

The Formation of the Ja‘farī Shi‘a Islamic School of Law from its Inception to the Occultation

AFZAL SUMAR

Introduction

The history of the development of the Ja‘farī Shi‘a Islamic legal school has always fascinated me, all the more so when I continuously observed that existing academic works in the English language purporting to discuss the origins and development of the Islamic legal schools almost always ignored discussions of the inception and development of this school. This is even though Imam al-Şādiq (d. 148 AH / 765 AD) and the other Shi‘a Imams both prior to and succeeding him, who contributed to the Ja‘farī *madhhab*’s development, were well known and respected contemporaries of the scores of legists who formed personal schools of law during the first and second century of the *hijrah*, many of which schools are now defunct except for the four existing Sunni schools. Indeed many of these early legists including the eponyms of the four existing Sunni legal schools had scholarly interactions with and transmitted from the Imams ‘Alī ibn al-Ĥusayn (d. 95 AH / 713 AD), Muĥammad ibn ‘Alī (d. 114 AH / 743 AD), Ja‘far ibn Muĥammad, and ‘Alī ibn Mūsā (d. 203 AH / 818 AD), as will be shown during the course of this essay, and held them in high repute. Yet even though the four Sunni legal schools had and continue to have many areas of differences between them, with some of them rejecting the tools of legal deduction prominently used by another, their development tends to be discussed together in one volume and mention will even be made of those legists whose legal schools are non-existent today, yet Imam al-Şādiq or al-Bāqir will hardly get a passing mention! Indeed, I was surprised at how studiously Wael Hallaq avoided mentioning Imam al-Şādiq or al-Bāqir throughout his otherwise worthy book on the history of Islamic law.

Perhaps this is a reflection of past legacy, which was to view the Ja‘farī *madhhab* as being one completely out of the ordinary or perhaps it is due to many scholars’ lack of knowledge of Shi‘a resources and literature.

This essay will endeavor to sketch a general outline of the development of the Ja‘farī *madhhab* during the time of its founding Imams.

The period of the Imams

Between 80 and 120 AH, there arose specialized circles of learning (*halaqahs*) held by groups of intellectually oriented Muslims in the Muslim lands. These men possessed deep religious commitment and engaged in the study of law, Qur'anic exegesis, and the narration and study of Prophetic narratives.¹ From these study circles which used to be held in mosques, emerged the personal legal schools of Islam where a leading jurist would gather round him a group of students and teach and discuss with them the finer points of law and the intent of Qur'anic verses and Prophetic narratives. By the second century of the *hijrah*, the major centers of religious intellectual activity were Medina, Mecca, Kufa, Basra, Damascus, and Fustāt.² The most important of these centers however, based on the number of prominent scholars it generated, were Medina, then Kufa and then Basra.³

Imam al-Ṣādiq and Imam al-Bāqir before him were active participants in this religio-intellectual effervescence. The significance of Imam al-Ṣādiq in non-Shi'a circles can be gauged by his description given by al-Dhahabī (d. 748 AH / 1348 AD) the Damascene Shāfi'i ḥadīth scholar who describes him as authoritative and further reports that both al-Shāfi'i (d. 204 AH / 820 AD) and Yaḥyā ibn Ma'īn (d. 233 AH / 847 AD) considered him reliable (*thiqah*).⁴ Ibn Hajar al-Asqalanī (d. 852 AH / 1449 AD) the Egyptian Shāfi'i scholar quotes Ibn Ḥibbān (d. 354 AH / 965 AD), another prominent Shāfi'i ḥadīth scholar as saying that al-Ṣādiq was trustworthy, a master in jurisprudence and (other) sciences from the family of the Prophet, and that al-Nasa'i (d. 303 AH / 915-16 AD), the compiler of the famous *sunan* which constitutes one of the six *ṣiḥāḥ* works of Sunnī traditions, held him to be reliable (*thiqah*).⁵ Al-Tabarī (d. 310 AH / 923 AD) reports that al-Ṣādiq knew many *ḥadīth* and was reliable.⁶ Sunnī and Shi'a sources depict Imam al-Ṣādiq having scholarly interactions with the other scholars of his time such as Abū Ḥanīfah (d. 150 AH / 767 AD), Sufyān al-Thawrī (d. 161 AH / 778 AD), Mālik ibn Anas (d. 179 AH / 796 AD) and Ibn Abī Laylā.⁷ Al-Dhahabī in *Tadhkirat al-Ḥuffādh* reports a quote attributed to Abū Ḥanīfah in praise of Imam al-Ṣādiq, where the former is reported to say that he has never seen anyone more knowledgeable in *fiqh* than al-Ṣādiq.⁸ Al-Dhahabī also mentions al-Ṣādiq as being one of the authorities of traditions for both Abū Ḥanīfah and Mālik ibn Anas.⁹ Indeed, traditions on his authority can be found in all the Sunni *ṣiḥāḥ* works of traditions except for the collection of al-Bukhārī (d. 256 AH / 870 AD). His traditions can also be found in Mālik's *al-Muwatta'*. However, the five *ṣiḥāḥ* works narrate a meagre 80-90 of his traditions collectively whilst the *Muwatta'* records just 10 of his traditions!¹⁰

The significance and contribution of Imam al-Ṣādiq to Shi'a Islamic law can best be illustrated by the following insightful observation made by R. Buckley who writes that in *Man Lā Yaḥduruhu al-Faqīh* of Shaykh al-Ṣādūq (381 AH / 991 AD), 60 percent of the traditions are on the authority of Imam

al-Ṣādiq, 15 percent on the authority of al-Bāqir, 7 percent on the authority of the Prophet, 5 percent on the authority of ‘Alī ibn Mūsā, 5 percent on the authority of ‘Alī ibn Abī Ṭālib (d. 40 AH / 660 AD) and the remaining divided between al-Ḥasan ibn ‘Alī (d. 49-50 AH / 670 AD), Mūsā ibn Ja‘far (d. 183 AH / 799 AD) and ‘Alī ibn al-Ḥusayn.¹¹

Imam al-Ṣādiq used to have enormous *ḥalaqaḥs* as depicted in the following report by al-Ḥasan al-Wahshah who was a companion of the eighth Imam ‘Alī ibn Mūsā. The former claimed that he had met 900 masters of *ḥadīth* in the mosque of Kufa who used to say: ‘It was related to us by Ja‘far ibn Muḥammad al-Ṣādiq that...’¹² A report of a similar import is reported by Shaykh al-Mufīd (d. 412 AH / 1022 AD) in *al-Irshād*, Ibn Shahr Āshūb (d. 588 AH / 1192 AD) in *al-Manāqib*, al-Fattāl (d. 508 AH / 1114 AD) in *Rawḍat al-Wā‘iẓīn* and al-Ṭabarsī (d. 548 AH / 1153 AD) in *I‘lām al-Warā‘* that (and the wording is that of al-Mufīd):

People transmitted knowledge from al-Ṣādiq (A) far and wide and his reputation and fame spread in the towns and cities. The knowledge, which was transmitted from him, was such that the like of which was not transmitted from any of the scholars of his house. None of the traditionists met or transmitted from any of them (scholars of his house) as they transmitted from Abū ‘Abd Allāh (A). Thus the narrators of traditions have gathered the names of the narrators who narrated from him, from among the trustworthy and reliable ones, regarding their differences in (their) opinions and writings, and they were four thousand men.¹³

Imam al-Ṣādiq encouraged his *ashāb* (i.e. his students and disciples) to transmit the traditions he conveyed to them from his forefathers as well as his juristic deliberations, making it a criterion by which to judge a student’s importance and closeness to the teacher. He said ‘Acknowledge the status of the *rijāl* among us in accordance with the number of *riwāyāt* reported on our authority.’¹⁴ He also maintained that any student who wished to become an accomplished jurist must first train himself in becoming a credible *muḥaddīth* – i.e. a narrator of traditions.¹⁵ Obviously, this was logically important at that time because the Shi‘a believe and continue to do so that the answers of many practical questions were given by the Imams either in the form of Prophetic reports or the Imam’s own juridical answers in his capacity as a divine guide. Thus in that period, the greater the proficiency that a student had in the narrations of the *ahl al-bayt* the greater was his knowledge, fame, and utility. From among these thousands of disciples of Imam al-Ṣādiq, the Imāmī biographers have identified a number of them as those who formed the core circle and confidantes of the Imam. Al-Kashshī (d. 340 AH / 951 AD), the Imāmī biographer who lived during the early part of the fourth century *hijrī* recorded the following:

The Imāmiyyah scholars have unanimously agreed on the authenticity and correctness of that which is definitely (or authentically) derived from the following companions/disciples (of the Imam), and they have unanimously agreed on their truthfulness. The Imāmiyyah scholars have acknowledged them in matters of jurisprudence... They are six in number, these being: Jamīl ibn Darrāj (died late in the second century *hijrī*), ‘Abd Allāh ibn Maskān (died before Imam Mūsā al-Kāẓim, so sometime in the middle of the second century *hijrī*), ‘Abd Allāh ibn Bukayr, Ḥammād ibn ‘Uthmān (d. 190 AH / 805 AD), and Abān ibn ‘Uthmān. The Imāmiyyah scholars said that... the most erudite of these was Jamīl ibn Darrāj and that these [the above-mentioned six companions] were the youthful¹⁶ companions of Abū ‘Abd Allāh (A).¹⁷

Observe the comment made by al-Kashshī above regarding these six *aṣḥāb* of Imam al-Ṣādiq, that they were the ‘youthful companions of Abū ‘Abd Allāh (A)’. This is because Imam as-Ṣādiq also had other companions (whose mention will be made shortly) who were actually the disciples and students of his father and therefore truly speaking his associates who transmitted like him from his father, save that Imāmī doctrine would insist that on gaining the office of Imamate, al-Ṣādiq’s epistemic and spiritual status suddenly gained an extraordinary divine leap thereby overcoming by far any superiority that these disciples of his father might have had due to their seniority.

Imam al-Ṣādiq lived in Medina and therefore held his lessons there, but he also had a huge following in Kufa. R. Buckley observes that more than eighty percent of the 3,000 *rijāl* mentioned in Shaykh al-Ṭūsī’s (d. 460 AH / 1067 AD) book of biographies who are supposed to have transmitted on al-Ṣādiq’s authority have the *nisbah* adjective ‘Kufī’ to their name!¹⁸

Thus Medina and Kufa were also the main centers of Shi’a legal activity along with being generally the main centers of Muslim legal scholarship.

Imam al-Ṣādiq is also credited with having written several epistles in answer to the questions sent to him or whilst participating in the legal and theological debates taking place during his time such as his letter to the people of Ahwāz, recorded by the biographer al-Najāshī (d. 450 AH / 1058 AD);¹⁹ his epistle written on the rules of the greater and lesser ritual ablutions, the ritual prayers, and the alms-tax which Shaykh al-Ṣādūq has mentioned in his book *al-Khiṣāl*;²⁰ his letter to the people who favored *ra’y* and *qiyās*;²¹ his treatise on *al-Ghanā’im* and the obligation of *khums* payable on it, which is recorded in *Tuḥaf al-‘Uqūl*; and many other treatises on ethical and theological topics as well as personal letters written to specific people in the form of exhortations.²²

Apart from Imam al-Ṣādiq, there were other Imams who also contributed significantly to Shi'a Imāmī *fiqh* as is apparent from the above observation of R. Buckley. The Imam whose contributions come second to Imam al-Ṣādiq was that of his father and teacher Imam al-Bāqir. In Sunni *ḥadīth* collections Imam al-Ṣādiq's traditions are always transmitted on the authority of his father. The following statement of al-Ṣādiq himself best describes the seminal significance of Imam al-Bāqir to Shi'a Imāmī law. He said:

Before Abū Ja'far (al-Bāqir) the Shi'a did not know the rites of pilgrimage and what was permitted and what was forbidden to them. But Abū Ja'far opened these up to them and explained the rites of the pilgrimage and what was permitted and what was forbidden. Thus the people came to have need of them (i.e. the Shi'a), whereas before they (i.e. the Shi'a) had need of the people.²³

Qāḍī al-Nu'mān (d. 363 AH / 974 AD) the Fāṭimid jurist records in his book *Sharḥ al-Akḥbār* that al-Bāqir recounted the stories of the beginnings of history while the stories and military campaigns of the Prophet were written down on his authority. He also writes that 'people followed the practices (*sunan*) of the Prophet on his authority and relied on him with regard to the rites of pilgrimage which he reported on the authority of the Messenger of God, may God bless him and his family.'²⁴

Al-Bāqir was esteemed in non-Shi'a circles as being one of the trustworthiest narrators of Prophetic traditions, i.e. of being *al-thiqah*.²⁵ He is also described in very flattering terms to possess a mysterious aura and charisma, which humbled even those scholars who were his seniors. Thus 'Abd Allāh ibn 'Aṭā' al-Makkī is reported to say that he had never seen scholars feel so small in front of anyone as they did in front of al-Bāqir and that even the famous traditionist al-Ḥakam ibn 'Uṭaybah (d. 113 AH / 731 AD) behaved before al-Bāqir as a student would in front of his teacher, despite his seniority in age and eminence.²⁶ Another prominent non-Shi'a scholar Muḥammad ibn al-Munkadir (d. 129 AH / 747 AD) is reported to say that he had not seen anyone surpass 'Alī ibn al-Ḥusayn until he met his son Muḥammad ibn 'Alī.²⁷

Imam al-Bāqir is depicted in non-Shi'a biographical literature as a famous scholar from whom numerous traditionists and legists who are credited with founding legal schools transmitted (irrespective of whether these schools still exist or have become extinct). Ibn Ḥajar lists the following as having had narrated traditions from him: Abū Ishāq al-Sabī'ī (d. 127 AH / 745 AD), 'Amr ibn 'Abd Allāh (d. 128 AH / 745 AD), al-A'raj (d. after 140 AH / 757 AD), al-Zuhrī (d. 124 AH / 741 AD), 'Amr ibn Dīnār (d. 126 AH / 743 AD), al-Awzā'ī (d. 157 AH / 773 AD), Ibn Jurayj (d. 150 AH / 767 AD), al-A'mash (d. 148 AH / 765 AD), Makḥūl ibn Rashīd (d. 115 AH / 733 AD) and others.²⁸ Yet Abū Nu'aym al-Isfahānī (d. 430 AH / 1038 AD), the

famous Shāfiʿī ḥadīth scholar, and al-Dhahabī offer more names such as that of Rabīʿah al-Raʿy (d. 136 AH / 753 AD) and ʿAṭāʾ ibn Abī Rabāḥ (d. 114 AH / 732 AD).²⁹ As for the Imam's Shiʿa followers, although he resided in Medina and held lessons there in the Prophet's mosque, his chief disciples were from Kufa, Basra, and Mecca. The biographer al-Kashshī writes as follows regarding this Imam's important disciples:

The Imāmiyyah scholars have unanimously agreed on the truthfulness of these foremost of the companions of Abū Jaʿfar and Abū ʿAbd Allāh (A), and have submitted to them in matters of jurisprudence. The Imāmiyyah scholars have said: 'The most erudite of these foremost are six: Zurārah (d. 148-149 AH / 765-66 AD), Maʿrūf ibn Kharrabūdh, Burayd ibn Muʿāwiyah al-ʿIjlī (d. 150 AH / 767 AD), Abū Baṣīr al-Asadī (d. 149-50 AH / 766-67 AD), Fuḍayl ibn Yasār (died during the lifetime of al-Ṣādiq), and Muḥammad ibn Muslim al-Ṭaʿifī (d. 150 AH / 767 AD).' And they said: 'The most erudite of these six is Zurārah, and some of them have preferred Abū Basīr al-Murādī...'.³⁰

Thus whilst Zurārah, Muḥammad ibn Muslim, Burayd, and Abū Basīr al-Murādī were his Kufan disciples³¹ among many other Kufan disciples, Maʿrūf ibn Kharrabūdh was his Meccan disciple.³²

Other important disciples of al-Bāqir worthy of mention from Kufa were Jābir al-Juʿfī (d. 128 AH / 745 AD), Abān ibn Taghlib (d. 141 AH / 758 AD) (who was an outstanding jurist-traditionist and had been the disciple of al-Bāqir's father ʿAlī ibn al-Ḥusayn), Abū Khālid al-Kābulī, Abū Ḥamzah al-Thumalī (d. 148-150 AH / 765-67 AD), and Kumayt ibn Zayd (d. 126 AH / 743 AD), a renowned poet who composed the famous poem titled *al-Hāshimiyyāt*. And lastly we have the Kufan disciple Muḥammad ibn ʿAlī ibn Nuʿmān al-Aḥwal who was famous for his theological and dialectic skills.

In Mecca some of his important disciples apart from Maʿrūf ibn Kharrabūdh, were Maymūn ibn Aswad al-Qaddāh, and Abū Harūn al-Makfūf.³³

The report by al-Kashshī above singles out Zurārah as the most erudite of all of al-Bāqir's disciples. This is further augmented by many glowing accounts in favor of Zurārah such as the report of Jamīl ibn Darrāj, the most important of al-Ṣādiq's younger disciples who says that 'We used to visit Zurārah frequently and sit around him like small boys around the Qur'an teacher.'³⁴ Al-Najāshī describes Zurārah in his work of biographies as 'a reciter of the Qur'an, a jurist, a theologian, a poet, and a man of letters,'³⁵ while al-Kashshī reports a tradition from al-Ṣādiq saying 'Had it not been for Zurārah, I think the traditions of my father would have disappeared.'³⁶ Similar glowing praise is recorded for Muḥammad ibn Muslim. He had spent four years with Imam al-Bāqir in Medina and was held to have reported

30,000 traditions from him alone³⁷ while his capacity as a reliable transmitter of al-Bāqir's views and traditions was confirmed by al-Ṣādiq who encouraged 'Abd Allāh ibn Abī Ya'fūr (d. 131 AH / 748 AD) to seek him out for answers to religious questions in Kufa for 'he has heard *aḥādīth* from my father and was highly esteemed by him.'³⁸ Yet four disciples of al-Bāqir were particularly praised by al-Ṣādiq who said about them that 'Had it not been for them the Prophetic traditions would have been obliterated!' These were Zurārah, Muḥammad ibn Muslim, Abū Baṣīr al-Asādī, and Burayd ibn Mu'āwiyah al-Ijlī.³⁹

Imams succeeding al-Bāqir and al-Ṣādiq feature significantly less in the Shi'a Imāmī legal collections. Those that do feature are Mūsā ibn Ja'far and 'Alī ibn Mūsā al-Riḍā. The reason for this sudden drop in traceable legal activity in the sources may be due to the fact that most of the later Imams passed through harsh political conditions and were frequently subjected to incarceration, house arrest, and surveillance. Though their ruling Abbasid cousins looked at them suspiciously, they do not seem to have engaged in any subversive activities. Yet it seems they did suffer on account of the fact that many of their cousins such as the progeny of al-Ḥasan, the progeny of Ja'far ibn Abī Ṭālib (d. 7 AH / 629 AD) as well as other grandsons of al-Ḥusayn did participate or stage revolts during the later part of the second century *hijrī*, such as the sons of Mūsā ibn Ja'far who were the brothers of 'Alī ibn Mūsā. Yet, the two Imams Mūsā ibn Ja'far and 'Alī bins Mūsā were able to attract a circle of disciples and did carry on with scholarly pursuits. Al-Kashshī, the Imāmī biographer, delineates the following individuals as having acquired a special rank and closeness to these two Imams. He writes:

Our companions have unanimously agreed on the authenticity and correctness of that which is definitely (or authentically) derived from these, and on their truthfulness. They have acknowledged them in matters of jurisprudence and knowledge. They are six in number, excluding the six whom we enumerated from the companions of Abū 'Abd Allāh (A) and they are: Yūnus ibn 'Abd al-Raḥmān, Ṣafwān ibn Yaḥyā, Muḥammad ibn Abī 'Umayr, 'Abd Allāh ibn Mughīrah, Ḥasan ibn Maḥbūb, and Aḥmad ibn Muḥammad ibn Abī Naṣr. Some of our companions have preferred al-Ḥasan ibn 'Alī ibn al-Faḍḍāl and Faḍālah ibn Ayyūb instead of al-Ḥasan ibn Maḥbūb while others have preferred 'Uthmān ibn 'Īsā in place of Faḍālah ibn Ayyūb. The most erudite of these were Yūnus ibn 'Abd al-Raḥmān and Ṣafwān ibn Yaḥyā.⁴⁰

As for the Imams preceding al-Bāqir and al-Ṣādiq, we observe a similar phenomenon of greatly reduced traceable legal activity. One probable reason suggested by Sachedina, especially in light of al-Ṣādiq's statement that prior to al-Bāqir the Shi'as were startlingly deficient in their knowledge of legal

matters, would be that the disciples of the first four Imams were more interested in political issues rather than legal issues. He makes this suggestion on the basis of his observation of the reported conversations of the disciples of the earlier Imams in al-Kashshī's biographical work, which shows a preponderant interest in political rather than legal issues.⁴¹

Perhaps it may also be pointed out here that the probable reason why the Imams al-Bāqir and al-Ṣādiq's legal contributions stand out so significantly in comparison to the other Imams is due to the relatively favorable conditions which they enjoyed during the upheaval that occurred in the course of the transition of political power from the Umayyads to the Abbasids.

Nevertheless, the imams who feature prominently preceding al-Bāqirayn (i.e. the two Imams al-Bāqir and al-Ṣādiq) are 'Alī ibn al-Ḥusayn and 'Alī ibn Abī Ṭālib. We will turn to discussing 'Alī ibn Abī Ṭālib later as he presents an interesting case. As for 'Alī ibn al-Ḥusayn, highly traumatised by the events of Karbala, he led a quiet scholarly life in Medina. Muslim ibn Ḥajjāj al-Nayshābūrī (d. 291 AH / 875 AD) the compiler of *Ṣaḥīḥ Muslim*, records in his work titled '*Rijāl Urwah ibn Zubayr*' that 'Alī ibn al-Ḥusayn used to hold private study sessions in his home.⁴² Perhaps due to the fact that he was the son of al-Ḥusayn (d. 61 AH / 680 AD) who had expressed his opposition to the ruling Umayyads with such brilliant valour and whose actions served to inspire many later 'Alid rebellions, he may have been kept under regular surveillance. This could have made attending his study circles difficult and perhaps even politically disadvantageous. This may explain the paucity of information regarding his scholarly activities as well as the lack of detail regarding his students and study associates. Nevertheless, al-Kashshī records that the famous Medinese legist Sa'īd ibn al-Musayyib (d. 94 AH / 713 AD), who is described by the Baghdad *ḥadīth* transmitter and historian Muḥammad ibn Sa'd (d. 230 AH / 845 AD) as being among the most renowned jurists of Medina and the 'learned of the learned', was one such associate of 'Alī ibn al-Ḥusayn and is alleged to have accepted his Imamate.⁴³ Ibn Sa'd has also identified Ibn Shihāb al-Zuhrī as an admirer and student of 'Alī ibn al-Ḥusayn, whom he also reports as having described 'Alī ibn al-Ḥusayn as the most excellent of the Hāshimites and the most learned person whom he had ever seen. He is also one of 'Alī ibn al-Ḥusayn's main transmitters.⁴⁴ 'Alī ibn al-Ḥusayn's main contributions however, apart from the traditions which he narrated on the authority of his forefathers, especially 'Alī ibn Abī Ṭālib, were in the field of religious devotions exemplified by the famous collection of supplications titled *al-Ṣaḥīfah al-Sajjādiyyah* and ethical advice the most famous of which is the treatise on rights titled *Risālat al-Ḥuqūq*.

Turning our attention now to 'Alī ibn Abī Ṭālib, we know from the historical sources that he was counted among the most learned and wise of the Prophet Muḥammad's companions. Very soon after the Islamic conquests, many of the companions were sent to the newly conquered

territories by ‘Umar I (d. 23 AH / 644 AD) to serve as Qur’an teachers and religious guides, as well as to serve as judges and commanders. These companions went on to lay the foundations of the later legal schools of law as it was their Qur’anic teaching, Qur’anic interpretation, narration of Prophetic materials and legal activity which laid the basis for and the development of the legal schools in the later part of the first century and into the second and third centuries *hijrī*. ‘Alī, who shifted his capital from Medina to Kufa during his reign as caliph and later passed away there, became one of the founding legal authorities of the Kufan legists, along with ‘Abd Allāh ibn Mas‘ūd (d. 32 AH / 652-3 AD).⁴⁵ When Ḥajjāj ibn Yūsuf (d. 95 AH / 714 AD) the ruthless Umayyad general and governor asked Sha‘bī (d. 103-10 AH / 721-8 AD) the Kufan successor, a question on inheritance, Sha‘bi gave him five different interpretations, one of which Ḥajjāj specifically rejected was that of ‘Alī.⁴⁶ This indicates ‘Alī’s legal activities and its relation with Iraq. The jurist Masrūq ibn al-Ajda‘ (d. 62 AH / 682 AD) says:

I examined the companions of the Prophet and found that their knowledge originated from six companions: ‘Umar, ‘Alī, ‘Abd Allāh ibn Mas‘ūd, Mu‘ādh ibn Jabal (d. 19 AH / 640 AD), Abū Dardā (d. 34 AH / 654 AD) and Zayd ibn Thābit (d. 44 AH / 665 AD). Then I examined the knowledge of these six and found that their knowledge goes back to two: ‘Alī ibn Abī Tālib and ‘Abd Allāh ibn ‘Abbās (d. 67 AH / 686-7 AD).⁴⁷

‘Abd Allāh ibn ‘Abbās was a very learned and knowledgeable companion of the Prophet; however he was a junior companion and could hardly have been the teacher of these other senior companions mentioned above, yet we know that he attended ‘Alī’s lectures and learned a lot from him.

More significant regarding ‘Alī is the mention in the sources – especially the Shi‘a sources of *ḥadīth*, history, and biography – of an enigmatic book composed by him and dictated by the Prophet. It was known as *Kitāb ‘Alī* and also as *al-Jāmi‘ah*. This book seems to have been compiled during the learning sessions which ‘Alī used to have with the Prophet and which he describes as follows:

Once every day and once every night I used to be alone with him. On such occasions he would reply to my queries and when I had exhausted my queries and fell silent, he would himself initiate further discussions. Never was there any case of revelation of any of the verses of the Qur’an which the Prophet did not recite and dictate to me and which I did not write down with my own hand.⁴⁸

This book is described by Imam al-Ṣādiq as follows: ‘with us is *al-Jāmi‘ah*. It is the dictation of the Prophet... and in the handwriting of ‘Alī. It contains

the knowledge of all *ḥalāl* and *ḥarām* and whatever the people need.’ The length of its scroll is described as seventy cubits long.⁴⁹

An eyewitness account by Sulaym ibn Qays (d. 76 AH / 678 AD) at the deathbed of ‘Alī, preserved in al-Kulaynī’s (d. 329 AH / 941 AD) *al-Kāfī*, describes how ‘Alī bequeathed these books to his son al-Ḥasan and also gave specific instructions to him as to how this book and other Prophetic heirlooms which he had inherited from the Prophet were to be handed down to al-Ḥusayn, ‘Alī ibn al-Ḥusayn, and Muḥammad ibn ‘Alī respectively, one after the other in succession over the generations.⁵⁰ Imam al-Ṣādiq reports that this book was indeed bequeathed to the aforementioned, one after the other and that on his father’s death he received it.⁵¹ It seems from various disparate reports that this book was of a very comprehensive nature, possessing detailed rules and many chapters, which have been described in some reports as ‘books.’ Indeed, it seems to have been known among the ‘Alids that possession of this book by anyone gave the possessor a powerful source of knowledge and an edge and superiority in knowledge over all. Thus al-Kashshī preserves a report that when Zayd ibn ‘Alī ibn al-Ḥusayn (d. 122 AH / 740 AD) asked Sawrah ibn Kulayb how he ascertained the veracity of the claim to imamate of Ja‘far al-Ṣādiq, Sawrah replied that during al-Bāqir’s life whenever they posed any question to al-Bāqir, he always gave satisfactory answers, however for a while after his demise they couldn’t find anyone among the ‘Alids with this capability till they came across al-Ṣādiq, whereupon Zayd smiled and said ‘this is because the Books of ‘Alī are solely at his disposal.’⁵² The specific contents of this book are unknown to us and that is what makes it so enigmatic, however some scholars have attempted to form an idea of some of its contents from the disparate reports scattered in the Shi‘a collections. These reports draw a picture of a book which contained a lot of legal information such as on ritual purity, prayers, fasting, the alms-tax, pilgrimage, jihad, earnings, hunting, inheritance, foods and drinks, criminal penalties, retribution and compensation, marriage and divorce, arbitration and wills among many others.⁵³ Numerous reports in the Shi‘a collections describe the Imams ‘Alī ibn al-Ḥusayn, al-Bāqir, and al-Ṣādiq drawing answers from this book for various legal questions with the following recurring phrases ‘I found this in the book of ‘Alī that...’ or ‘I read in the book of ‘Alī that...’ or ‘it is in the book of ‘Alī that...’⁵⁴ Perhaps the last report available to us of the whereabouts of this book is given to us by the historian al-Mas‘ūdī (d. 344 AH / 956 AD) who informs us that this book was in the possession of the tenth imam ‘Alī al-Hādī (d. 254 AH / 868 AD).⁵⁵ This book was also shown to some disciples of the Imam. Thus the famous Zurārah was shown the chapter of inheritance from this book by al-Ṣādiq at the behest of al-Bāqir during the latter’s imamate and Muḥammad ibn Muslim was also shown the same chapter from the book.⁵⁶ When there arose a dispute between al-Bāqir and al-Hakam ibn Uṭayba on an issue, al-Bāqir

had his son bring out this book and show the relevant prophetic *ḥadīth* to him in support of his opinion.⁵⁷

Having had described and discussed the robust teaching activities of those Shi'a Imams whose contributions to Shi'a Islamic law is most apparent, it is time to shed a little light on the legal methodology and practice of these Imams.

Hallaq writes that during the first century *hijrī*, the *qāḍīs*, who were mostly responsible in his opinion for developing Islamic law in the various garrison towns, relied on three sources for legal deduction. The Qur'an, the *sunan* which included Prophetic practice, caliphal law, and companion practices, and lastly their own discretionary opinions *al-ra'y*.⁵⁸ By the second century *hijrī*, the practice of *al-ra'y* had evolved into the more sophisticated rational tool of *al-qiyās* or analogy. Furthermore, during the second and third centuries there was a growing call in favour of relying solely on reported Prophetic traditions in the form of *ḥadīth* rather than the amalgam of various *sunan*, where the latter had actually produced legal practices distinctly local in their form and content in the various cities.

A cursory study of the Shi'a sources shows that the Shi'a Imams also emphasised the central role of the Qur'an and the Sunnah, but insisted on the Prophetic Sunnah and strictly avoided utilising any other *sunan*.

When one of the companions of the Imam Mūsā ibn Ja'far asked him whether all that he taught could be found in the Qur'an and the Sunnah of the Prophet or did he also speak on his own authority, he responded thus: 'It is impossible that we should say anything on our authority. Whatever we say is to be found in the Qur'an and the Sunnah of the Prophet.'⁵⁹

Imam al-Bāqir is reported to have said:

If we were to narrate traditions based on our own views, we would surely perish. Know that we narrate only traditions that we have stored up from the Messenger of God just as people store up gold and silver.⁶⁰

This might be taken to allude to the store of Prophetic knowledge which the Imams inherited as family traditions and which was taught to the succeeding generation by the preceding one, as well as to the store of valuable knowledge in the *Kitāb 'Alī* which they inherited and drew from.

In a report describing the conversation of Imam al-Ṣādiq with Hishām ibn al-Ḥakam (d. 179 AH / 795-6 AD) in which the Imam specifies the Qur'an and the Sunnah of the Prophet as the two most important criteria by which to judge their teachings, he concludes as follows: 'Assuredly, when we relate anything we either say "God said it"...or "the Prophet said it".'⁶¹

Another significant observation with regards to Shi'a law is the consistent practice of the Imams to prefer transmitting Prophetic teachings and practices through family chains consisting especially of the previous Imams. R. Buckley also rightly makes this observation when he writes that Shi'a *isnads*

take one of three forms: (a) traditions related by an Imam on the authority of his forefathers, (b) traditions related on the authority of the Prophet Muḥammad either directly or through the medium of his forefathers and (c) traditions related solely on the authority of the Imam. He then writes that the majority of the traditions are of the third type.⁶²

This last category of traditions may be explained in one of two ways. First, that the traditions related solely on an Imam's authority are actually of the first and second types. Thus a couple of the sixth Imam's disciples relate that they heard him say:

My *ḥadīth* is the *ḥadīth* of my father, and my father's *ḥadīth* is the *ḥadīth* of my grandfather, and the *ḥadīth* of my grandfather is the *ḥadīth* of al-Ḥusayn, and the *ḥadīth* of al-Ḥusayn is the *ḥadīth* of al-Ḥasan, and the *ḥadīth* of al-Ḥasan is the *ḥadīth* of the Commander of the Faithful, and the *ḥadīth* of the Commander of the Faithful is the *ḥadīth* of the Messenger of Allah, and the *ḥadīth* of the Messenger of Allah is the word of Allah, the Almighty and the Glorious.⁶³

Or the report where the companion of the Prophet Jābir ibn 'Abd Allāh al-Ansari (d. 78 AH / 697 AD) is reported to have demanded from al-Bāqir that he provide a chain of authorities when he related something, whereupon the Imam replied 'Narrated to me my father, from my grandfather, from the Messenger of Allah, from Gabriel, from God, the Blessed and the Exalted, and whatever I narrate to you is with this *isnad*.'⁶⁴

Indeed today, this feature of Imāmī reports seems to be especially conspicuous, however historically many of the early families of the Prophet's companions shared this feature with the Shi'a Imams. The late Nabia Abbott writes that family *isnads* appeared very early and persisted on a large scale. Family *isnads* would include both blood members and intimate *mawālī*. Thus it is famously known among Sunni scholarly circles that 'Every *ḥadīth* narrated by al-Shāfi'ī, from Mālik, from Nāfi', from Ibn 'Umar is a golden chain of authorities (*silsilat al-dhahab*).'⁶⁵ Nāfi' (d. 117 AH / 735 AD) was the *mawlā* of Ibn 'Umar (d. 73 AH / 693 AD), the son of the second caliph. She observes that family *isnads*, which start from a companion and continue for three generations are most frequent and that family *isnads* traced to prominent companions became greatly respected very early on and remained so throughout the centuries. The success of such family *isnads* depended on whether the companion-ancestor was a literate person or at least in favor of recording Prophetic traditions and preserving the manuscripts, and/or that his progeny was a 'ḥadīth-writing' family and interested in preserving their forebear's manuscripts as well as interested in passing them down to the next generation. Thus Anas ibn Mālik's (d. 93 AH / 711 AD) family had several direct generations of writers who cherished the documents that had been received from Anas, one of which was with Thumāmah his grandson at the

time when ‘Umar II (d. 101 AH / 720 AD) and al-Zuhrī were seeking original documents for ‘Umar II’s project for collecting Prophetic instructions and those of the first two caliphs.⁶⁶ ‘Abd Allāh ibn ‘Amr ibn ‘Āṣ’s (d. 65 AH / 684 AD) family *isnad* covered four generations of writers and manuscripts were found belonging to him which were sent to ‘Umar II and al-Zuhrī. The written instructions on how to govern, which the Prophet had given to ‘Amr ibn Ḥazm al-Anṣārī (d. 51 AH / 671 AD) when appointing him the governor of Najrān were preserved by his family and found with them when ‘Umar II and al-Zuhrī were looking for materials for their project. ‘Amr’s son Muḥammad is known to have transmitted his father’s traditions to his son Abū Bakr who was a contemporary of ‘Umar II and al-Zuhrī, and who in turn transmitted to his own sons, Muḥammad and ‘Abd Allāh.⁶⁷ Al-Zuhrī is also known to have transmitted from the documents of Thumāmah, grandson of Abū Bakr (d. 12 AH / 634 AD), from Salīm and ‘Abd Allāh, the sons of ‘Umar I, and from ‘Alī ibn Ḥusayn ibn ‘Alī.⁶⁸ These traditions can be found in the *Musnad* of Aḥmad ibn Ḥanbal (d. 241 AH / 855 AD) who as a rule copied down his materials from written manuscripts. He also urged his sons and pupils to follow this practice of writing down traditions and thus established a family *isnad* of three very active generations of traditionists.

The other way in which we may explain the traditions related solely on the authority of the Imam is that they were actually on the said Imam’s authority. Traditions exist in the Shi’a *ḥadīth* collections where the Imams are seen to claim special capabilities to interpret and understand the Qur’an due to their capacity as divinely chosen guides as well as their ability to regularly receive divine guidance from God. Therefore the Imam ‘Alī ibn Mūsā says:

When someone is chosen by God to administer the affairs of men, God expands his breast for him, places the well-springs of wisdom in his heart, and inspires him with knowledge, *so that he will be able to solve any problem that arises*⁶⁹... Such a one is none other than the Inerrant Imam, who enjoys the aid and support of his Lord....⁷⁰

Imam al-Bāqir is reported to have said: ‘One of the forms of knowledge we possess pertains to the interpretation of the Qur’an and its ordinances, while another form relates to the developments and occurrences that take place in time. Whenever God desires a certain group of men to attain virtue and purity, He bestows on them the capacity to hear. However, one whose ear is incapable of hearing will encounter God’s word in a way that suggests he has no awareness of it.’

Imam ‘Alī is reported to have said:

Try to make the Qur’an speak; it will not speak to you. I declare to you that the Qur’an contains knowledge of the past and the future, as well as all the ordinances of which you stand in need, and the interpretation of matters concerning which

you disagree among yourselves. If you but ask me, I will instruct you in all of this.

Another very important feature of the Shi'a observed at this early time is that, unlike the generality of the Muslims who utilised *ra'y* and *qiyās* at that time, the Shi'a legal school is seen to vehemently deny the utility of this tool in finding the law. This is portrayed in Imāmite reports. Thus a certain al-Ḥasan ibn Rashīd says:

I asked Imam al-Ṣādiq 'Should a menstruating woman repeat her prayer?' He replied 'No.' I asked: 'Should she repeat her fasts?' He replied, 'Yes'. I said 'Why is this so?' He said 'the first to use *qiyās* was the devil.'⁷¹

In the following report the Imam unequivocally rejects *qiyās* and the answer seems to allude that the Imam's answer was drawn from the *Sunnah* of the Prophet which seems to be unknown to others. Was the Imam drawing from the inexhaustible source of the *Kitab 'Alī*?

Abān asked the Imam about the compensation to be paid by a man who severs the finger of a woman. He [Abān] said: The Imam said, 'Ten camels'. I said, 'And if he severs two fingers?' He said, 'Twenty.' I said, 'And if he cuts off three?' He said, 'Thirty'. I said, 'And four?' He said, 'Twenty camels'. I said, 'Praise is to God! He cuts off three and the *diyāh* is thirty camels, but for four fingers, the *diyāh* is only twenty camels. If we had heard this in Iraq, we would have forgiven the one who said it, and maintained that Satan must have put the words in his mouth!' The Imam said, 'Relax. This is indeed the ruling of the Prophet of God. A woman is due the equivalent of a man until a third of the *diyāh* is reached. When it reaches one third, the woman is given one half. O Abān, you took me to be using *qiyās*, but if *qiyās* is used in preference to the *Sunnah*, religion is ruined'⁷²

Thus on the whole it seems the legal activity of the Imams involved drawing on the Qur'an and the abundant store of Prophetic *Sunnah* material at their disposal which they obtained through the agency of the previous Imams and their written legacies as well as the divine inspiration which allowed them to unearth solutions from the inexhaustible depths of the Qur'an for emerging situations. As for their disciples, though it cannot be denied that they may have been affected by the tools of legal deduction used around them such as *ra'y* and *qiyās* and that they may even have indulged in them, yet the more predominant activity among them would have been, in light of the Imam's authoritative knowledge, that of relating the Imam's teachings and answers to various problems. This can be gleaned from the reports cited above where the sixth imam emphasizes a disciple's importance

to be consonant to his transmissions from the Imam; his emphasis on being a reliable *muḥaddith* in order to become a jurist, and his suggesting to Ibn Abī Ya'fūr to refer to Muḥammad ibn Muslim for answers since the latter possessed a store of knowledge from Imam al-Bāqir. Also observe the statements of praise of the sixth Imam for some of his disciples where their significance seems to stem from their possessing abundant traditions of his father. Thus when a lady whose daughter had died during child-birth but whose baby was discerned to be still alive in the womb approached Muḥammad ibn Muslim in Kufa for an answer, apparently sent to him by Abū Ḥanīfah, he replied by narrating the ruling of Imam al-Bāqir which was to cut open the womb and remove the baby.⁷³

In conclusion, I would like to quote the difference that H. M. Tabatabai mentions regarding the Sunni and Shi'a schools of law. He writes that the major difference between the two schools lie in how the Prophet's traditions were received by the adherents of each. So while the Sunnis received the Prophetic teachings from the companions, the Shi'a received them from the Prophet's family.⁷⁴ This is correct; however it should be borne in mind that the Prophet's family were as much his companions if not more close to him than his other companions. H. M. Tabatabai further writes that whereas the Sunni legal schools follow the juridical opinions of some jurisconsults of Medina and Iraq, the Shi'as follow the opinions of their Imams who were descendants of the Prophet.⁷⁵ Again, while this is correct, it must be borne in mind that the Imams from the Prophet's family were one of the most renowned jurisconsults of Medina, and if the jurists of the Sunnis were successors and successors of the successors, then the Shi'a Imams were also successors and successors of the successors. Perhaps the only differences which I can evince is that like the early Muslims who appreciated the security and reliability of the 'family chains' due to a lesser possibility for fabrications occurring in them, the Shi'as stuck to this route to the exclusion of others. The other difference being the claim to special and authoritative divine knowledge which the Imams claimed for themselves and which the other jurists did not.

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Notes

- ¹ W. Hallaq, *The Origins and Evolution of Islamic Law* (Cambridge: Cambridge University Press, 2005), 63.
- ² Ibid, 64.
- ³ Ibid, 65.
- ⁴ Cited in R. Buckley, 'Ja'far al-Sadiq as a Source of Shii Traditions', in *The Islamic Quarterly* XLII, no.1 (1999), 39.
- ⁵ Ibid.
- ⁶ Ibid.
- ⁷ Ibid, 39-40.
- ⁸ Ibid, 40.
- ⁹ Ibid.
- ¹⁰ Ibid, 42.
- ¹¹ Ibid, 38.
- ¹² Cited in A. Sachedina, *The Just Ruler in Shi'a Islam* (New York. Oxford University Press, 1988), 63.
- ¹³ Cited in J. Subhani, *Durūs Mūjazah fī 'Ilmay al-Rijāl wa al-Dirāyah* (Qum: al-Markaz al-'Ālamī lil-Dirāsāt al-Islāmiyyah, 1382 ah), 45.
- ¹⁴ Cited in A. Sachedina, *The Just Ruler*, 36.
- ¹⁵ Ibid.
- ¹⁶ The Arabic word used is *aḥdāth* which means 'youths' or 'youthful'.
- ¹⁷ Cited in J. Subhani, *Durūs Mūjazah*, 50.

- ¹⁸ Cited in R. Buckley, 'Ja'far al-Sadiq as a Source of Shii Traditions', 41.
- ¹⁹ S. al-Rādī, 'al-Āfāq al-Ilmiyyah lil-Imām al-Şadiq (A)' <<http://www.alradhy.com>>. Accessed 31 December 2008.
- ²⁰ Ibid.
- ²¹ Ibid.
- ²² Ibid.
- ²³ A. Lalani, *Early Shī'ī Thought: The Teachings of Imam Muhammad al-Bāqir* (London: I. B. Tauris, 2000) 115.
- ²⁴ Ibid, 105.
- ²⁵ Ibid, 96.
- ²⁶ Ibid.
- ²⁷ Ibid, 97.
- ²⁸ Cited in A. Lalani, *Early Shī'ī Thought*, 101.
- ²⁹ Ibid.
- ³⁰ Cited in J. Subhani, *Durūs Mūjazah*, 49.
- ³¹ A. Lalani, *Early Shī'ī Thought*, 109-110.
- ³² Ibid, 112.
- ³³ Ibid, 107-113.
- ³⁴ Cited in R. Buckley, 'Ja'far al-Sadiq as a Source of Shii Traditions', 46.
- ³⁵ Cited in A. Sachedina, *The Just Ruler*, 42.
- ³⁶ Ibid.
- ³⁷ A. Sachedina, *The Just Ruler*, 50.
- ³⁸ Ibid, 40.
- ³⁹ Ibid.
- ⁴⁰ Cited in J. Subhani, *Durūs Mūjazah*, 50.
- ⁴¹ A. Sachedina, *The Just Ruler*, 33.
- ⁴² Cited in A. Lalani, *Early Shī'ī Thought*, 161, note 2.
- ⁴³ Cited in Sachedina, *The Just Ruler*, 35.
- ⁴⁴ H. Modarressi, *Tradition and Survival: A Bibliographical Survey of Early Shi'ite Literature*. Vol 1 (Oxford: Oneworld, 2003), 36.
- ⁴⁵ Ahmed Hasan, *The Early Development of Islamic Jurisprudence* (Delhi: Adam Publishers and Distributors, 1994), 24.
- ⁴⁶ S. M. Waris Hasan. 'Essays on the Life and Times of 'Ali ibn Abi Talib. Intellectual heritage – Jurisprudence', in *al-Serat* II, no. 1 (1976), 33.
- ⁴⁷ Ibid, 37.
- ⁴⁸ Cited in A. H. al-Fadli, *Introduction to Hadith* (London: ICAS Press, 2002), 75-76.
- ⁴⁹ Cited in M. S. Bahmanpour, 'The Book of Imam 'Ali (*Kitabu 'Ali*): *al-Jami'ah*', in *Journal of Shi'a Islamic Studies* I, no.1 (2008), 1.
- ⁵⁰ Cited in J. Tabrizi, *Risālah Mukhtaşarah fī al-Nuṣūş al-Şaḥīḥah 'alā Imāmat al-A'immaḥ allthmay 'Ashar* (Qum: Office of Ayatollah Tabrīzī, 1325 ah), 15.
- ⁵¹ Cited in M. S. Bahmanpour, 'The Book of Imam 'Ali (*Kitabu 'Ali*): *al-Jami'ah*', 7.
- ⁵² Ibid, 1.
- ⁵³ Ibid, 7-12.
- ⁵⁴ Ibid.
- ⁵⁵ Ibid, 7.

⁵⁶ Ibid, 1.

⁵⁷ Cited in A. Sachedina, *The Just Ruler*, 47.

⁵⁸ W. Hallaq, *The Origins and Evolution of Islamic Law*, 44.

⁵⁹ Cited in Sayyid Mujtaba Musavi Lari, *Imamate and Leadership*, trans. H. Algar (n.l.: Islamic Education Center, n.d.), ch. 21 < <http://www.al-islam.org/imamate-and-leadership-sayyidmujtaba-musavi-lari>>. Accessed 9 February 2016.

⁶⁰ Ibid.

⁶¹ Cited in A. Sachedina, *The Just Ruler*, 43.

⁶² Buckley, 'Ja'far al-Sadiq as a Source of Shii Traditions', 37-38.

⁶³ Cited in A. Mishkini, 'Sunna from Shi'a and Sunni Viewpoints', in *al-Tawhid* XIV, no.2, 3

⁶⁴ Ibid.

⁶⁵ Ibid, 6.

⁶⁶ N. Abbott, *Studies in Arabic Literary Papyri* (Chicago: University of Chicago Press, 1964), 37.

⁶⁷ Ibid, 24.

⁶⁸ Ibid, 31.

⁶⁹ Italics mine.

⁷⁰ Cited in Sayyid Mujtaba Musavi Lari, *Imamate and Leadership*, ch. 21.

⁷¹ R. Gleave, 'Imami Shi'i Refutations of Qiyas', in *Studies in Islamic Legal Theory*, ed. Bernard Weiss (Leiden: Brill, 2002), 268. ⁷² Ibid, 269.

⁷³ Cited in A. Sachedina, *The Just Ruler*, 50.

⁷⁴ H. M. Tabatabai. *An Introduction to Shi'i Law: A Bibliographical Study* (London: Ithaca Press, 1984), 2.

⁷⁵ Ibid.

