

## Mujtahid Scholars in Islamic Law

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### Summary

The mujtahid scholars period is about two centuries from the early days of the Abbasids until the time of the Karahanlılar. One of the features of this period is the codification of Islamic law and the establishment of sects. Major jurists who perform the codification activity are: Sufyan b. Uyeyne (Mecca), Malik b. Enes (Medina), Hasan Basri (Basra), Abu Hanifa, Sufyan-iSevri (Kufe), Evzai (Sham), Shafii, Leys b. Sa'd (Egypt), Isaac b. Rahuveyh (Nisabur), Ahmed b. Hanbal, Davud-u Zahiri and Ibn Cerir (Baghdad). Some of these sects still exist today. Since some of them are not members of the group, theoretically their views are found in the books.

**Keywords:** mujtahid scholars, Islamic law, Sufyan b. Uyeyne, Malik b. Enes, Hasan Basri, Abu Hanifa, Sufyan-iSevri, Evzai, Shafii, Leys b. Sa'd, Isaac b. Rahuveyh, Ahmed b. Hanbal, Davud-u Zahiri and Ibn Cerir

### Introduction

The Abbasids, unlike their predecessors, the Umayyads, provided state support to Islamic law, worked for the unity of law. For this purpose, Caliph Mansur wanted to apply Imam Malik's Muvatta as the official law of the state. However, Imam Malik did not accept this proposal because

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he did not complete the development of Islamic law. Again, the Abbasid caliph Harun Rashid appointed Imam Abu Yusuf as the chief judge, and on this occasion Hanefi sect spreaded more in the Islamic geography.

The first books on legal methodology in world history were written in this period. The lawyers have tried to determine the rules of their jurisprudence. The first book on legal methodology in the history of world law is er-Risalefiinel-Usul of Imam Şafii.

### **Hanafi Sect and Abu Hanifa**

The founder of the Hanafi school is Abu Hanifa (his real name is Numan b Sabit). He was born in Kufa in 80/699 and died in Baghdad in 150/767. The father of his grandfather, Mah, was the Sassanid governor of Baghdad and became a Muslim during the Umar period.

While Abu Hanifa was an honest tradesman, he started to engage in theology and fiqh sciences because of his curiosity. He wrote the book called Fıkh-ı Ekber owing to emergence of the perverse thoughts that shook the principles of belief in Islam. This work is a very important book that laid the foundations of the science of kalam<sup>3</sup>.

Abu Hanifa learned knowledge from Hammad b Suleiman in Kufa. After his teacher's death, he began to teach at Kufa himself.

Approximately one thousand students were found in the course ring of Abu Hanifa. Forty of them had the knowledge of law in the order of Mujtahid (Jurist). In this jurisprudential circle, legal issues are dealt with by the negotiating procedure, and jurists usually express their positions. At the end of the negotiations, a decision or ruling will be reached. In this way, about 300 thousand issues were dealt with by Abu Hanifa and students.

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<sup>3</sup> Literally means "**science** of discourse", usually foreshortened to Kalām and sometimes called "Islamic scholastic theology", is the study of Islamic doctrine ('aqa'id).

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Abu Hanifa, classifies Islamic law into chapters. This classification procedure was accepted by other Islamic jurists. Imam Malik even wrote his famous work Muwatta according to this classification.

Abu Hanifa describes the method of ijihad in arranging the subjects of the Islamic law as follows: “I decide on an issue first according to the Qur'an. If I can't find it, I will decide on the hadiths. If I can't find it there, I'll choose one of the Companions' legal opinions. In the views of tabiin, I'm like them.” Accordingly, the hierarchical order of the sources which Abu Hanifa refers to in the legal procedure as: Qur'an, hadith, opinions of companions, ijma, customary and ijihad sources.

The views of Abu Hanifa and his students (Abu Yusuf, Imam Muhammad, Zacham and Hasan b Ziyad) were included in the Hanafi school. Thus, Abu Hanifa handled the issues through negotiation and gave every opinion owner the right to give legal opinion. In this way Hanafi sect has a wealth of legal knowledge to address most periods.

Abu Yusuf (Jacob I Abraham) is the second great lawyer of the Hanafi school. Abu Yusuf was born in Kufa in 113/731 and died in Baghdad in 182/798. Because of his financial situation, his needs were met by his teacher Abu Hanifa and soon became one of the most distinguished students. Abu Yusuf's book Kitabukall-Harac is the first book written in the field of financial law in the world. Abu Yusuf was the chief judge of the Abbasid caliphs during the reigns of Mahdi, Hadi and Harun Rashid. During this duty, he had the opportunity to apply the views of Hanafi sect about the jurisdiction law. For this reason, the views of Abu Yusuf are preferred in matters related to Hanafi sect law.

Another student of Abu Hanifa, Imam Muhammed Hasan b. Shaybani was born in Vasyit in 122/739 and died in Kufa in 189/804. At an early age, Imam Muhammad was taken by his father to Abu Hanifa and joined the juristic scholarly circle. After the death of Abu Hanifa, he continued his education next to Abu Yusuf. For about three years, he read Muwatta from Imam Malik as a lesson. Imam Muhammad was the teacher of Imam Shafi'i. During the reign of Harun Rashid, he served as a judge in Rakka and later in Khurasan. It is a great mujtahid which has helped Hanafi sect to reach subsequent generations with his works which comprised most branches of the law. The Germans, who studied Imam Muhammad's works on state law, founded the ‘**Shaybani Society of International Law**’ on his behalf.

In Islamic community set up, more than half of Muslims and three-fifths of Ahl al-Sunnah are Hanafi sects. According to this, Muslims from the Balkans, Anatolia, the Caucasus, Tatarstan, Tajikistan, Afghanistan, Pakistan, Turkestan, India and China belong to the Hanafi sect. Egypt, Yemen, Syria and the Hijaz are also Hanafi.

### **Malik Sect and Imam Malik**

Originally from Yemen, Malik b. Anas was born in Medina in 95/713 and died in Medina in 179/795. The teachers of Imam Malik are Zührî, Nâfi among others. He also attended Abu Hanifa's lessons in Medina. A large number of his students have propagated his sect to different regions of the world. Imam Shafii and Imam Muhammad received lessons from Imam Malik.

Imam Malik, taught the lesson with the style on Quran and science of hadiths. In other words, first he himself spoke about the lessons and then answered the questions from his students. He never preferred the method of debating or arguing hypothetical matters with Abu Hanifa, rather make only legal comments about incidents.

In Imam Malik's legal methodology, the traditions and customs of the people of Medina has an important place. This source of law was used by Imam Malik after the application of verses and hadiths. Imam Malik preferred the traditions of the Medina to the a hadiths (the hadith narrated by one person in every generation). If Imam Malik could not find a solution to them on an issue by this source, he would resort to sygollism.

The most important work of Imam Malik is al-Muwatta. In this work, the hadiths, views of companions and tabiin were brought together according to the legal issues. The work, which has a great number of commentaries, is regarded as the most authentic book in the Qur'an. Today, Muslims living in Libya, Tunisia, Algeria, Morocco, West African countries are from Maliki sect. In Egypt and Sudan, there are also Maliki sects. Maliki is the third preferred sect among the Muslims of the world.

## **Şhafii Sect and Imam Şhafii**

Muhammad b Idris al-Shafii was born in Gaza in 150/767. His descendants by the Father linked to Abdimenaf and from his grandfather to Prophet Muhammad SAW. His grandfather Shafii and his father Saib were Quraishi. He lost his father at an early age and was taken to Mecca by his mother. He memorized Quran at a young age in Mecca and Muwatta of Imam Malik at the age of 10. In Mecca, he received knowledge from Halidez-Zenci and started to give fatwa<sup>4</sup> at the age of 15 by his permission. At the age of 20, he went to Medina and took lessons from Imam Malik. He served as a judge in Yemen and Najran for five years. He learned Imam Evzaî and Leys b Sa'd's sects in Yemen. Later, he came to Baghdad in 185/800 and learned the views of the Hanafi sect from Imam Muhammad. Two years later, he came to Mecca and performed pilgrimage and lecture. He returned to Baghdad nine years later, learned Ahmed b Hanbel and İshak b Rahuvayh views. Imam Shafii settled in Egypt in 199/814 and died in Egypt in 204/820.

Imam Shafii took lessons from many teachers and they formed their own sect. Imam Shafii changed some of his views in Mecca and Baghdad , when he went to Egypt. The reason for this is that the customs in Egypt are different and that it evolves in science. In this respect, the views of Imam Shafii before he went to Egypt are called as previous sect and after Egypt, his views are called new sect.

Imam Shafii wrote his methodology of law in his book *er-Risalefi'l-Usûl*. As mentioned above, this work is the first book written about the legal methodology in the world. Imam Shafi in the *ijtihad* activity discusses the issues according to *verse*, *hadith*, *ijma*, *companion opinion* and *sygollism*. He accepts evidence of open *icma* and does not accept *silenceicma*. He accepts the *ahad hadith* (it had been narrated by one person in each generation). On the other hand, the *mürselhadith* which is the disconnection in *ravi chain*, does not consider evidence. He made choices by using strong Arabic knowledge in his case-law.

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<sup>4</sup> A ruling on a point of Islamic law given by a recognized authority

Imam Shafii brought together his legal views in his book al-Umm. This work is one of the first of the systematic law books. The sect of Imam Shafii was transferred to the next generations by his students (especially Müzenî and Muradî). Today, Shafi'i sect has the majority of people living in Egypt, Middle East, Indonesia, Pakistan, Somalia, Eastern and Southeastern Anatolia. Shafii school of thought is the second largest with number of followership after the Hanafism in the Muslim world.

### **Hanbali Sect and Ahmed b. Hanbal**

Ahmed b. Hanbal Shaybani was born in Baghdad in 164/780 and died in the same place in 244/858. When his father died at an early age, he got along with the income of his weaving workshop and spent his life learning science. He traveled to cities such as Kufa, Mecca, Medina, Damascus and Yemen to learn science and hadith. Although Ahmed b. Hanbal aligned to the Shafii sect at first, later developed a separate sect due to his vast knowledge of hadith.

Ahmed b. Hanbal memorized about one million hadiths and collected 45 thousand of them in his book al-Musned. His authentication of hadith criteria was not very strict. For this reason, he accepts ahad, mursel, and even weak hadiths.

Ahmed b. Hanbal taught hadith to some of his students, fiqh to some, and both hadith and fiqh to others. He allowed his students to write hadiths and did not allow them to write their views on the law. His views on law were subsequently written by Abu Bakr al-Hallal and Omar al-Haraki. Hanbali sect is the last denomination of the four schools of thought and the least favorable sect. In fact, at one point, his teachings began to disappear and the great Sufi Abdulkadir Geylanî revived the sect and made it stronger.

Ahmed b. Hanbal was doing ijtiḥad in the following order: Qur'an, hadith, companion views, comparison, istishab, maslahat, Daruriyyah (Necessity). He held the mursel hadith and the weak hadith superior to the comparison.

The Hanbal sect strengthened its works with in line with the efforts of other scholars such as Ibn Taymiyyah and Ibn al-Qayyim al-Jawziyya. Muhammad b. Vehhabilik, founded by Abdülwahab,

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was founded with the claim that it belonged to the Hanbali sect, but also carries important differences. The Wahhabis are also called Salafism because they aim to bring Islam to its purity in the early days. They do not allow applications such as visiting the tomb or mausoleum, reading the mawlid, mausoleum, mysticism, minbar and minarets in mosques and the use of prayer beads after prayer. Today, Vehhabilik (Wahabism) is practiced as an official sect in some countries such as Saudi Arabia.

### **Sects with No Members**

There are other sects that emerged in the period of tabiin and tabe-itabiin. The sects of mujtahids such as Abdurrahman Evzai (d. 88/157), Ibn Abi Leyla (d. 148/765), Ibn Shubrum, Sufyan-iSevri (d. 161/778) also ended because they did not remain members for a while. However, the views of these sects have survived in fiqh books.

### **Hasan Al-Basri (d.110 / 728)**

Abu Said Hasen b. Yesar al-Basri was born in Medina in 21/642. His mother, Hayre, is a freelancer and servant of Umm Salama (wife of the Prophet). For this reason, Umm Salma was interested in Hasan al-Basri's education. Hasan al-Basri, who memorized the Holy Quran at the age of twelve, met with about 120 companions and then went to Vadilkura to engage in science. During the reign of Caliph Ali, he went to Basra and continued his scholarly activities there. He resigned after performing the duty of the governor of Basra. He spent the rest of his life in preaching and scholarly activities in Basra, and passed away in Basra in 110/728. He became famous for his effective oratory, asceticism and supplements, his scholarship knowledge, his avoidance of political conflicts, and his telling the truth without hesitation to the cruel administrators. Fiqh views are included in the commentary and fiqh books.

**Ibn Şübrüme (d.144 / 761)**

Abdullah b Şübrüme b Et-Tufeyl ed-Dabbi was born in 72/691. He learned fiqh (jurisprudence) from scholars such as Ibrahim en-Nehai, Hammad b. Abu Suleiman and Amir b. Sharahbil al-Sha'bi, Abu Hanifa, Jafar al-Sadik. During the Umayyad and Abbasid periods, he served as a judge and held important state posts. He also criticized Abu Hanifa, who refused to serve as a judge. İbn Şübrüme, who has knowledge of jurisprudence at the level of ijtiħad, belongs to the ra'y (opinion) school.

**Ibn Abi Leyla (d. 148/765)**

Ibn Abi Leyla was born in 74/693 and lost his father Abdurrahman at a young age. He learned fiqh, hadith and Qur'an from scholars such as Ata b Abi Rabah, Amr b Mürre, Davud b Ali. During the caliphate of Walid b Yazid, he was appointed as the Kufa judge by Yusuf b. Omar al-Sekafi, the governor of Irakeyn and Horosan regions. He continued to do this duty during the Abbasid period. He served thirty-three years until his death.

Ibn Abi Leyla used to look at the cases in Kufe masjid and apply his punishment there. Abu Hanifa discussed Ibn Abi Layla's decisions with his students. Ibn Abi Layla, who was uncomfortable with this, complained Abu Hanifa to the caliph and the caliph banned Abu Hanifa from giving fatwa. Ibn Abi Layla and Abu Hanifa also held scholarly debates in front of communities. After taking lessons from Ibn Abi Layla for nine years, Abu Yusuf left and became a student of Abu Hanifa. Abu Yusuf explains the differences of opinion of his two teachers in his work Ihtilafu Abi Hanifa and Ibn Abi Layla.



**Evzai (d.157 / 774)**

Abu Amr Abdurrahman b Muhammad al-Evzai was born in 88/707 in Damascus or Baebelek. Evzai, who lost his father at a young age, took lessons from the great scholars of the tabiin. At the age of thirteen he reached the level of fatwa. He had important knowledge especially in the science of hadith. He contented himself with hadiths in legal matters and did not pay much attention to the vote and the comparison.

**Sufyan-i-Sevri (d. 161/778)**

Abu Abdillah Sufyan b. Said b.Mesruk es-Sevri was born in 97/715. His parents were knowledgeable and pious. At an early age he took lessons from his father who was among the Kufa's leading scholar. He traveled to cities such as Mecca, Medina, Basra, Damascus, Yemen, Jerusalem, Bukhara, Merv and made scholarly activities there. The Sufyan-i-Sevri rejected the Abbasid caliph Mansur's offer of Qadi (Judge) and did not hesitate to criticize the unfair practices of the rulers. His sect continued to exist until VII / XIII century.

**Leys b. Sa'd (d. 175/791)**

Leys b. Sa'd was born in 94/713 in a village of Kalyubiye, Egypt. He was originally from Isfahan. He was in Egypt, Hijaz, Damascus, Jerusalem, Baghdad and he took lessons from many scholars and educated many students. He passed away in Egypt in 175/791. Leys b Sa'd, famous for his *Zuhd*<sup>5</sup> and its supplements, is one of the great jurists of the period.

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<sup>5</sup> *Zuhd*, (Arabic: "detachment"), in *Islam* or asceticism. Living a pious life avoiding luxury

**Ishak b. Rahuye (d. 238/853)**

Abu Yakup Ishak b. Abraham b. Mahled et-Temimi al-Hanzali al-Mervezi was born in 161/778 in Merv. He completed his education in scholarship centers like Merv, Iraq, Damascus, Hejaz and Yemen. He took lessons from scholars such as Abdullah b. Mubarak, Veki b Cerrah, Abdurrahman b. Mehdi, Sufyan b. Uyeyne and Imam Shafi. Scholars of hadith such as Ahmed b. Hanbal, Bukhari, Muslim, Abu Dawud, Tirmidhi, Nesa'i, Darimi narrated the hadith from him. Ishak b. Rahuye, who was engaged in science of hadith throughout his life, passed away in Nisabur in 238/853.

**Abu Sevr (d. 240/854)**

Abu Abdillah Ibrahim b. Khalid b. Abbi al-Yeman al-Kelbi al-Baghdadi Abu Sevr was born in Baghdad in 170/786. He completed his education there. He took lessons from great scholars such as Imam Muhammad and Imam Shafi. Abu Sevr, one the topmost mujtahid, united the hadith and ra'y schools. Abu Sevr passed away in 240/854. His sect lived in Azerbaijan and Armenian regions until the end of the IV / X. century.

**Davud b. Ali b. Halef al-Isfehani (d. 270/883)**

Abu Suleiman Davud b. Al-Isfehani was born in Kufa in 200/815. He took lessons from the leading scholars of the period in Basra, Baghdad and Isfahan. Davud al-Isfehani, a disciple of Abu Sevr, first chose the Shafi'i sect. He was the first author to write a book about the life and virtues of Imam Shafii. Under the influence of one of his teachers, Ibn Rahuye, he set up his own sect. He founded a sect based on the manifestation of the Quran and Sunnah, which rejected comparison and ijthad. The sources of his sect are books, Sunnah and Ijma. Theoretically, he refused to do so, but he had to use it under the name of evidence. He has attracted attention with his asceticism and

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supplements, and scholarly views. Davud b. Ali died in Baghdad in 270/883. His sect spread in Iraq, Mauritania, North Africa and Andalusia. The fact that Ibn Hazm, the Andalusian scholar, belonged to this sect made a significant contribution to the development of the Zahiri sect.

#### **Taberi (d. 310/923)**

Abu Jafar Muhammad b. Cerir et-Taberi was born in Amul, the center of Tabaristan in 224/839. He travelled to Rey, Baghdad, Basra, Wasıt, Kufa, Egypt, Damascus, and Beirut for education. He learned tafsir, hadith, fiqh, Qiyas, literature, Quran recitation, poetry and history. He learned Hanafi fiqh from Abu Mukatil. He learnt the Shafi'i jurisprudence from Muzeni, Rebi b. Süleyman and Abu Abdillah b. Abdilhakem. He made a living with the income of his father's land and did not accept any official duty. He didn't accept gifts from statesmen. For the rest of his life he was engaged in science of Quran and hadith in Baghdad, he wrote books and educates students. Taberi who gave fatwa according to Shafii sect for ten years, then founded his own sect. He passed away in Baghdad in 310/923.

#### **Conclusions**

The period of Muctehid jurists is considered the golden age of Islamic law. During this period, a large number of mujtahid lawyers were trained and provided a great accumulation on behalf of Islamic law. The issues are discussed in free environments and new ideas have been reached from these discussions. In this period, the expansion of the borders of the Islamic country and the participation of different cultures in the Islamic geography brought a lot of problems before the lawyers. The lawyers made efforts to settle these issues and contributed to the development of Islamic law.

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