

Jurisprudential Differences and Conformity: A Comparative Analysis of the Arguments of Imam Sha'rani and Shah Wali Ullah

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Abstract: It is not possible for every person to get the solution of such issues not discussed clearly in Qur'an and Sunnah. That is why Holy Qur'an directs to ask these issues from the persons in authority (jurists). Muhammad (PBUH) not only permitted for Ijtihad but also appreciated the Ijtihad of jurist companions. According to Prophet (PBUH), The jurist who commits error there is one fold reward and two fold who makes just decision. As Prophet (PBUH) is the last messenger, Allah has blessed the Muslim Ummah by such Jurists (Mujtahidins) in every age that prevented the religion with their preaching and reformative works. Imam Abdul Wahab Sha'rani and Shah Wali Ullah are among such persons, who selected by Allah for the reformation and renaissance of Islam. In this write up, arguments of Imam Sha'rani and Shah Wali Ullah have discussed comparatively and analytically for the struggle to create jurisprudential conformity. This jurisprudential conformity is necessary to create unanimity in Muslim societies, to solve present sectarian issues, development of mutual respect and eradication of narrow-mindedness and intolerance. Today, world has become global village and journeys of years are being travelled in moments. Then the actual effort for creating a common Islamic Jurisprudence may initiate. This great achievement may be in three ways. Firstly, there should be guiding principles for the conformity among the jurisprudential schools of thoughts. Secondly, Arguments of different schools of thoughts should analyze according to Holy Qur'an, Sunnah and Consensus (Ijma). The argument in agreement with them should be preferred and adopted. Thirdly, according to preferred argument, there should be effort for making a collective Jurisprudence.

Key Words: Islamic Jurisprudence, Differences, Conformity

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1. Introduction:

Islam is complete code of life and comprehensive representation of nature. Islam not only directs towards thinking about laws of nature and research but also appreciates it. For this very reason, many thinkers, philosophers, historians and scientists produced in Muslim World. Islamic jurisprudence has attracted competent scholars of Muslim world and they did marvelous job in this field like the four renowned Imams of Muslim schools of thoughts.

After them, those people came who continued this work and strived for conformity and uniformity among these schools of thoughts. The jurisprudential conformity is necessary to create unanimity in Muslim societies, to solve present sectarian issues, development of mutual respect and eradication of narrow-mindedness and intolerance. Today, world has become global village and journeys of years are being travelled in moments. Then the actual effort for creating a common Islamic Jurisprudence may initiate. Both Imam Abd al-Wahab al-Sha'rani and Shah Wali Ullah worked for creating jurisprudential conformity in their ages. At present, their works undoubtedly take an important place to solve out the sectarian issues, which have divided our society. Imam Abd al-Wahab al-Sha'rani was born in 1493AD/898 Hijri in the town 'Abu Shara'¹. With this link, he is known as Sharani or Sharwi.² He was a renowned Shafi'i scholar. His book Al-Mizan al-Kubra (The Supreme Scale) evaluated the rulings of four major Sunni Jurisprudential schools of thoughts as if they were single school of thought. He measured these differences, as to their difficulty, as either strictness (Azima) or dispensation (Rukhsa). Shah Wali Ullah was born in 1703 in Delhi. In his seventh year, he participated in T'hajjud prayer with his parents.³ He translated holy Qur'an in Persian language. He introduced the jurisprudential conformity approaches to minimize sectarian hatred among Sunni schools of thoughts. Imam Abdul Wahab Sha'rani and Shah Wali Ullah are among such persons, who selected by Allah for the reformation and renaissance of Islam. In this write up, arguments of Imam Sha'rani and Shah

Wali Ullah have been discussed comparatively and analytically for the struggle to create jurisprudential conformity.

1.1 Research Objectives:

1. To initiate actual effort for creating a common Islamic Jurisprudence
2. To minimize hatred feeling among the four Sunni schools of thoughts
3. To elaborate the efforts and methodologies of Imam Abdul Wahab Sha'rani and Shah Wali Ullah for reducing sectarianism

2. Literature Review:

In Muslim history, different Muslim scholar worked for the unity and conformity of Ummah. Here is a brief survey of the conformity work of Muslim Scholars:

- i. Al Sheikh Sadrudin Abu Abdullah Muhammad Bin Abdul Rehman Al Shafe'i wrote 'Rahmatul Ummah Fi Ikhtilaf e Aima'. He elaborated that the differences in the Ummah are blessing on Ummah and proved his claim with logical arguments.
- ii. Qazi Abu Al-Waleed Muhammad Bin Ahmad Ibn e Rushad Al Qurtabi is the author of 'Bdayatul Mujtahid'. He present the opinions of all schools of thoughts on specific issue, explain the reason of difference among them.
- iii. Allama Abdul Rehman Ibn e Khaldoon wrote his famous book 'Al-Muqadma'. He introduced the history of all schools of thoughts and the reasons of difference among them.
- iv. Allama Abdul Ghani Al-Nabsi wrote ' Khlusatul Tehqiq Fi Bayan e Hukumul Taqleed wal Talfeeq. He presented very balanced opinions about Taqleed and Talfeeq.
- v. Abu Jafir Muhammad Bin Ahmad Al-Tahavi wrote 'Ikhtliful Fuqhaha'. He concluded that every jurist was sincere in his work and he issues legal opinion according to knowledge available to him.

- vi. Muhammad Zakariya wrote 'Ikhtilaf e Aima' in which he explained that the reason of difference is preference of one Hadith on other.
- vii. Ameen Ahsan Islahi argued in his book 'Solution of Jurisprudential Differences' that the origin of all schools of thoughts is Qur'an and Sunnah.
- viii. Dr. Mazhar Baqa wrote 'Asool e Fiqh Aur Sha Wali Ullah' in which he elaborated the efforts of Shah Wali Ullah for minimizing sectarian issues among Muslim Ummah.

3. Research Methodology:

The research is qualitative in nature. Comparative and analytical methods of research used for the current study. Data collected from secondary sources. The observations, study and analytical skills of the researcher used to analyze the data.

4. The arguments of Imam Sha'rani and Shah Wali Ullah

Imam Abdul Wahab Sha'rani did nice work for jurisprudential conformity among jurisprudential schools of thoughts. He says in the preface of his book *Al-Mezan al Kubra*:

"This book is a nice work in which my objective is to present the arguments of jurists in such methodology that could minimize or end the differences among jurisprudential schools of thoughts. This work is so unique that no one has written on this topic earlier to me".⁴

He also explained the fact that primary focus of Islamic canonical law (Shariah) is about two aspects, imperative (Amar) and prohibition (Nahi). According to some scholars, these both have two more aspects; Strictness (Rukhsa) and dispensation (Azima) and other than these is permissible (Mubah); if intention is good this permissible (Mubah) turn into recommended (Mustahab) and if intention is bad then it befall in Abhorrent (Makrooh). The person who is strong (Qawi), he will not leave acting upon strictness (Azima), as long as he can act on it, same as the weak (Dhaeef) person will not act on strictness (Azima) while leaving dispensation (Rukhsa). However, if the person himself wants to act on

strictness (Azima) then he can do, on the condition that Islamic canonical law (Shariah) does not deny. As Holy Qur'an says:

“So fear Allah as much as you are able”⁵

It also has been mentioned by Prophet (PBUH):

“When I give you order about anything to do, then do it according to your capacity”.⁶

In his book, he elaborated that apparently in contradictory Hadiths; there are two choices: ‘dispensation’ and ‘strictness’. He further added maps of trees, circles, nets and river to exemplify it. While pondering on these it confirms that not any saying of Imams crosses the limits of Islamic canonical law (Shariah). All the four school of thoughts are the canals of the same source. Shariah is like palm of hand and schools of thoughts are like fingers. Although depending only on following (Taqleed) considers as lack of forethought. Majority of acme line Muslim scholars used to declare legal opinion (Fatwa) after consulting all schools of thoughts. Use of opinion only while neglecting basic sources does not have value in Islam. However, all jurisprudential scholars are free from using their opinion only without consulting the Holy Qur'an and Sunnah. As like Abdul Wahab Sha'rani(R.A.), Shah Wali Ullah(R.A.), also worked on the lines of the earlier scholars of Islam on issues of differences, and worked with great consideration and diligence in order to create conformity and harmony among the jurisprudential schools of thoughts. He determined to create conformity among the four schools of thoughts in the light of Qur'an and Sunnah and clarified that, mostly differences among the Jurists are in those matters in which; there are similar and dissimilar sayings of companions. As like Takbeerat e Tashreeq, Takbeerat Eiden, marriage contract (Nikah) in the condition of Ahram, Tash'hud of Ibn e Abbas(R.A) and Ibn e Masood(R.A.), to recite Bismillah and Ameen in low or loud voice and to recite the words of Iqammah once or twice. In these issues, the reason behind these differences is the preference of one saying over another saying. This difference is just like the difference of reciters in the words of recitation.

For these reasons, Shah Wali Ullah worked on these three patterns:

- (a) In the light of arguments of four schools of thoughts, he adopted a judicious approach, which named as tradition of jurist Muhaditheen (Rawash e Fuqha e Muhadatheen), means that the saying of Muhaditheen, should be revised on Hadith and which saying is according to apparent (Zahir) and renowned (Ma'roof) Hadith, should be adopted. By using this approach, both jurist saying and preference of Hadith will be consider, rather only acting upon any saying while neglecting Hadith. According to him, to establish conformity between knowledge of Hadith and sayings is the work of contemporary jurist (Mujtahid e Muntasab).
- (b) He confers to all schools of thoughts an equal importance and he glorified the importance of beginning member of every school of thought.
- (c) According to Shah Wali Ullah, "All schools of thoughts are equal, and no one has importance over others".⁷

He says that Allah has installed a Meezan in my heart, because of this I recognize every cause of difference in Muslim nation (Ummah), and know that what is best near Allah and his Prophet (PBUH), and Allah bestowed me capability to probe the difference and find the solution with logical arguments.

He was also bestowed the feelings from Allah that, he has to work for the unity of Muslim nation (Ummah). He did this magnificent work of unity and conformity in two aspects:

- (i) After returning from Arabia, in first phase, while considering the circumstances of his country, he worked for the conformity between Hanfi and Shafe'i schools of thoughts. This work is in his book 'Al Musawwa, Sharah ul Moatta' (Arabic).
- (ii) In second phase, he started work for creating conformity among four schools of thoughts, is in his book 'Musaffa, Sharah ul Moatta' (Persian). In this conformity process; firstly, action upon Hadith remains complete and proper. Secondly, about new issues, the ease and comfort for Muslim nation (Ummah) is preferred. Thirdly, a person who is acting

upon a saying according to his school of thought, as like he feels for himself that he is acting upon Islamic canonical law (Shariah), same as he feels for the person of other school of thought that he is also right. He feels that both practices are two ways of performing the same action, and both are true and acceptable. This feeling and conception end the mutual disparity among different sects. More over baseless Jurisprudential prejudice does not prevail and mutual respect enhances. This approach resembles with the approach of great Muslim scholars of initial age.

5. Significance of Creating Jurisprudential Conformity in Present Era:

The divine nature of Islam makes it the only religion in the world that offers genuine solutions to such problems as social unrest, political instabilities, poverty and destitution, prostitution, homicide, killing, drug addiction, alcoholism, family break-up, juvenile delinquency, suicides, Aids and the like. Islam is not only a religion, but also a complete code of life. All facts of life, public and private alike are covered under the realm of Islamic jurisprudence

1. Unanimity of Muslim societies:

At present, when the world has globalized, masses of the world, especially American and Western civilizations are looking forward for the establishment of cosmopolitan societies; consisting on common values. It is urgency for creating unity and conformity among Muslim societies. In Muslim societies, people belong to different school of thoughts, and they have difference in opinion about the issues such as marriage and divorce. Sometimes these issues create disturbance and anarchy in the society. Therefore, it is necessary to create conformity regarding these issues among different school of thoughts for the unity of Muslim Ummah.

No doubt, because of ideological deterioration of Muslim Ummah, different jurisprudential schools of thoughts have been living in opposition. At the end of 17th century, this opposition changed into serious grouping. On trivial matters of jurisprudence, the group in opposition blamed as infidel. The second aspect of this age was that the

Muslims were politically weak. The sun of their climax was downing with great pace. Political deterioration and Jurisprudential differences further weakened the Muslim Ummah. Now it is dire need to unite Muslim Ummah according to universal message of Islam under a single platform.

2. Solution of Present Issues

With the growth of human body, the size of dress also increases. When a person reaches, its final growth level then there does not any need of changing the size of dress. Same as until the process of human urbanization remained feeble, different messengers of Allah had been addressing the issues of humanity, and in place of one Shariah other had been replacing it. Last Prophet Muhammad (PBUH) sent when the human urbanization had reached at its climax. That is why the Shariah of Muhammad (PBUH), will have been fulfilling the needs of humanity until the Day of Judgment. Its instance is same as the dress of juvenile remains fit until the end of life.

It is matter of fact that there are little chances of changing human nature, but new resources keep generating, customs change, political and moral changes take place. Therefore, it is necessary for the shariah, which will have to serve the humanity until day of resurrection that it would address both changing and unchanging features of humanity. Islamic Shariah has the potential to discuss both features. Firstly, some commandments are final (Qatt'i), in these matters, there is no any disparity among jurists. Secondly, some commandments consider doubted (Zanni) in which there is facility of more than one opinion. Thirdly, there are situational (Maslehi) commandments, in which there is no restriction in Holy Qur'an and Hadith, and according to spirit of Shariah the needs of humanity are fulfilled.

Conformity among jurisprudential schools of thoughts is a splendid work, which is goal of the every age of Muslims. Muslim society is going on same phase of ideological decline as they were at the end of 17th century. Our new generation is upset that our Allah is one, our Prophet (PBUH) is same, our book is one but as Ummah, we are different. At present, it

needs to shape a cosmopolitan society on the basis jurisprudential conformity. In this way, Muslim of present age can get solution for their problems.

Today's society is facing new challenges because of modern living style. For instance, in case of interest, Prophet's (PBUH) interest society was not as complex as in our developed society. Materialistic race in prophet's (PBUH) era was not as fast as now a day. Same as, at that time food necessities were simple. Acting upon Islamic principles was simple. Today all the needs attach with automatic machines. For that reasons, there are serious challenges for acting upon Shariah. For example, mechanical slaughters of animals and chemical drinks have given new shape to the limits of Allah. Roles and services of jurists have great importance. Either banking or food issues, all demand great consideration. All these issues may be solve out with the conformity in jurisprudential schools of thoughts.

3. Development of mutual respect and eradication of narrow-mindedness and intolerance

Imam Abdul Wahab Sha'rani foresighted early the upcoming state of Muslim Ummah and he worked successfully for the conformity and accord of Muslim Ummah. Sha Wali Ullah also worked for the needs and circumstances of his age. Both respected personalities worked for the search of common basis among jurisprudential schools of thoughts especially (Hanfi, Malki, Shafe'i and Hanbli) and realized to Muslim Ummah that development of jurisprudential schools of thoughts cannot conflict with actual religion. Jurisprudential schools of thoughts are for the deep understanding of Islam and not for rooting out Islam. No doubt, the work of these jurists is opening endeavor in this regard. At present, USA and European countries are bearing the people of different religions; it is urgency to relieve Muslim Ummah from prejudiced sectarianism. Now Muslim cosmopolitan societies are developing and people of different schools of thoughts are living together, therefore it is need of hour to create conformity and agreement among jurisprudential schools of thoughts. In this endeavor, differences would be end and present issues would solve.

6. Conclusion:

It is great need of present age to get benefit from the conformity work of Imam Sha'rani and Sha Wali Ullah. Secular minded people take shelter of jurisprudential differences and keep trying against the enforcement of Islam. In addition, their basic argument is that jurisprudential differences are the main resistance in order to Islamize social, economic, legal, political and educational systems. Although these difference are for the ease and facilitation of Ummah. In every developed and civilized society, there are differences in opinion. In this way the struggle for the best continues. However, negative minded people consider it as hindrance in the way of progress. Imam Sha'rani and Shah Wali Ullah proved with arguments that in jurisprudential differences, there is no major difference in earlier scholars regarding basic issues except preference of one Qawl (saying) over another. This difference is same as the difference of recitation among the reciters. Scholars of Islam can find out the solution of our problems by taking advantage of the efforts of Imam Sha'rani and Sha Wali Ullah. Today, world has become global village and journeys of years are being travelled in moments. Then the actual effort for creating a common Islamic Jurisprudence may initiate.

7. Recommendations:

1. There should be guiding principles for the conformity among the jurisprudential schools of thoughts.
2. Arguments of different schools of thoughts should analyze according to the Holy Qur'an, tradition (Sunnah) and consensus (Ijma). The argument in agreement to them should be preferred and adopted.
3. Then according to preferred argument, there should be effort for making collective Jurisprudence.

8. References and Endnotes

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