

Intellectual Heritage – Jurisprudence

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**Essays On The Life And Times Of 'Ali
Ibn Abi Talib A - S.M. Waris Hasan**

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Essays On The Life And Times Of 'Ali Ibn Abi Talib A

S. M. Waris Hasan

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Shi'a literally meaning "follower" has come to be known as the "followers of 'Ali". From al-Shahrastani onwards, writers have regarded Shi'ism as a heterodoxy; there are even occasions when Shi'ism is described as simply a facade behind which many enemies of Islam have operated.¹ Whereas the other legal schools are called rites (*madhahib*), Shi'ism is described as a sect. In this article I will examine the sources of jurisprudence which all these groupings hold.

The main body of Islam, as it stands today, is divided into four schools or "rites". The first "rite" is that of Imam Nu'man Ibn Thabit, better known as Abu Hanifa, who died in Baghdad in the year 767 A.D. His followers, according to Hitti, numbered 180 million. The second school or "rite" is that of Imam Malik Ibn Anas who died in Medina in the year 795 A.D. This Imam had a following of 50 million. Next comes the "rite" of Imam Muhammad Ibn Idris, better known as al-Shafi'i, who died in Cairo in the year 819 A.D. He was followed by 105 million. The fourth and last "rite" belongs to Imam Ahmad Ibn Muhammad Ibn

Hanbal. Imam Ahmad died in Baghdad in the year 855 A.D. This Imam is followed by 5 million Muslims living mainly in Saudi Arabia.[2](#)

The figures quoted here may have become obsolete at the time of writing this article but the proportional importance of each Imam in terms of his followers, may still be true. But Muhammad, the Prophet, died in the year 632 A.D., which leaves a time gap between the death of the Prophet and Imam Abu Hanifa of 135 years, between the death of the Prophet and the death of Imam Malik, of 163 years, between the death of the Prophet and the death of Imam al-Shafi'i, of 187 years and between the death of the Prophet and the death of Imam Ibn Hanbal, of 223 years.

In the intervening period between the advent of the aforesaid *madhahib* and the death of the Prophet, there were several individual scholars who were expounding the laws of Islam using their own interpretation of the Qur'an and the Sunna. Al-Mubarrad in his *al-Kamil* cites al-Sha'bi giving five different interpretations of a problem connected with Inheritance to al-Hajjaj Ibn Yusuf; one specifically rejected by al-Hajjaj was that of 'Ali Ibn Abi Talib.[3](#)

The *Fiqhi* School (*madhab*) of 'Ali Ibn Abi Talib then, was known to the jurists of that period but it was also the one specially opposed by the government of the day. People who remained loyal to 'Ali's school of law were called Shi'ites then as they are now.

The common factors between the four "rites" of the present time and the Shi'ites are firstly, the *Qur'an*, and secondly, the *Sunna*. All the laws of Islamic Jurisprudence are supposed to be based on these two. It is true that *qiyas* and *ijma'* also became sources of law, but that was done about one and a quarter centuries later. Even with their introduction, a jurist is supposed to deduce a law first from the *Qur'an* and *Sunna* and then to turn to the last two if the "*istikhrāj*" (deduction) was not possible from the first two.

Imam Abu Hanifa was very particular about accepting a tradition but once it was proved to him to be authentic, he too, would not turn to *qiyas*. Imam Malik was not so particular about the quality of a tradition and therefore he could afford to reject *qiyas*. Imam al-Shafi'i struck a happy medium in using *qiyas* only in restricted cases and Imam Ahmad Ibn Hanbal has been accused of putting the clock back as he could not follow al-Shafi'i's tolerance concerning *qiyas* and would not recognise a law until deduced from the *Qur'an* and *Sunna*. He suffered on account of his belief that the Qur'an was uncreated.[4](#)

Qur'an and *Sunna* then, are factors common to all the *madhahib* or rites, as the sources of Islamic laws. The science of deducing laws from these sources was called "*Fiqh*". Perhaps it is not quite accurate to suggest, as Goldziher did, that *Fiqh* or Islamic Jurisprudence was "evolved" and the system "was greatly influenced by what the authorities on the development of law in Syria and Mesopotamia were able to learn of Roman Law". He even suggests that *Fiqh* in the sense of jurisprudence is a foreign deviation.[5](#)

However, the term *Fiqh* occurs in the *Qur'an* itself[6](#) where the believers are asked not to go to war or stay back to learn *Fiqh* all the time (but to take turns in doing each). This was long before the foreign

conquests were ever made.

The Muslim attitude towards the *Qur'an* should also be considered. The *Qur'an* is the “final” word of God revealed to *Khatam al-Nabiyin*, the final Prophet. Even today it is not uncommon to come across some Muslim preachers insisting, in the pulpit, that every-thing is mentioned in the *Qur'an*; from the mysteries of the outer space to the secrets of the atomic bombs! The Arab conquerors may not have been so enthusiastic for they did learn a lot in several disciplines but it is almost certain that they owed their victories to the belief that they were the bearers of the Word of God. And thus, we find very early in the days of the conquests that Muslim jurists (*fuqaha'*) were sent to teach both in Syria and Mesopotamia.

'Umar Ibn al-Khattab, the second Caliph, when sending 'Abd Allah Ibn Mas'ud to al-Kufa, writes: “I am sending to you 'Ammar Ibn Yasir as governor and 'Abd Allah Ibn Mas'ud as minister and teacher. These two are from the most distinguished Companions of the Prophet, peace and blessings of God be upon him, so follow them and obey their commands for verily I have preferred you over myself in sparing 'Abd Allah Ibn Mas'ud”.⁷ The same Caliph ('Umar) appointed Mu'adh Ibn Jabal to succeed Abu 'Ubaida Ibn al-Jarrah, in Syria because Mu'adh had previously been sent to al-Yaman by the Prophet to teach.

It is not surprising then, to find al-Awza'i, who was a contemporary to Imam Abu Hanifa and Imam Malik Ibn Anas, and who was born and brought up in Syria and worked in Beirut, unmarked by the Roman influence. Although Beirut, to quote Hitti, “as late as the sixth century was still the seat of a flourishing school of the Roman Law”.⁸

If we look at the *Qur'an* from a detached point of view, we see that it consists of:

1) *al-hikayat* (narratives): mainly stories of other prophets:

2) *al-mudhakkirat* (reminders) as:

إِنَّ فِي خَلْقِ السَّمَوَاتِ وَالْأَرْضِ وَاخْتِلَافِ اللَّيْلِ وَالنَّهَارِ وَالْفُلْكِ الَّتِي تَجْرِي فِي الْبَحْرِ بِمَا يَنْفَعُ النَّاسَ وَمَا أَنْزَلَ اللَّهُ مِنَ السَّمَاءِ مِنْ مَّاءٍ فَأَحْيَا بِهِ الْأَرْضَ بَعْدَ مَوْتِهَا وَبَثَّ فِيهَا مِنْ كُلِّ دَابَّةٍ وَتَصْرِيفِ الرِّيْحِ وَالسَّحَابِ الْمُسَخَّرِ بَيْنَ السَّمَاءِ وَالْأَرْضِ لَآيَاتٍ لِقَوْمٍ يَعْقِلُونَ

“Surely in the creation of the heavens and the earth, and the alternation of night and day, and the ship that runs in the sea with profit to men, and the water God sends down from heaven therewith reviving the earth after it is dead, and His scattering abroad in it all manner of crawling things, and the turning about of the winds and the clouds compelled between heaven and earth, surely there are signs for a people having understanding” (2: 164).⁹

3) *al-'ibadat* (acts of worship) as:

أَقِمِ الصَّلَاةَ لِذُلُوكِ الشَّمْسِ إِلَى غَسَقِ اللَّيْلِ وَقُرْءَانَ الْفَجْرِ ۖ إِنَّ قُرْءَانَ الْفَجْرِ كَانَ مَشْهُودًا

“Perform the prayer at the sinking of the sun to the darkening of the night and the recital of dawn; surely the recital of dawn is witnessed” (17:78).

وَمِنَ اللَّيْلِ فَتَهَجَّدْ بِهِ ۖ نَافِلَةً لَّكَ عَسَىٰ

“And as for the night, keep vigil a part of it, as a work of supererogation for thee...” (17:79).

4) *al-mu'amalat* (transactions) as:

يَا أَيُّهَا الَّذِينَ ءَامَنُوا ۖ إِذَا تَدَايَنْتُمْ بِدَيْنٍ إِلَىٰ أَجَلٍ مُّسَمًّى فَاكْتُبُوهُ وَلْيَكْتُب بَيْنَكُمْ كَاتِبٌ ۖ بِالْعَدْلِ وَلَا يَأْبَ كَاتِبٌ أَنْ يَكْتُبَ
...كَمَا عَلَّمَهُ اللَّهُ فَلْيَكْتُبْ وَلْيُمْلِلِ الَّذِي عَلَيْهِ الْحَقُّ وَلْيَتَّقِ اللَّهَ رَبَّهُ ۖ وَلَا يَبْخَسْ مِنْهُ شَيْئًا

“O believers, when you contract a debt one upon another for a stated term, write it down, and let a writer write it down between you justly and let not any writer refuse to write it down, as God has taught him so let him write, and let the debtor dictate, and let him fear God, his Lord, and not diminish aught of it...” (2:282).

5) *al-'uqubat* (criminal law) as:

وَالسَّارِقُ وَالسَّارِقَةُ فَاقْطَعُوا أَيْدِيَهُمَا جَزَاءً بِمَا كَسَبَا نَكَالًا مِّنَ اللَّهِ ۖ وَاللَّهُ عَزِيزٌ حَكِيمٌ

“And the thief, male and female: cut off the hands of both, as a recompense for what they have earned and a punishment exemplary from God; God is All Mighty, All Wise” (5:38).

In Sura Al-Baqara a challenge has been posed:

...وَإِنْ كُنْتُمْ فِي رَيْبٍ مِّمَّا نَزَّلْنَا عَلَىٰ عَبْدِنَا فَأْتُوا ۖ بِسُورَةٍ مِّثْلِهِ

“And if you are in doubt concerning what We have sent down on Our servant, then bring a Sura like it...” (Quran 2:23).

And there is no doubt that the style has been emulated by every generation of Arabic writers' believers, and unbelievers alike. But the compactness which makes it untranslatable also poses problems. For out of six thousand or so verses there are only two hundred or so which deal with *'ibadat*, *mu'amalat* and *'uqubat* which form the basis of Islamic jurisprudence. For example, Prayers have been stressed over and over again but how many *Raka'at* for which prayer, has not been specified, Similar ambiguities are to be found in *sawm*, *hajj* and *zakat*. The example of *'uqubat* which you have just seen does not specify which of the hands is to cut off or where from. If one looks at the volume and the contents of al-Shaikh

Murtada al-Ansari's *al-Makasib*, one would see that the verses dealing with commerce were less than ten!

Furthermore, there is evidence that even the Holy Book, though often recited, was not always understood! "It is not correct", says Ahmad Amin, "as Ibn Khaldun says: 'that the *Qur'an* descended in the language of the Arabs and in their literary style and therefore all of them understood its words and compositions'.

Sufficient for us (to prove this assumption wrong) is what has been related from Malik Ibn Anas that a man asked, 'Umar Ibn al-Khattab about the meaning of "وَفَاكِهَةً وَأَبًّا" *wa fakihatan wa abba* (*'Abasa*, 80:31). The Caliph did not know *abba* and said: "We have been forbidden to constrain ourselves or go down (too) deep!" And it has also been related of him ('Umar) that he was in the pulpit when he recited: "أَوْ يَأْخُذْهُمْ عَلَى تَخَوُّفٍ" *aw ya'khudhum 'ala takawwufin* (*al-Nahl*, 16:47) and then he asked (the congregation) if anyone knew the meaning of *takawwuf*. Thereupon a man from (the tribe of) Hudhayl got up and told him that the word meant *tanaqqus*!" "We know", says Ahmad Amin commenting on this, "Umar's high station in religion and knowledge, what about other companies?"¹⁰

The *Qur'an* was the undisputed source of the system. But it was partly revealed in Me^{ﷻﷻﷻ} (two thirds of it) and partly in Medina. It contained *akham* (i.e. regulations, laws, bylaws, decrees) which were of *mutlaq* (general), *muqayyad* (specific), *muhkam* (exact, clear), *mutshabbih* (ambiguous, obscure), *nasikh* (abrogating), *mansukh* (abrogated), *'aza'im* (to be acted upon in normal times), *rukhas* (to be acted upon in emergencies). Furthermore, it had not been collected at the time of the Prophet's death.

The difficulties within the *Qur'an* did not pose any problem for the first Muslim community because Muhammad himself was there to explain and practice. But then if the *shari'a* (religious constitution) was, of necessity, to be supplemented by the presence of Muhammad, logic demanded that such a presence should continue till all the possibilities, and all the possible interpretations of the law (Quranic injunctions) had been committed to writing, together with the "official and authorised" legal decisions and adaptations.

It seems that the Prophet of Islam was not unaware of this necessity. For al-Shahrastani, quoting Imam Muhammad Ibn Isma'il al-Bukhari, relates: "From 'Abd Allah Ibn 'Abbas: When the illness, in which the Prophet died, intensified, he said: 'Bring me the (pen) the inkpot and the paper so that I may write down that after which you will never go astray!' But 'Umar said 'The Prophet of God has been overwhelmed by the pain. Sufficient for us is the Book of God!' The noise and confusion got so out of hand that the Prophet said: 'Go away, for this conduct is not befitting in my presence!' Ibn 'Abbas said: 'Loss, and what a heavy loss (caused by) what came between us and the writing of the Prophet of God!'"¹¹

This enthusiasm of 'Umar Ibn al-Khattab about the Book of God continued to the period of his own Caliphate as testified by al-Qurtubi who states: From Quraza Ibn Ka'b: he said: "We left (Medina) for Iraq and 'Umar kept us company till we reached Hirar and there he washed his hands and feet, then

said: 'Do you know why I have walked with you?' We said: 'Yes, we are the Companions of the Prophet of God and you walked with us (that act of yours being a blessing to yourself)'. He said: 'You will be calling on the villagers en route and you will hear their drone like the drone of the bees (as they recite the Qur'an). So do not turn them away from (it) by conveying to them the traditions. Recite the *Qur'an* well and stop narrating traditions from the Prophet of God. Go, I am with you'. (From then on) whenever Quraza (reached a village) people said: 'Tell us some traditions'. But he replied that he had been forbidden to do so by "Umar Ibn al-Khattab". [12](#)

It is here that the Shi'ites are first noticed by history. A group led by Salman al-Farsi, Abu Dharr al-Ghifari, 'Ammar Ibn Yasir, al-Miqdad Ibn 'Amr, Ubai Ibn Ka'b, Barra' Ibn 'Azib and the Prophet's own uncle, al-'Abbas Ibn 'Abd al-Muttalib refused to acknowledge any other person after the Prophet's death but 'Ali. [13](#) It is not rare that one is confronted with the argument that Shi'ism is a Persian innovation and as they were brought up to idolize their kings and their descendants they naturally turned to 'Ali and his sons being the "royal household".

But at the time when the Shi'ites first appear in history Salman, of enviable distinctions as he was, is the only Persian among the multi-tudes of 'Ali's admirers, in their stand they may have considered 'Ali's relationship but the factors uppermost in their minds come out in their *ihitijajat* (protests). "Who are you going to refer to when you are faced with what you do not know? And what is your excuse in taking precedence over someone more learned.....and more capable of explaining the Word of God and the *Sunna* of His Prophet?" said Salman. "All of you will have to turn to him in matters concerning the Faith..... but he is independent of you! He has been bestowed what the best of you could never aspire to achieve", said 'Ammar. [14](#) But versatility is a sword with two edges. While one edge can conquer the battlefields and subdue the adversaries, the other can injure the hand which holds it.

There had been some battles. The penetrating attacks of Dhu'l-fiqar were vivid in the memories. Scarcely was there a Meccan household of influence, which had not received the cut. To some of the Ummu'l-Mu'minin, 'Ali was the son-in-law of the first wife, Khadija, and not only that, he had sided with the "other woman", Mary, the Copt, and Fatima had hastened to embrace Ibrahim when he was born of Mary. To some fathers-in-law's of the Prophet the thought that his daughter had remained childless and Muhammad's lineage was confined to al-Hasan and al-Husain, had not been particularly comforting.

Whatever the feelings of a certain group may have been and whatever may have resulted from those feelings, let us examine the required qualifications of the person taking the place of someone (the Prophet) who used to preside over Islamic jurisprudence.

Having noted the variety of the verses, it should be clear that each revelation was a response to a particular situation and this in turn required the *mufasssir* (the commentator) either to be present at the time or obtain the knowledge from someone who was. Secondly, the Quranic language demanded that the *mufsassir* should have a command over the literary disciplines of the time as can be seen from the fact that when the *Qur'an* was being transcribed on 'Uthman's orders, he gave instructions: "If you differ

from Zaid Ibn Thabit on anything in the *Qur'an*, write it according to the language of Quraish, for it is in their language that the *Qur'an* was revealed".¹⁵ Thirdly, as references to customs, beliefs and habits of the pre-Islamic era are frequently mentioned in the *Qur'an*, the *mufasssir* must either have lived in that era or should have known people who had done.

This was important because of the rarity of the people who could write. As al-Baladhuri points out, there were only seventeen people who could write amongst Quraish at the advent of Islam (the leading tribe of Mecca!) namely, 'Umar Ibn al-Khattab, 'Ali Ibn Abi Talib, 'Uthman Ibn 'Affan, Abu 'Ubaida Ibn al-Jarrah, Talha, Yazid Ibn Abi Sufyan, Abu Hudhaifa Ibn 'Utba, Hatib Ibn 'Amr, Abu Salama Ibn 'Abd al-Asad, Aban Ibn Sa'id Khalid Ibn Sa'id, his brother, 'Abd Allah Ibn Sa'd, Huwatib Ibn 'Abd al-'Uzza, Abu Sufyan, Mu'awiya, Jahm Ibn Salat, and from the clients of Quraish, al 'Ala' Ibn al-Hadrami.¹⁶

But none of the aforesaid was recognised as a *mufasssir* except 'Ali. The Companions who distinguished themselves in the science of *tafsir*, in the eyes of Islam, are: 'Ali Ibn Abi Talib, 'Abd Allah Ibn 'Abbas, 'Abd Allah Ibn Mas'ud, 'Abd Allah Ibn Ubai and Zaid Ibn Thabit. As to how these *mufasssirs* compared with 'Ali Ibn Abi Talib let me quote Masruq Ibn Ajda', (a jurist himself): "I examined the companions of the Prophet and found that their know-ledge originated from six Companions: 'Umar, 'Ali, 'Abd Allah Ibn Mas'ud, Mu'adh Ibn Jabal, Abu Darda' and Zaid Ibn Thabit. And then I examined the knowledge of these six and found that their knowledge goes back to two: 'Ali Ibn Abi Talib and 'Abd Allah Ibn 'Abbas".¹⁷

'Abd Allah Ibn 'Abbas has suffered from the Injustices of both Sunnis and Shi'is. As most of the commentary on the *Qur'an* was recorded in the Abbasid period, there is hardly a verse without a commentary from Ibn 'Abbas! Therefore, it seems obvious that many traditions have been put into his mouth to please the Abbasid Caliph or merely to make them acceptable. As the Shi'ites suffered from the hands of the Abbasids, some of their wrath turned towards 'Abd Allah Ibn 'Abbas.

Al-Kashshi has a tradition from 'Ali Ibn Yazdad that when 'Ali appointed him governor of al-Basra, Ibn 'Abbas appropriated all the money in the public treasury (20,000 dirhams) and ran away to Mecca. When the news reached 'Ali, he cried in the pulpit and said: "This is a cousin of the Prophet and despite his knowledge and fame, he does this! How could someone else be trusted?"¹⁸

But Ibn 'Abbas of history is a different person. He was only thirteen years of age when Muhammad died and thus all his knowledge in the fields of traditions and *tafsir* was derived from 'Ali. That he daily attended 'Ali's lectures and spent most of his time with him is reflected in the traditions he quotes and the majority of which he attributes to 'Ali. Al-Mubarrad quotes a personal occurrence which highlights their mutual relationship together and the nature of that relationship: 'Ali found Ibn 'Abbas missing one day and said: What has happened to Ibn 'Abbas, he has not come? People told him a child was born to him. When 'Ali had said his prayer, he wanted to go to Ibn 'Abbas. He went then to Ibn 'Abbas and congratulated him. "You have thanked the Giver and He has blessed (what He has) given", said 'Ali to him. And then he asked Ibn 'Abbas about the name of the child and Ibn 'Abbas replied: "How could it be proper for me to name him until you name him". 'Ali then asked for the child, took him, wrapped his head

with a piece of cloth, prayed for him, and then turned towards Ibn 'Abbas and said: "Take the father of the kings, I have named him 'Ali and surnamed him Abu'l-Hasan".

Al Mubarrad adds that when Mu'awiya came in power, he told Ibn 'Abbas: "You cannot have his Ali's name and kunya; I will call 'Ali, Abu Muhammad!" (Ibn Abbas' son).¹⁹ After 'Ali's death, it was in the interest of Mu'awiya to "exhibit" Ibn 'Abbas as on his side. He called him to Syria and Ibn 'Abbas complied. But Mu'awiya could never win him over. Therefore, the intention of putting Ibn 'Abbas against al-Hasan Ibn 'Ali, the second Imam of the Shi'ites, failed. Al-Mas'udi has preserved for us a scene from the royal court of Damascus.

The occasion was the news of al-Hasan Ibn 'Ali's death which had just reached Mu'awiya. Mu'awiya said "*Allahu Akbar*" and the *takbir* of Mu'awiya was followed by the *takbir* of the Green (Palace) and the *takbir* of the Green (Palace) was followed by the *takbir* of the people of the mosque! Fakhta, the daughter of Quraza Ibn 'Amr, looked down from a window (in the palace) and asked Mu'awiya: "God may always keep you happy, O Commander of the faithful, what is the news you are so happy about?" Mu'awiya replied: "The death of al-Hasan Ibn 'Ali". "إِنَّا لِلَّهِ وَإِنَّا إِلَيْهِ رَاجِعُونَ", "*Inna li'llahi wa-inna ilaihi raji'un*" (2: 156), she said, and cried. Then she said: "The lord of the Muslims is dead"... Ibn 'Abbas entered. "Did you hear the news? Al-Hasan Ibn 'Ali is dead", Mu'awiya told Ibn 'Abbas. "Is it for this that you said *takbir*?", Ibn 'Abbas enquired. "Yes". Mu'awiya said "I swear by God that his death has not delayed yours and his grave has not close up your's! If we have been afflicted with his loss, we have encountered depravities before; when we were afflicted with the loss of the lord of the Prophets."²⁰

Al-Ya'qubi's report at this juncture includes a remark which so fits in with the politics of the day: "You have become the leader of your people, Ibn 'Abbas!" Mu'awiya said. "No, as Abu 'Abd Allah, al-Husain, is still alive!"²¹

We must pause here to reflect. Why should Ibn 'Abbas acknowledge al-Hasan or al-Husain's leadership? One could have earned respect in the society of the day and the country by being senior in the tribe whether by blood, age, or knowledge; whatever the standards then of knowledge may have been.

Ibn 'Abbas was senior in age, equal in blood. Could it be possible then, that Ibn 'Abbas found a continuation of 'Ali's knowledge in al-Hasan and al-Husain, not to speak of the divine knowledge with which the Imams, as the Shi'ites believe, were endowed? After all, 'Ali, who had taught 'Abd Allah Ibn 'Abbas could also have taught, if we were to think of no miracles, no religious doctrines, no divine favours or gifts, his own children. Al-Husain who had a free hand for over forty years could have taught his children, and so on. This "golden chain" continued for two hundred and fifty years. Who can, therefore, have greater claims to "originality" in the faith of Islam?

It is not known precisely when Ibn 'Abbas left Damascus. But we meet him in Mecca begging al-Husain not to proceed to al-Kufa. After Karbala; there was an uprising in Medina and unrest in Mecca. 'Abd

Allah Ibn Zubair took advantage of the situation in promoting his own cause. He asked Ibn 'Abbas to take the oath of fealty to him. Ibn 'Abbas refused. Yazid came to know about this and wrote to Ibn 'Abbas: "The news has reached me that the heretic, the son of Zubair, invited you to his *bai'a*. refused and clung to that of ours favour and good turn. I do not forget things, and I will not forget your and you see in the matter of your people too, God have His mercy upon you and inform them about your good opinion in this matter of submitting to me..... because people will listen and obey you more than they would to the heretic" (meaning 'Abdullah Ibn Zubair).

Ibn 'Abbas replied: "I have received your letter in which you mention Ibn Zubair's asking the *bai'a* from me and my refusal of it. If the case was as you were told, then it was not your praise that I was after nor your love which I was seeking but my true intentions are known to God only. You say you would not forget my love for you! Upon my life, you have never given us what you owe us except a little! You ask me to instigate people against Ibn Zubair and in your favour, no, no, not happily nor willingly; it is you who have killed al-Husain..... do not reckon, O fatherless, I will ever forget your killing of al-Husain and the children of 'Abd al-Muttalib, the lights in darkness, the stars in guidance... "

One who reads the letter in full, wonders what would have happened to Ibn 'Abbas had Yazid not died so suddenly, but he gives one the impression of a man who cared for his life no longer. There are seven paragraphs in the letter, it may not be thus in the original, and he continues to speak of al-Husain and Karbala' in each paragraph![22](#)

We have noted how it was thought that the revelation alone would suffice and the spread of traditions was checked in the light of that belief. But the notion was soon dispensed with as the Holy Book needed a Muhammad to explain it. The Muslims, then, turned to what was the only logical course left to them, i.e. the actions and the sayings of Muhammad, which came to be known as the *Sunna*.

However, this also brought about a certain degree of dependence on the part of Medinan jurists on those *Muhajirin* (i.e. the Meccan Companions who had emigrated) as we have already observed that two thirds of the *Qur'an* had been revealed there. Although most of the legislative material belongs to the Medinan period, there are important areas in *ibadat* like *salat* and *haji*, which had already been established in Mecca. Furthermore, as the community of Muslims grew larger so did the needs for more legislative material. Thirteen years of Meccan traditions, therefore, constituted an invaluable source for jurists to draw upon.

'Ali, speaking purely rationally, was qualified to be the source of Islamic jurisprudence on all the following counts:

(a) If the jurists was supposed to know '*illat al-shar'*', in other words circumstances in which a particular verse was revealed in order to deduce a law from it, 'Ali had always been with Muhammad. Another noted jurist also shared this honour with him, namely, 'Abd Allah Ibn Mas'ud but he was sent to Abyssinia for a while. 'Ali was not.

(b) The Qur'anic language being of a highly literary form, should have been understandable to 'Ali because, as we have noted, 'Uthman's instructions to Zaid Ibn Thabit and other scribes, were that, should they differ, they should write it in the language of Quraish because the *Qur'an* was revealed in that language. In addition, it is note-worthy that no other *Nahj al-Balagha* has been attributed to any other Companion of the Prophet. Even those who dispute the authenticity of *Nahj al-Balagha*, deny only a part of it, as the majority of the *khutbas* exist in independent sources such as al-Mubarrad's *al-Kamil* and al-Jahiz *Kitab al-bayan wa-l-tibyan*.

(c) The Meccan influence which is noticed in some aspects of the *Imami Fiqh* is probably indicative of the Islamic laws which were formulated in the early period, and although existing in the *Jahillyah* they had been sanctioned by Islam, albeit in amended and altered form. It has been pointed out that one of the factors which may have forced Imam Abu Hanifa to turn to *qiyas* was the lack of traditions in Iraq. It may be said that certain Islamic laws which are in disagreement with *Imami* laws may have been likewise formulated through ignorance of the Meccan laws and traditions.

1. A. Amin Fajr al-Islam (Cairo, 1928), vol 1, p. 330.❧❧
2. P. K. Hitti, History of the Arabs (London, 1961), p. 399.❧❧
3. Al-Mubarrad al-Kamil, ed. W. Wright (Leipzig, 1864), vol. 25, p. 17.❧❧
4. A. Amin Duha 'l-Islam (Cairo, 1928), vol 1, p. 235.❧❧
5. "Fikh" Encyclopaedia of Islam (Leiden, 1927) vol 2, p. 101.❧❧
6. Refer to verse:

وَمَا كَانَ الْمُؤْمِنُونَ لِيَنفِرُوا ۚ كَافَّةً ۚ فَلَوْلَا نَفَرَ مِن كُلِّ فِرْقَةٍ مِّنْهُمْ طَائِفَةٌ لِّيَتَفَقَّهُوا ۚ فِي الدِّينِ وَلِيُنذِرُوا ۚ قَوْمَهُمْ إِذَا رَجَعُوا ۚ إِلَيْهِمْ لَعَلَّهُمْ يَحْذَرُونَ

“And it does not beseem the believers that they should go forth all together; why should not then a company from every party from among them go forth that they may apply themselves to obtain understanding in religion, and that they may warn their people when they come back to them that they may be cautious?” (9: 122).❧❧

7. Ibn 'Abd al-Barr al-Isti'ab (Cairo, 1960), vol 3, p. 992.❧❧
8. Hitti op. cit., p. 400.❧❧
9. The translation used in quotations is that of A. J. Arberry.❧❧
10. A. Amin Fajr al-Islam, vol 1, p. 251❧❧
11. Al-Shahrastani al-Milal wa-l-nihal (Cairo, 1961), vol 1, p. 22.❧❧
12. A. Amin Fajr al-Islam, vol 1, p. 251.❧❧
13. Al-Yaqubi al-Ta'rikh (Beirut, 1960), vol 2, p. 124.❧❧
14. Al-Tabarsi al-Ihtijaj (Teheran s.d.), p. 41-44❧❧
15. B. Lewis Islam (New York, 1974), p. 2.❧❧
16. A. Amin Fajr al-Islam, p. 169.❧❧
17. Ibn Sa'd al-Tabaqat II (Leiden, 1906), p. 49.❧❧
18. Al-Kashshi al-Rijal (Mashhad s.d.), p. 60.❧❧
19. Al-Mubarrad op.cit., p. 360.❧❧

[20.](#) Al-Mas'udi al-Muruj al-dhahab (Cairo, 1948), vol 3, p. 8.🔗🔗

[21.](#) Al-Yaqubi, op.cit., p. 226.🔗🔗

[22.](#) Al-Yaqubi, op.cit., pp 248–250.🔗🔗

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