling in the following manner: “*I adhere to the Quran if I find ruling in it. If not, I adhere to the sunnah of prophet Muhammad (peace be upon him) and authentic hadiths narrated by reliable narrators. If neither Quran, nor hadith contains a legal ruling, I refer to Allah messenger’s companions and make legal ruling based on their fatwas I want to adhere to. If I adhere to one companion’s words I will not leave and change his words for those of another companion. As far as it comes to Ibrahim an-Nahai, ash-Shabi, al-Hasan, Ibn Sirin, Said Ibn al-Musayyib and other scholars I think I should also make ijihad like them.*” [5] This proves that Abu Hanifa would make well-balanced religious rulings. In addition to being an Islamic law expert he memorized all hadiths and was qualified as Hafiz.

Pseudo-salafi adepts criticize Abu Hanifa calling him a ‘murjiatul fuqaha’, an adept of Islamic law experts. Imam Abu Hanifa in his lifetime wrote ‘Risalah’, written answer, as a response to such words. Right after that, those who criticized Abu Hanifa in their lifetimes took their words back and repented. It would be inappropriate nowadays to bring these arguments again. Along with that, in his book ‘Manaqib Abu Hanifa’ Muaffaq al-Makki wrote about Abu Hanifa’s approach to making legal ruling: “*Abu Hanifa refers to authentic hadiths only, refuses religious reformations, studies cultural traditions, accepts only the right and good for basis. He would use qiyas (analogy) in making legal rulings. If a legal ruling was not made using the analogy he had used istishan (preference). If istishan did not bring the results, he had referred to urf (local traditions). He made a legal ruling depending on what option was productive. Sahl said: ‘This is Abu Hanifa’s and most scholars’ approach.*” [6]

In this book al-Makki wrote: „*Abu Hanifa thoroughly studied nasikh and mansukh hadiths. If a hadith was confirmed to have been narrated by the prophet’s companions, he practiced it. He knew all hadiths narrated by Kufa scholars. Most often, he referred to consensus of the Islamic scholars.*” [7]

The above-mentioned facts point out that Abu Hanifa used seven fundamentals in making legal rulings: Holy Quran, prophet’s sunnah, companions’ opinions, consensus, analogy, preference and traditions. The major mistake made by the pseudo-salafi is that they feel confident making legal rulings based on Hanbali School of Law. However, Imam Hanbali and subsequent hanbali scholars used various methods. The hanbali scholars do not even have their own method of making legal rulings. They mainly refer to Holy Quran and haiths, do not study arguments like other three Islamic Schools of Law. This reveals that they do not have their basics of law. Such method is applied by modern-day pseudo-salafis, who do not make legal rulings based on ijihad.

2. Hanafi School of Law basics

- 1) *Holy Quran*: in Hanafi School of Law the Holy Quran is an initial source of Islamic theology.

- 2) *Sunnah of Prophet Muhammad (peace be upon him)*: according to Abu Hanifa's principle the prophet's sunnah is specific. The prophet's sunnah in verbal form supersedes his actions as they can be relative to Prophet Muhammad only. If ahad (single) hadith contradicts mutawatir (consecutive) hadith, ahad hadith will not be put into practice. Ahad hadith will not be applied if it is in conflict with the Holy Quran.
- 3) *Consensus (ijma)* – scholars' unanimous opinion reached at a certain period after Prophet Muhammad (be peace upon him). For Abu Hanifa the ijma is a shariat argument.
- 4) *Analogy (qiyas)* – making a religious ruling by way of analogy. For Islamic scholars the analogy ranks the fourth after the Holy Quran, sunnah and ijma (consensus). However, there are permitted and prohibited types of analogy. The prohibited analogy includes making religious ruling if arguments are provided in the Holy Quran and sunnah [3, p. 23].
- 5) *Preference (istihsan)* – applied unless issue is solved with help of all-above mentioned methods. This approach implies preferring the best argument or one of several available arguments regarding a certain religious matter.
- 6) *Adopt urf* (local traditions) unless they contradict Holy Quran and sunnah. This is mentioned in hadith narrated by Abdullah Ibn Masud: "*What Muslims considers to be good, is good in front of Allah*". However, the traditions are not accepted in case of their conflict with the Holy Quran and sunnah.

This system is used in Hanafi School of Law to make legal rulings, while others are not practiced. This is a major approach to making legal rulings. For this reason, one part of Islamic scholars claimed that the doors of ijthihad were opened, meantime another part considered the doors of ijthihad to be closed. To be clear, there is no need in creating new methods of making legal rulings. The available methods must be used properly for solving religious issues.

For instance, modern-era issues cannot be compared to those of the past. In the age of scientific and technological development people ask various questions to be answered from Islamic perspectives: '*is it permissible to marry via Internet?*', '*is it allowed to open fake accounts?*', '*is divorce valid if communicated via WhatsApp?*', '*do I commit adultery if I have sex using preservative?*' and other cotemporary religious issues which were not critical in the lifetime of the prophet's companions. Who should answer such questions? How to find a solution if it is not mentioned in Holy Quran and hadiths?!

Such answers can be answered only by scholars who have in-depth knowledge of all four Islamic Schools of Law. In the absence of answers, the religious ruling is made by hearing argument of each scholar and comprehensive study of issue at Islamic scholars meeting. However, pseudo-salafis claim that each person can independently make a legal ruling based on Holy Quran and sunnah without referring to any Islamic School of Law. Thus they lead Muslims astray and pave way for distortion of Islamic law. They state: we must understand the religion in similar way the prophet's companions did in their

lifetime. But how can we solve those modern issues which had not existed in the companions' lives? In such complex situations they contradict themselves.

Saudi sheikh Muhammad Ibn Salih Uthaymeen (1929-2001), outstanding representative of modern-era pseudo-salafism, can be referred as an example. Did the pseudo-salafis sheikh Muhammad Ibn Salih Uthaymeen accept adherence to a scholar in religion? What is his opinion on this issue? To find an answer we will review sheikh Muhammad Ibn Salih Uthaymeen's statement concerning adherence to scholars: "This is a Pakistani scholar. His question: Dear sheikh! Please give a definition of 'ijtihad' and 'taqlid'? Was there 'taqlid' in the time of the companions and their successors, did they follow anyone's opinion?"- he asked [8].

The sheikh Muhammad Ibn Salih Uthaymeen answered: "Ijtihad is making religious legal ruling based on Quran, sunnah, consensus and analogy. In addition, legal ruling can be made only by scholar with special qualification and in-depth knowledge. As far as taqlid concerns this is adherence to Islamic law expert without being aware of his arguments as a follower only relies on his opinion. In fact, the taqlid evolved in early period of the companions, which is mentioned by Allah in the Holy Quran: '*So ask those who possess knowledge*'." [8, p. 671]

Undoubtedly, during the prophet time and until today illiterate individuals were unable to make legal rulings. The problem can be solved by asking those who possess knowledge. In its turn, follower must do what a scholar says. Adherence to their rulings is a real taqlid. Further we make the following conclusion: if individuals cannot find right answers independently they must refer to scholars as it is said in Holy Quran [9].

As we see even pseudo-salafism sheikh Muhammad Ibn Salih Uthaymeen did not reject adherence to scholars. He instead called to follow scholars unlike other persons, who reject Islamic Schools of Law. Sheikh Muhammad Ibn Salih Uthaymeen did not sow discord among them. In this point, it is unclear why some individuals defy Hanafi, Shafi, Maliki and Hanbali Schools of Law reject sunni scholars' words and even opinion of their own.

All this confirms that modern-day pseudo-salafis support an unsubstantiated idea, which is to reject methods Islamic Schools of Law make legal rulings. That is why it is clear if all persons express their opinion on faith-related matters to find right solutions, this will disrupt the balance set by Almighty God!

In our life there are numerous professions and should no one study them, life will flow in different direction. This will certainly lead to chaos. Almighty Allah said in the Holy Quran: "*Has led no hardship upon you in religion*" [8, p. 256].

3. Law and adherence

In the IV century AH the Islamic empire fragmented into several states. This weakened the Ummah. The Muslims nations lost contacts with each other.

Science degraded, too. The scholars of that period would not write new books, instead used what had been written by their predecessors. Each educated person was obsessed with finding arguments to settle religious disputes, which sparked conflicts among Muslims. People demonstrated less enthusiasm in Theology studies, judges were unworthy of their statuses. Muhammad al-Bagawi wrote about this problem in his book ‘at-Tahzib’ [10]: “Islamic science is divided into two types – *fard al ayn* (individual responsibility) and *fard al kifaya* (communal responsibility)” and commented: “individual responsibility for every Muslim is to seek knowledge to achieve an expert level of Islamic law until he becomes a muqallid. That is why such study is mandatory for all Muslims. The others will be exempt from individual responsibility if one or two individuals seek knowledge. Otherwise everyone will be deemed to be sinners for they neglect their religion.” [2, p. 373] Almighty Allah said in the Holy Quran: “*why did not a party of them go forth that they may grow in religious understanding and that they may warn their people when they return to them?!*” [8, p. 115].

Afterwards, Islamic law experts adopted ijihad-based approaches to making legal rulings, which were applied by following generations of Islamic law experts to solve critical faith-related issues. The earlier religious rulings on prayer remained unchanged as they had been practiced for centuries and universally accepted. The Muslim unity and harmony could be compromised by permanently discussing the established legal rulings and defying legal rulings made by Islamic law experts.

The rightest thing for any period is to have Islamic scholars to make rulings on certain faith matters, while ordinary persons must adhere to their rulings and Islamic Schools of Law. The adherence to Islamic School of Law is a taqlid. Imam al-Shanqiti wrote: “*In Islam an ordinary individual can follow a scholar who is able to make religious ruling*” [11]. Imam Ibn Qudama al-Maqdisi said: “*Adherence to a scholar in Islamic law is permitted by consensus of all scholars*” [12]. Imam Ibn Abdu al-Birr said: “*Scholars had no disagreement concerning an ordinary persons’ adherence to scholars’ opinion*” [5, p. 63].

4. Conclusions

By comparing Hanafi and other schools of law basics we suggest a comprehensive response to the pseudo-salafis misplaced criticism addressed to the Islamic Schools of Law.

Hanafi School of Law, rooted in Kazakhstan, have strong arguments as its source derives from Holy Quran and sunnah. The below objective conclusions were made based on the scientific analysis concerning the ijihad.

To start with, the pseudo-salafis and all Muslims should first familiarize themselves with arguments of Hanafi and other Islamic Schools of Law, which fully comply with Holy Quran and sunnah. Islamic scholars, who lived in period of the pious predecessors - most qualified Islamic law experts, could not deviate from Quran and sunnah. Secondly, criticism and slander addressed to Abu

Hanifa were proved to be false. Thirdly, it became clear that the pseudo-salafis seek more people to join them by inciting discord among Islamic Schools of Law under the slogan 'liberation from blind adherence'. Fourthly, notably the pseudo-salafis' methodological framework and their sheikhs' opinions contradict each other. Fifthly, rules, conclusions and concepts underpinning Hanafi School of Law were analysed thoroughly. Sixthly, we can conclude that making a legal ruling on current religious issue under certain conditions is an individual responsibility for a person, who seeks theological knowledge, and communal responsibility for Muslim ummah.

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