

Shāfi‘ī school of jurisprudence: Circulation and mobility across the Indian ocean region

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Abstract: In the history, it is evident that Islamic jurisprudence has been introduced and propagated in different corners of the world by the renowned scholars and rulers. This paper attempts to analyze the spread of Shāfi‘ī School of jurisprudence across the Indian Ocean regions during the eighteenth and nineteenth centuries. Even today, one can see the strong influence of Shāfi‘ī School of jurisprudence across these littorals. Hadramī Sayyid and trade Diasporas are decisive in the spread and dominance of Shāfi‘ī School of jurisprudence in the Indian Ocean regions. Predominance of Shāfi‘ī School of jurisprudence in these regions led to the circulation of religious texts such as *Fath al-Mu‘īn* and other sacred manuscript sallied with Shāfi‘ī School. The proposed paper endeavors to examine the influence of Shāfi‘ī School of jurisprudence on Malabar Muslims, further the study scrutinize the predominant religious texts which are circulated in these regions. In addition, this paper also tries to unfold the role of Hadramī Sayyids in making social changes and cultural reformation in the life of Mappilas

Keywords: *Islamic jurisprudence, Shāfi‘ī school, Hadramī sayyids, trade diaspora, Indian Ocean regions, circulation of legal Texts*

Introduction

The school of jurisprudence is an Islamic science developed in the early years of Hijri calendar (eighth and ninth century A.D). It is the blueprint of Islamic legal law which is drawn from *Qur'an* and Hadeeth by examining the inner meanings of the scripts. Muhammad Baqir Al Sadr explained the Islamic Jurisprudence as "...a formal science, dealing with abstract principles and rules that regulate the relations of humankind and generally recognized as having legal consequences and universal application" (2003, p. 4). Eminent scholars suggest that vast knowledge is essential to interpret and

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comprehend the sacred books, thus they recommend that it is not desirable for ordinary people to interpret scripts by simply using their rationality. Historically, common people depended scholars, since it is hard for common people to find a solution in Islamic legal issues. Prevailing authorized Islamic laws have been developed by scholars through continuous and constant study of *Qur'an* and *Hadith*.

During the period of Prophet and *Khulafā' al-Rashidūn* (first four rulers after prophet), there was not requisite of school of jurisprudence, because prophet was the lawgiver and his companions were well aware of *Qur'an* and *Hadith* in detail. When Islam spread to different corners of the world, people in those areas started to follow the rulings proposed by 'ulamā of those regions. However, Islamic law differed from region to region, therefore there was no a systematic Islamic law. On this ground scholars established systematic structure to get rid of complication by proliferation of schools. Tireless efforts of scholars resulted in the establishment of four authentic schools by devaluating all other prevailing schools. The four schools were under guidance of eminent scholars and that schools carefully considered the geographical peculiarities while framing the laws. For example, the Ḥanafī School adopts the practices which are popular Kufa, whereas the Mālikī School draws customs which are predominant in Medina. In the case of Shāfi‘ī School, which is popular in Indian Ocean region, had internalized practices and customs which are predominant in the Southern Arabia and Egypt. Erin Kakaoulidos writes:

The geographically based schools of law were situated in various central positions of the Islamic world and each had its own religious scholar, who had formed a certain minimum' agreement' on' their' doctrines. Towards the half of the 2nd hijra century, many people had taken to following the teachings of a recognized spiritual leader and the main principles of his doctrine, while maintaining the right to diverge from any specific point they did not agree with. This is what essentially led to the formation of groups of people within the ancient schools of law" (2015, p.39).

Kakaoulidos asserts that there were no grave conflicts or oppositions between these four schools, apart from minor differences maintained in the Islamic legal ideas.

Spread of Shāfi‘ī school of jurisprudence

Amongst these four schools, Shāfi‘ī School of Jurisprudence spread across the Indian Ocean regions through the migration of traders and Ḥaḍramī Sayyids, who were the followers of the same School in Hadhramaut. Shāfi‘ī School of Jurisprudence familiarized and disseminated in these regions through the trading network and it is its easiness compared to other schools attracted a vast majority to adhere it. Moreover, its relevant verdicts on trade and trade related disputes accelerated people in these regions to follow it. C.G. Weeraman has made a remarkable observation on popularity of Shāfi‘ī School in trade dominant areas, according to him, “in the Muslim communities of the commercial centres of the Indian ocean, the Shāfi‘ī *Madhhab* (school) was of particular prominence; adherence to a common school of law was an important factor in commercial dealings as it could be relevant in the adjudication of disputes” (Weeraman, 1988, p.25).

As Ḥaḍramī Sufis and traders were the robust followers of Shāfi‘ī School of jurisprudence, they propagated Shāfi‘ī legal ideas in all localities where they settled. Preponderance of Shāfi‘ī school of Jurisprudence in locations such as Malay Archipelago, Indonesia, East Africa and Malabar substantiate it. Anne K. Bang comments, “what we know about the Zanzibari Shāfi‘ī Ulema derives from the retrospective accounts begin where the *tarjamas* of Ḥaḍramī Alawis end; focusing on Zanzibar, they depict a tight woven network of Shāfi‘ī scholars, some of whom were part of the Alawi tradition, others who looked elsewhere for their orientation” (2004, p. 93). The dissemination of Shāfi‘ī *Jurisprudence* across these East African coastal regions like Zanzibar were the contribution of the Ḥaḍramī Sayyids. They propagated it by translating Islamic texts and teaching the history of their forefathers, who were the staunch followers of this school. Peter G. Riddel writes “an important feature of Islam in Hadhramaut was the preponderance of the Shāfi‘ī School

of law. Indeed so complete was its dominance that alternative schools of law were largely absent" (1997, p. 219). As traders of Hadhramaut had been vigorously influenced by Shāfi‘ī School, they were actively engaged in propagating it. Traders aided the scholars of Shāfi‘ī School of jurisprudence, moreover they also funded for educational institutions which teaches and promulgates Shāfi‘ī School of thoughts.

However, in the case of Malabar Shāfi‘ī School of jurisprudence was already introduced by the Maqdhood family heritage and it is also worth mentioning that Zain al-Dīn al-Makhdūm's contribution to the Shāfi‘ī School of Jurisprudence, which became world famous, is being still followed across the Indian Ocean regions. Therefore the contribution of Bā-‘Alawī Sufis could be considered as reinforcement and revival in the Shāfi‘ī School of Jurisprudence rather than a beginning in Malabar (Mamburam Puthiya Nerchappattu, Manuscript). However, Ḥaḍramī Sayyids introduced many texts in these areas which commonly used in Hadhramaut. The massive influx of Sufi scholars from Hadhramaut during the course of eighteenth and nineteenth centuries fortified the rejuvenation of Shāfi‘ī School in Malabar area. Diverse factors are accountable for fast spread of Shāfi‘ī School in these regions. Compared to other schools of thoughts, the rubrics and practices of Shāfi‘ī School is not so hard for common folk and it eased the propagation of this school among the public. For example, in the case of prayer, the significant part of Islam, it put forward simple procedures compared to other schools of Jurisprudence. Ahmmad Hasan makes a striking contrast between Shafī‘ī and Ḥanbali and opines that, "The Shafī‘ī school is considered the easiest school and the Hanbali is considered the hardest in terms of social and personal rules" (Hasan, 1966, pp. 239-73). Along with preaching and disseminating it, Ḥaḍramī Sayyids also proclaimed fatwa and arbitration rooted on the Shāfi‘ī School across the Indian Ocean regions especially in Malabar. It is notable that the Shāfi‘ī School gave prominence to the trade in the jurisprudence and it triggered the wide popularity and acceptance of it in these regions. For instance, *al-*

Umm, authored by Imam Shāfi‘ī, contains relevant rulings on trade activities (Kooria, 2017, p. 92). The significance of Shāfi‘ī School’s rules and regulation on trade is that it is not intricate; instead it is flexible and easy to put into practice. Moreover, the division and cohesion paved way for easy and fast spread of Shāfi‘ī School. Through the valid debate there emerged various opinions within the school which helped the followers to choose any notion proposed by scholars. For example, there was subtle debate between Rāfi‘ī and Nawawī in thirteenth century regarding spiritual matters and the opinions of both scholars are legitimate, so they are acceptable for the followers. Mahmood Kooria writes:

There were constant divisions and cohesions among its textual authorities, and the school was generally accommodating of contrasting viewpoints. The agreements and disagreements, revisions and refutations, and debates around law which even evolved in to street-fights- an unavoidable routine occurrence in the histories of Islam, which has been wholesomely identified as the Islamic discursive tradition- have oxymoronically contributed to the development of a constructive legal tradition over time and space (2017, p. 96).

Tough Shāfi‘ī School gained wide acceptance among public, there were also small groups of people who followed the Ḥanafī School of Jurisprudence across these regions. On this ground one can understand that the influence of traders or the propagation of Sayyids did not get entire people as followers of Shāfi‘ī School in these regions because there were group of people, whose forefathers migrated from North India, following Ḥanafī school of Jurisprudence but, they also agreed the spiritual leadership of ḥadramī Sayyids. However, the presence of Ḥanafī school of Jurisprudence did not hinder the expand of the Shāfi‘ī school, in contrast Shāfi‘ī Jurisprudence develops hand in hand with Ḥanafī school in Malabar as well as other Indian Ocean region.

Erection of numerous Masjids and educational institutions across the Indian Ocean regions were the major changes that happened after the Ba-Alawi migration (Randathani Husain, 2010, p.

122). Prior to Bā-'Alawī migration, Muslim settlement was mainly concentrated in the coastal areas of Malabar and they were chiefly engaged in trade activities. Author of *Malappuram District Gazetteer* writes, “the tradition very popular among the people is one which connects their origin with the conversion of a Perumal to Islam in the ninth century. The date of their origin is much earlier as we have got historical notices pinpointing to the flourishing trade between Arabia and Malabar in the eighth and ninth centuries. It is definite that many of these traders might have gradually settled in the coastal areas” (C.K. Kareem, 1986, p. 192). Ba-Alawi Sufis, who settled in rural areas of Malabar in the eighteenth century (Innes, 1933, p. 322), toiled for the welfare of the Mappila Muslims and other lower caste communities in the remote areas. On this reason many lower caste Hindus converted to Islam as William Logan opined. Glassman writes “Sufism proved to be an effective tool for winning subaltern clientele” (J.Glassman, 1996, p. 87). The influence of Sufism led a majority of unprivileged and social outcaste to embrace Islam. Hike in the number of devotees necessitated the construction of Masjids, subsequently Bā-'Alawī Sufis erected Masjids and in those Masjids they practiced each and every rituals of Shāfi'i School in a systematic manner.

However, there were many people who did not follow any of these schools of jurisprudence and they endorsed self-reason instead of established schools of thoughts. Moreover, they alleged that there is no authority for these schools of jurisprudence and argued that when a person is confused with an issue one will have to return to the *Qur'an* and prophetic tradition, as prophetic tradition teach us and not the Jurisprudents. Against this background they supported self-reasoning and asserted that self-reasoning is not bunged in Islamic tradition. However, many Sunni scholars claimed that the door of self-reasoning in Islam is closed and only permissible to those who by hearted certain number of *Hadith* (around one lakh) and *Qur'an* (which is not possible today). On the other hand there are many scholars who argued that it is not indispensable to by heart these much *Hadiths*, but they asserted that it is compulsory to have through

knowledge about diverse aspects of Islam, which include *Qur'an*, *Hadith* and legal theory. Coulson writes, “To protect Islamic law from the dangers of innovation and distortion the great scholars of *usul* laid down rigorous conditions to be fulfilled by anyone wishing to claim the right of *Ijtihād* for himself. A jurist must be a master of the Arabic language. He must have proficient knowledge of theology, the revealed texts and the four schools of thought. A jurist must have a comprehensive knowledge of legal theory, *Usul al-Fiqh*, which governs the interpretative principles of legal language and the method of investigating the texts, the *asbab al-nuzul* and the *asbāb al-warud*, the *nasikh wa al-mansukh*, etc. He should have thorough knowledge of the *Qur'an* and *Hadith* and in the exegesis. He must know what parts of the law have become subject to consensus. He must be a pious and practicing Muslim. He should first seek the solution of a legal problem in the specific terms of the *Qur'an* and the Sunna, applying the accepted methods of interpretations and construction, including, the doctrine of *Naskh*, *asbab*, etc., before considering *Ijtihād*” (Coulson, N. 2017, p. 76). The above arguments suggest that people with basic knowledge of *Qur'an* and Hadeeth are not eligible to do research in religious issues.

On this ground *Ijtihād* was categorized into *Mujtahid Muṣlaq*, *Mujtahid Muntasib* and *Mujtahid Muqallid*. *Mujtahid Muṣlaq* has autonomy in legal issues and this category includes four Caliphs and four Imams of Jurisprudence. *Mujtahid Muntasib* is a scholar who operates within certain school following its methodology but produce new remedies for new legal issues. Abu Yusuf (R) in the Ḥanafī School is an example for *Mujtahid Muntasib*. *Mujtahid Muqallid* is a person who follows the rules and regulation of a School arrived at from early school. However in a legal issue he does not depend up on the opinion of the founder, instead he exercises his own *ijtihād* and finds a solution. Therefore one can understand that the absolute *ijtihād* is not possible in modern days as opined by Steven Masood, “Between the ranks of *Mujtahids* and *muqallids* there are other levels of jurists who have combined *Ijtihād* with *taqlīd* and while it is acknowledged that the absolute *Mujtahid* is something that cannot be

attained now, other levels are probably attainable” (Kamali, 1991, p. 182).

Numerous debates and conflicts have ensued in the dawn of twentieth century based on the *khuṭbah* language of Friday congregation. Minor section of the Muslims claimed that the *khuṭbah* should be in mother tongue to make it easy to comprehend to the local people. Meanwhile Ḥaḍramī Sufis argued that the *Khuṭba* should be in Arabic which is the tradition of the prophet and way of Shāfi‘ī School of jurisprudence. The prime argument of *salafi* followers, who batted for native language *khuṭbah*, is that the counsels are intended to make the local people aware of Islamic principles, so it should be in mother tongue. On the other hand Sunni scholars problematized the arguments of *salafis* by pointing out Arabic *khuṭbah* is the part of Islamic ritual and Prophetic tradition so it must be practiced how the Prophet did it. However, some *sunni* Masjids introduced the practice of conducting Malayalam speech before the *khuṭbah* which is not considered as the part of the ritual *khuṭbah* but regarded as advices to the common people when they congregate once in a week. This skirmish continued for several years and finally established independent *masjids* by those who demanded for Malayalam *khuṭbah* in Friday congregation. Ba-Alawi Sufis (Ḥaḍramī Sayyids) vehemently opposed the new practice as it was against the principles of *Shāfi‘ī* Sunni doctrines.

Circulation of legal texts

Legal texts of Shāfi‘ī School were circulated across the Indian regions during the course of years and it was mainly dispersed by traders or scholars cum traders who travelled across the Indian Ocean regions. *Fath al-Mu‘īn* written by Zain al-Dīn al-Makhdūm in Malabar in the sixteenth century is one of the splendid works which circulated across these regions. Several scholars composed numerous texts by interpreting *Fath al-Mu‘īn*. Among them *Tharshīḥ al-Mustafidīn* which was written by Aḥmad al-Saqqāf al-Ḥaḍramī is the well-known and widely studied interpretation of it in Hadhramaut. Further, in Egypt al-Sayyid al-Bakrī wrote the interpretation of *Fath al-Mu‘īn*.

under the title of *I‘ānat al-Tālibīn* and it was also circulated rapidly in various corners of the world.

Al-Ajwibat al-‘Ajība ‘an al-As’ilat al-Gharība which is written by Zain al-Dīn al-Makhdūm Junior in Malabar also circulated in the Indian Ocean regions. This text was a cluster of questions related to the life and trade practices in Malabar, where the non- Muslims are the majority and the Muslims are the minority. This text was translated into other languages and circulated in many regions, since similar condition was prevalent in various locations. Ronit Ricci writes: “Many questions in *Ajwibat* are very interesting. The questioner is concerned with many legal complications he addressed at his homeland, Malabar, where Muslims were only a minority ruled by a Hindu kingdom, the Zamorins. Hence, his questions pertain to issues which were not found in the Middle-East-centric Islamic legal texts of his period. For example, he asked about the legitimacy of a Muslim judge appointed by a non-Muslim ruler like the Zamorins, the use of non-Arabic language similar to Malayalam in religious rituals, permissibility of intermixing with the non-Muslim communities and the practice of trading with the Hindu Gujarati merchants who frequented the Calicut port. All these questions should be read against the historical backdrop of Malabar in which the so-called “Lord of the Sea”, the Hindu Zamorins of Calicut accommodated a number of foreign communities including Muslims, Christians and Jews. This practice transformed Calicut into a cosmopolitan hospice for commercial and cultural itinerants of the Indian Ocean”. (Ricci Ronit, 2011.p. 251)

Safīnat al-Najāt by Sālim ibn Samīr al-Ḥadramī and *Nihāyat al-Zain* by al-Nawawī al-Jāwī are the examples of texts in Shāfi‘ī Jurisprudence which gained wide readership across the Indian Ocean regions. Both texts mainly focus on the basic lessons of jurisprudence. In the same manner the *Minhāj* of al-Imām al-Nawawī from the thirteenth century got due importance in the Shāfi‘ī School. This text was circulated across the Indian Ocean and the Mediterranean worlds during the course of thirteenth and fourteenth

centuries, moreover, majority of later texts in the Shāfi‘ī School had written based on the *Minhāj* of al-Imām al-Nawawī.

Bā‘Alawī Sufis initiated the erection of *pallidars*, *pondok* or *pesenetren*¹ in Yemeni model across the Indian Ocean littorals to preach the lessons of Shāfi‘ī School of jurisprudence. The subjects studied in these *pallidars* or *pondok* were more or less same. The teachers of these institutions were well known scholars in the field of Shāfi‘ī School of jurisprudence (Hudawi K.M. Bahauddeen, 2014. P. 143). In the nineteenth and twentieth century *pallidars* and *pondok* and *pesentren* system were pivotal sources of Islamic knowledge accumulation. In these institutions Ba-Alawi Sufis taught the Shāfi‘ī jurisprudence, *Tasawwuf*, *Hadith* (Prophetic tradition) and *nahw* (Arabic grammar). After getting the primary education from *oothpalli*² or similar institutions many Muslim families sent their children to the *pallidars* or *pondok* for higher education in Islamic principles. Poverty and starvation were also prompted many parents to send their children to the *pallidars* or *pondok*. Rich people who are living in the vicinity of *masjid* provided food and occasionally distributed dress for the students in the *pallidars* and this advantage encouraged many underprivileged parents to enrol their children in *pallidars*. As *muta‘llims*, students in the *pallidars*, were revered by common people, they have enjoyed social privilege and it also contributed in the upsurge of students in *pallidars*. *muta‘allim* has certain social advantage, for instance nobody did deny food to *muta‘allim* due to the fear of the God or society and if anybody denied it, he would be a sinner in the front of society. In the case of Malabar, second half of nineteenth century and first half of twentieth century majority Muslim families in Malabar were living in poverty and starvation. It augmented the demand for *pallidars* and subsequently a large number *pallidars* started in Malabar.

¹ These three institutions are the Islamic higher education centre where teach Islamic jurisprudence and other aspects. *Pallidars* is the institution in Malabar and other two are in Southeast Asia.

² Islamic basic education centre connected a mosque in early periods.

The teachers in the *pallidars* taught the students spiritual matters by considering peculiarity of social circumstances. In 1870s and 1880s Kondotty sects¹ made an attempt to influence the common people and it was the timely intervention of teachers saved the situation. (Letter written by Ishthiyaq Sha, the Faqir of Kondotty to the Muslims of Malabar) Teachers countered the Kondotty fraction by highlighting negative aspects of the Kondotty faqir and the anti-*sharī‘at* factors in it (*Kanz al-Barāhīn*). Wahabism emerged in the first half of twentieth century and Sunni scholars consider it also contains anti-*sharī‘at* thoughts.² Bā ‘Alawī teachers refuted it by foregrounding its shortcomings and its anti-*sharī‘at* practices. Shaikh Jifrī wrote *al-Irshādat al-Jifriyya* against new trend emerged in Saudi, which is considered as the first text against *salaфism* across the Indian Ocean region (interview with M.H. Illias, 8th Oct 2018). In this text author put forward many arguments against *salafi* ideology.

Conclusion

Islamic Jurisprudence is an organized law system, rooted on *Qur’ān* and *Hadith*, aimed to guide day to day activities of Muslims. By the ninth and tenth century scholars suspended the practice of constant revision of Islamic jurisprudence by terminating all other except four schools, namely, Mālikī, Ḥanafī, Shāfi‘ī and Ḥanbalī schools. Amongst these schools Shāfi‘ī School spread across the Indian Ocean regions through traders and ḥaḍramī Sayyids who migrated to these areas during the course of nineteenth and twentieth centuries. Assorted factors are accountable for fast and easy promulgation of Shāfi‘ī School and among them the beginning of *pallidars*, *pasenten* and *pondok* is pivotal in the wide spread of Shāfi‘ī School doctrines across the Indian Ocean rims. Along with Islamic preaching the ḥaḍramī Sayyids and the traders also played a

¹ This sect was followed the *Shia* ideology as it is evident from historical documents. They were supporters of British administration in Malabar and they helped to arrest the Mappila rebels participated in early Mappila revolts.

² It is new thoughts in Islam, emerged in nineteenth century and spread across the world. It was introduced by Muhammad Ibn ‘Abd Wahhāb.

vital role in the circulation of legal texts in these regions. Several texts were written and circulated in Malabar during this period, later those texts were distributed in various corners of the world and it led eminent scholars of other nations to compose texts by interpreting them. Thus from the above arguments it could be concluded that Shāfi‘ī School which was popularized by traders and Ḥaḍramī Sayyids gifted a productive intellectual, cultural and literary tradition for the people in Indian Ocean regions.

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