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SCHOOLS OF SHIA AND MOTAZILA SECTS

Although, We have already studied about it that, Prophet Mohammad was the universally acclaimed head of the Islamic Commonwealth. He was absolute authority on law as well as the Chief administrator of the whole body of Muslims. After his death, the immediate problem was to find out his successor.

A large majority of Muslims suggested that, for the successor of the Prophet should be take elections. The scene was advocated by the Prophet's youngest wife Ayesha Begum. It was argued by this group that since the Prophet had given full command over the Islamic community, his successors should also be individuals who could control the Muslims.

This required the trust of the people and hence election was the only way to choose a successor. This section of Muslim-society also requested for election as a method of locating the successor of the Prophet as the Prophet himself suggested election. The Prophet's suggestions or sayings are called his tradition (Sunnah).

They relied on this tradition of the Prophet. Accordingly, an election was held in which **Abu Bakr**, who was Ayesha Begum's father, was elected and became the first Caliph (Khalifa). This group of Muslims formed the Sunni sect of Islam with its leader Abu Bakr. He took the name of **Ahle-Sunnah-wal-Jamaat**, which means 'people of tradition and assembly'. They are popularly known as Sunnis.

But those who (in the minority) did not agree with the principle of election. That group emphasized the spiritual prominence of the Prophet rather than his administrative control. This minority group was represented by the Prophet's daughter Fatima. He argued that the successor of the Prophet should be the spiritual leader of the community as was the Prophet himself.

He argued that this property comes through the nobility of blood. Therefore, a person who is related to Prophet Mohammed through blood or is related to his family should be considered the most capable person to succeed. Thus, Fatima's group rejected the election and relied on the principle of succession.

As a result, Ali, who was the son-in-law of the Prophet (Fatima's husband) and also his cousin, was named as the first Imam by this group of Muslims. They separated themselves from the majority and formed a separate sect called the Shia (literally meaning 'faction'). Thus we see that the split which divides the Muslims into two sects Shia and Sunni was due to the difference of opinions among the Muslims as to how to find out the successor of the Prophet. Therefore, division of Islam originated with political questions only but subsequently it resulted in the separation on legal principles as well.

Both these sects formed two major schools of Muslim law. Later, the Sunnis spread themselves into several sub-sects, with each sect representing a different school of Sunni law. A similar division was also between the Shias.

Ali was considered the first Imam by the Shia community. He was accepted as a cosmic as well as spiritual head of the community. After Ali's death, his two sons Hassan and Hussain became the second and third imams respectively.

After Husain's death, his son Zain-ul Abedin succeeded as the fourth Imam. The Shia community remained united until this stage, but later the sect was divided and sub-divided. Zain-ul Abdin had two sons, Zaid and Muhammad Baqir.

The first division occurred after the death of Zain-ul-Abdin, when some Shiites considered Ziyad as their Imam but the majority followed Muhammad Baqir. Zaid's followers formed a separate sect called Zaidis, while Muhammad Baqir was accepted as the fifth Imam by a majority.

This was the first division of the Shia sect. After the death of Mohammad Baqir, his son Zafar Sadiq became the sixth Imam of this majority group. After the death of Jafar Sadiq, there was a second split in the Shia community.

He had two sons, Ismail and Musa Kazim. Here again, a group recognized Ismail (elder son) as the seventh Imam, but the youngest son of them Musa Kazim was the seventh Imam. The followers of Ismail were called Ismailis and formed the second school (Ismiliya) of the Shia sect. There were other imams through succession to another part of the Shia community led by Musa

Kazim. The twelfth Imam in this line of succession was Askari's son who is said to have disappeared from the world and is awaited in the near future.

The twelfth Imam, called Muhammad-al-Muntazar, is the last Imam. The followers of Musa Kazim and others constitute the third and last school of Shias until Mohammad-al-Mantzar and are called Ithna Asharia or Twelver.

In this manner we see that there was mainly a dispute over the leadership of the Shia community at various stages of its development, which led to the formation of three schools. As far as the law is concerned, there is no appreciable difference between these schools.

Among the Shia sect, there are three important schools of law. They are Isna Ashari or Ja-fri, Ismaili and Zaidiya. The Shia sect is a minority in the Muslim world. They only have political power in Iran, although they were not a majority in that state either. In India, they are a micro minority.

A Brief Account of these Schools and Sub-Schools Follows:

The Ithna Asharia School

This school is also called as Imamia School Majority of Shias are Ithna Asharia. The followers of this school believe that starting from Ali there had been twelve Imams who possessed spiritual powers. Everything that comes from the Imam is taken to be a law.

It is believed that the twelfth Imam, who disappeared when he was still a child, would reappear in future. A characteristic feature of Ithna Asharia School is that this is the only school in the Muslim world which recognises "Muta" or a temporary marriage.

This school is further divided into two sub-sects, (1) Akhbari and the (2) Usuli. Akhbaris are very orthodox because they follow rigidly the traditions of Imams. Usulis, on the other hand, interpret the texts of Quran with reference to the practical problems of day to day life. The Ithna Asharias are found in Iran, Iraq, Lebnon, Pakistan and India. Shari-ul- Islam is an authoritative book of this school.

The Ismailia School

For some reasons Jafar Sadiq disinherited, his eldest son Ismail. The majority of Shias therefore did not accept him as their Imam. But there were some Shias, although in minority, who acknowledge Ismail as the seventh Imam. The followers of Ismail are called Ismailias or the Seveners because according to them there had been only seven Imams the Seventh being Ismail.

They believe that from him (Ismail) descended a series of concealed imams whose secret emissaries were constantly on the watch for a chance of striking at some weak point in the large ill-cemented empire of orthodox Islam. The Ismailias therefore, hold that Imams subsequent to Ismail are still alive but they have concealed their existence.

In India, they consist of two main groups (i) Khojas and Bohras. Khojas were originally Hindus. Bohras are also Ismailias and they separated from the other groups during the Fatimid regime. Both of them are commercial communities from the very beginning. Ismailias are found in the Central Asia, Syria, India and Pakistan etc. Ismailias of Bombay are either Khojas or Bohras. Daimul-Islam is an authoritative work on Ismailias doctrines.

The Zyadis School:

As pointed out earlier, the founder of this school was Zyad, one of the sons of the fourth Imam. The Zyadis were the first to defect from the general body of Shia Muslims. One of the peculiar features of this school is that its doctrines incorporate some of the Sunni principles as well. The followers of this school are not found in India; they are mostly in Yemen.

The Motazila Sect:

The Motazila emerged as a separate sect of Islam around 9th Century A.D. This school was established by Ata-al-Ghazzal during the reign of Mamun. Although they do not associate themselves from any of the two existing sects yet, it is said that they were defectors from the Shia community.

Ameer Ali observes that, "a careful comparison of the Motazilite doctrines will show that they were either word for word the same as taught by the early Fatimides (Ismailia-Shias) or were modifications of those doctrines induced by the requirements of a progressive society and partly perhaps, by the study of Greek and Alexandrian philosophy'.

The followers of this school believe that Quran is the only basis for their doctrines. Most of the traditions have been rejected by the Motazilas. One of the characteristic features of the Motazilas is that this is the only school in Islam which practices strict monogamy.

Marriage with more than one wife at a time is unlawful under the Motazila principles. Another peculiarity is that there cannot be any divorce without interference of a Judge. Divorce by Talaq is not recognised under this School. At present the followers of Motazila sect are comparatively very less in number.

During the third stage of the development of Muslim law (661-900 AD.), the rulers contributed nothing to the development of law. Those ambitious kings were interested in the expansion of their empire rather than the development of Muslim law. But the individual jurists did not sit idle.

On their personal level they concentrated themselves to the further expansion of Muslim law by giving juridical interpretations to Quran and the traditions. This personal study by the jurists gave rise to different opinions about any given rule of law because of the differences in their approach as to the source of that law.

Each jurist having his own interpretation, had followers and they constituted a distinct or separate school. In this manner, the Sunni sect was divided further into four important schools. But, the principles of these four schools are substantially the same and they differ from each other merely in matters of detail. Besides these four schools, there had been certain other 'personal schools' of the Sunni Muslims. But, by 1300 A.D, only four schools, discussed below, were given recognition

References

1. www.shareyouessays.com
2. www.grrajeshkumar.com
3. www.muslimpersonallaw.in