IMAM SHAWKÂNÎ: TAQLÎD'S FOE, IJTÎHÂD'S FRIEND

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Imam Shawkânî is Muḥammad b. ‘Alî b. Muḥammad b. ‘Abdillah al-Shawkânî al-Ṣân‘âni (born 1760). He is called al-Shawkânî because of his attribution to his birthplace, Hijrah Shawkân a small town a day’s journey from Ṣân‘â, Yemen. He is also known as al-Ṣân‘âni as an attribution to Ṣân‘â where he grew up, studied and held the position of Qâdi al-ṣudâr under the Qâsimî Imâmî rulers. In his early years, he studied under his father Ṣân‘âni b. Muḥammad al-Shawkânî (d. 1797) who was a judge of Ṣân‘â. It is difficult to say whether al-Shawkânî was a Zaydi or Sunnî, but his milieu was Zaydi. He was well read, educated in both the Zaydi and the Sunni traditions. This is substantiated from the list of works and teachers provided in the work titled “The Biography of Imam al-Shawkânî”. Beside Zaydi works such as Sharḥ al-Azhâr and Sharḥ al-Nâzîrî, al-Shawkânî also studied Sunni classics such as Sahîh Buhârî, Sahîh Muslim, Sunan al-Tirmidhi, Muwatta Malîk, Al-Shîfâ of al-Qâdî ‘Iyâd, al-Muntaqâ and so on.1 With his mastering of numerous sciences, al-Shawkânî claimed that by the age of thirty he “dispensed with taqlîd and became a mujtahid mutlaq”. He dedicated his life to issuing fatwas, an activity he started at the age of twenty, and to teaching students and writing. He wrote prodigiously on various sciences and issues. Some of his famous works are:

3. Irshâd al-fuhûl ilâ tahqîq al-haqq min ‘ilm al-uṣûl (Guiding the eminent to the verification of the truth in the science of uṣûl). A work on uṣûl al-fiqh.2

One could say that Imam al-Shawkânî was fortunate to have encountered both the rigid Zaydis who adhered to the Hâdawî school of thought and the Sunnah-oriented Zaydis. This was because eighteenth century Yemen was ruled by Qâsimî Imams. The Qâsimî imamate was founded by Imam al-Mansûr al-Qâsim b. Muḥammad (d. 1598). The early Qâsimî Imams of sixteenth and seventeenth century, even though they rejected the Mu’tazili legacy which was part of medieval Zaydi thought, they remained staunch followers of the Hâdawî thought. They would cite Sunni hadîth collections, but maintain a hostile stance to Sunnism. However their successors, the eighteenth century Qâsimî Imams, moved away from the Hâdawî teachings. They promoted and patronized the Sunni traditionist scholars. The opening to Sunni teachings and source-texts amongst the Zaydi Imams can be seen as early as al-Mutawakkil Ahmad b. Sulaiman (ruled 1137-1170). Al-Mutawakkil referred to canonical hadîth collections in his own work Uṣûl al-ahkâm fi al-haqq wa al-hařâm. This trend was not limited to the Zaydi Imams, but was equally shared by the circle of

2 The Biography of Imam al-Shawkânî, pp. 93; Bernard Haykel, Reforming Islam by Dissolving the Madhâhib: Shawkânî and His Zaydi Detractors in Yemen, (UK: Cambridge University Press, 2003), 19.
Zaydi scholars. They mostly cited the Sunni hadith to bolster their Zaydi-Hādawī views. In other words they were selective in their approach in the early period. Later this approach to Sunni hadith collections took a new turn in the shape of pure traditionalist scholars arising within the circles of Zaydi-born scholars. The first such scholar in this lieu was Muḥammad b. Ibrāhīm al-Wazīr (commonly known as Ibn al-Wazīr, d. 1436). Ibn al-Wazīr influenced by the Sunni hadith sciences, abandoned the Zaydi-Hādawi School. He disseminated the Sunni Traditionist path and declared the Sunni canonical collections as “unconditionally authoritative in religion”. He was followed by al-Ḥasan b. ʿAlī b. al-Jalāl (d. 1673), Salīḥ b. ʿAlī b. al-Maqbali (d. 1696), Muḥammad b. Ismāʿīl b. Ḥādawi (commonly known as Ibn al-Ḥādawi, d. 1769), Ibn ʿAlī’s student ‘Abd al-Qādir b. ʿAlī b. al-Kawkabānī (d. 1792) the principle teacher of al-Shawkānī and finally al-Shawkānī. Al-Shawkānī spearheaded the Sunni Traditionist path to its peak which then dominated the “circles of power and learning” in Ṣanʿā’.4

The rise of sunnah-oriented Zaydi scholars and Imams who patronized them was because of both internal and external factors. Bernard Haykel while explaining these factors mentioned that the sunnah-orientation of Qāsimī Imams was to accommodate the sentiments of the Ṣaḥīḥīs. A large number of subjects in lower Yemen were Ṣaḥīḥīs. This was necessary for the Qāsimī Imams because lower Yemen areas generated considerable tax, the main source of income for the Imamate. The cash-crop of that time was coffee which had a big demand in the international market. Voyages and Travels quoted a merchant describing the commerce of that period: “The riches of Yemen may be considered as solely owing to its coffee, for it is from the sale of that commodity, that its merchants receive [Spanish] dollars in Egypt, with which they purchase the manufactures and spices of India.” Some writers even went to the extent that they named the Qāsimī state ‘The Coffee Imamate’. Another reason Bernard provided which can be considered an internal factor was the legitimization of the “dynastic ambitions of the eighteenth-century Qāsimī Imams”. They did not live up to the ideal of “Zaydi political doctrine”. They behaved more like kings rather than Imams. Following the Zaydi political doctrine in strict sense would not have given them this freedom so they delegitimized the rules of Zaydi political doctrine.5 On the other hand, the Sunni conception of Imam served their ambitions.

Al-Shawkānī in line with his teachers and Sunnah oriented Zaydi scholars earlier than him focused his scholarly interest directly at the canonical hadith collections and the hadith sciences. He considered the Sunni hadith collections as the most authoritative source in religion (after the Qurʾan) and thus based his opinions mostly on them. In this sense it will be accurate to categorize him as a Sunni Traditionist. He condemned taqlīd and adherence to one school of law. His main opponents were the Zaydi-Hādawīs. Basing on the Sunni hadiths he rejected the Zaydi-Hadawi doctrines of Imamate such as the condition for the Imam to be a mujtahid, to be of ‘Alawi-Fāṭimi descent, to make a call (daʿwah) and rising against the illegitimate rulers (khurūj). Al-Shawkānī advocated that it is not conditional for the Imam to be a mujtahid or of ‘Alawi-Fāṭimi descent. Imamate could be attained by receiving allegiance (bayʿah) of people of note (ahl al-ḥall wa al-ʿaqd) in contra to daʿwah. Another way to attain the

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4 Bernard Haykel, Reforming Islam by Dissolving the Madhāhib: Shawkānī and His Zaydi Detractors in Yemen, pp. 338.

5 Ibid., p. 9.

Bernard Haykel, Reforming Islam by Dissolving the Madhāhib, pp. 15.
position of Imam he proposed was by delegating the imamate to another Imam as Abu Bakr al-Šiddiq did with ŤUmar b. Khāṭṭāb. He forbade the Muslims to rise against an unjust Imam as long as he fulfilled the basic tenants of Islam and did not perform any act of disbelief publicly.⁶

In his treatise “al-Qawālī al-mufīd fī adillat al-ījīhād wa al-taqlīd” al-Shawkāni deemed taqlīd as a reprehensible innovation developed by the followers of various schools of law. He argued that taqlīd has led them to “factionalism (mahābiyāh)” while the application of ījīhād is a means to combat the sectarian and antagonistic tendencies seen in different schools of law.⁷ His urge was to return to the principle sources of the Qur’ān and Sunnah to determine legal rulings. In relation to Uṣūl al-fiqh he opted for more certainty than the standard model. One could claim that Shawkāni’s almost exclusive dependence on Qur’ān and Sunnah added greater certainty to his model of Uṣūl. He aimed to free the Uṣūl science from principles which were presumptive (zannī) or textually baseless. He did not consider ījmā’ to be a source of law; this is because there is no textual proof for it. In his Wābi al-ghāmām ‘alā shīfā’ al-uwām he argued that it is impossible to ascertain the consensus of all scholars of all regions on an issue with the existence of “different schools, temperaments, differences in understanding, contradictory dispositions, and the love of contradiction”. With this conception of ījmā’ Shawkāni refuted many of the distinctive and identifying legal teachings of Hādawi. For instance, Hādawi base the call to prayer in a two-fold form (al-adhān al-muthanna) and the saying “hayya ‘ala khayr al-‘amal (Come to the best of deeds)” as part of the call to prayer on the ījmā’ of Ahl al-Bayt or ījmā’ al-‘ītrah argument. Shawkāni said that such ījmā’ is not valid, because these practices are not traceable in the Sunnah.⁸

Similarly, Shawkāni did not accept all the forms of qiyās (analogical reasoning). He argued that most of the qiyās were based on ra’y. And qiyas is the umbrella under which ra’y was mostly applied in Islamic law. However he accepted only those qiyās in which the cause (‘illah) was established by the text (Qur’ān and Sunnah). In this regard he said: “we are not among those who deny qiyas, but we forbid establishing rules by it, except when the text comes with its cause (al-‘illah al-mansūsiyāh)…”.⁹ This approach of Shawkāni to Uṣūl al-fiqh was necessary in order to reform the laws substantiating (furū‘). Based on his methodology he reformed the legal decisions of Zaydi-Hādawi and other legal Schools.

Shawkāni’s epistemology and legal methodology can further be understood from his Uṣūl work entitled Irshād al-Fuḥūl ‘ilā Tahqīq al-Haqiq min ‘Ilm al-Uṣūl, especially when we look at his discussion on ījīhād. For him ījīhād provided “solutions to the evils of sectarianism and fanaticism as well as a means of reforming misguided social practices”. He argued that ījīhād is a continuous and necessary process not bound to any time period. For every time there will be a mujtahid supported by the Prophet’s hadith “until the day of reckoning a group in my nation will remain manifesting

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⁶ Ibid., p. 84
⁸ Bernard Haykel, Reforming Islam by Dissolving the Madhāhib, pp. 90.
truth”. His epistemological approach was that authoritative knowledge is textual, and can only be derived textually. Since generation of scholars from the time of Prophet down to him had collected, classified and codified the textual legacy, the possibility to arrive at authoritative legal decisions was greater compared to the earlier generations. He argued that Muslims themselves could access the fruits of principle-texts through *ijtihad* or at least through consulting a *mujtahid*. He also believed that *mujtahids* could be produced and thus wrote a pedagogical work entitled *Adab al-talab wa muntaha al-arab*. In this work he outlined a curriculum which could prepare scholars capable of *ijtihad*.10

Shawkani’s *advocation for ijtihad* and resistance to *taqlid* not only made an impact on the socio-legal aspect of people, but on the political system as well. In 1795 he was appointed as the *Qādi al-quḍāt* of Qāsimī Imamate. He held the position for almost forty years under the reigns of Imam Al-Mansūr ‘Ali b. ‘Abbās (1775-1809), al-Mutawakkil Aḥmad b. ‘Ali (1809-1816) and Mahdi ‘Abdullah b. Aḥmad (1816-1835). These three Imams were not *mujtahids*. In order to compensate for this lack, al-Shawkānī stipulated the *non-mujtahid* Imams to elect *mujtahids* and accomplished jurists (*‘ulamā‘*) for consultation. And the *non-mujtahid* Imam, he stipulated “must render all disputes to the *‘ulamā‘* and whatever they judge he must execute and whatever they order he must do”.11 Al-Shawkānī issued his legal judgments in the form of short and long *fatwas* or as binding letters to judges under his office. Since his *fatwas* and legal judgments superseded all others and were enforceable in practice, he became the ultimate legal reference in the region. He also gained many Shafī‘i admirers who would come and study from him. He had students from as far as India.

Shawkānī died on October 1834. His jurisprudential opinions and methodology not only influenced his contemporary society and politics (Imāmate), but societies after him as well. His students disseminated his teachings in all realms of life. He is considered as the last great figure in the line of traditionist scholars in Yemen and also elsewhere in the region. His arguments on how to reform Islamic society have “resonated with the concerns of many modern Sunni reformers” both in Arab and non-Arab countries.12

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