THE DEVELOPMENT OF THE HĀDĀWĪ DOCTRINE, THE NEO-RATIONALISTS OF THE ZAYDĪ SCHOOL SINCE 1948, AND THE CURRENT ROLE OF 'ILM AL-KALĀM (OR SCHOLASTICISM) IN YEMENI COURTS—PART II†

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THE IMĀMĀTE, THE REPUBLIC AND THIRD FORCE

The extreme Jārudīs in the northern parts of the Levant of Yemen viewed the Imāmāte as essential even for the validity of the Friday prayers.

The Republic abolished on 26 September 1962 the Imāmāte, after describing it as "al-Mulk al-'Aṣūd" (the biting throne).

The neo-Mu'tazilites maintain that neither Zayd nor al-Rassi have viewed the Hashemite Imāmāte as an asl or pillar of Zaydi fiqh. It was al-Hādi (according to the neo-Mu'tazila) who introduced the concept against a background of Carmathian anarchy, bloodshed, looting and promiscuity.

In Zaydi jurisprudence the Imam is not esoteric although he must fulfil no less than fourteen conditions. He must be:

1. Mukallaf (ordained by God);
2. Male;
3. Free;
4. Mu'tahid (capable of independent juristic deductions);
5. 'Alawi (a descendent of Imam 'Ali and a believer in the right of Hashemites to the throne);
6. Fātimi (but may be Ḥasanī or Ḥusainī)—The Twelvers or Seveners insist on the dhurriya (issue) of al-Ḥusain;
7. Just;
8. Generous;
9. Pious;
10. Sane;
11. With intact senses;
12. With intact limbs;
13. A man of opinion and planning; and

As he is not esoteric it is not accurate to compare the Zaydi position with Ithnā 'Ashari Iran. The Iranian president is elected but neither he nor the spiritual leader, Āyatul Allāh Khomeini, are qualified to be the Ja'fari Imām who is still esoteric.

† Part I of this article appeared in the previous issue—[1988] ALQ 329.
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DISTINCTIVE FEATURES OF THE HĀDAWĪ DOCTRINE

The distinctive features of the Hādawī doctrine have to a certain extent previously been explained. But there are two tasks ahead. The first is to illustrate further the borrowings from the Sunni Schools, and the second is to explain the dynamic role of ijthād in Zaydi jurisprudence. Yemenists (and Yemenis) have done justice to neither subject and confined themselves, understandably, to blanket generalisations.

Exegesis

Zaydi jurisprudence is responsible not only for the first compendium, al-Majmū‘, but also for the first Qur’ānic exegesis by Abū al-Ḥasan Muqāṭil bin Sulaimān bin Bashīr al-Balakhī, al-Tafsīr al-Kabir. Muqāṭil was born in Balakh in Khūrāsān in 80 AH and then travelled to Iraq and died in al-Ṭabarān in 150 AH. Abdullah Shahāta in al-Qur‘ān wa al-Tafsīr (1974, Egypt) “threatened” to publish this manuscript which he admires for clarity and simplicity.

The Fourth Development of Zaydi Jurisprudence

This could be attributed to the mujtahids led by the unparalleled, Muḥammad bin ‘Ali bin Muḥammad bin ‘Abd Allāh al-Shawkānī. Al-Shawkānī was born in Shawkān near Jabal al-Lisi whose volcanic eruption in 1982 led to a 4.5 earthquake on the hectar scale in neighbouring Dhamār rendering it in a state of damār (destruction). His exegesis is Fatḥ al-Qādir, although his major work is Nayl al-Awtār, the famous reference work that could be viewed as the fourth development in Zaydi fiqh.

At this juncture, it may be noted that the seven developments are:

1. The principles enunciated by Zayd, the founder;
2. The principles established and spread widely by al-Rassī;
3. The modifications of al-Hādī;
4. The ijthād of al-Shawkānī;
5. The Republic and abolition of the Imāmāt;
6. The Third Force’s theory of a spiritual Imām with a constitutional government ruling the country;
7. The neo-Muʿtazilite’s contention that the Imāmāte is a political device of al-Hādī and not an integral part of Zaydi fiqh.

No writer has come anywhere near enumerating or tabulating the stages of development as above, through a combination of:

1. Limitation and complexity;
2. Deliberate policy and ulterior motives; and/or
3. Lack of scientific approach.

Examples of borrowing from Sunni fiqh

On Sale: If a commodity is sold, it may not be paid for by a greater measure or weight of the same commodity, otherwise the increase is usurious (riḥā). Al-Rawd al-Nadīr

I wish to acknowledge some reliance on Muḥammad al-Ghammārī’s recent work al-Shawkānī (1981, Jedda).