

Concept of Ijmā' in Imāmī Shī'ī Uṣūl Al-Fiqh

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Date

2004-07-09

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Abstract

The thesis examines the development of the concept of Ijmā', consensus, in Imāmī-Shī'ī principles of jurisprudence (uṣūl al-fiqh). In the introduction to the thesis there is an analysis of the concept of Ijmā' as generally understood in Islamic jurisprudence and a discussion of the approach adopted in the thesis as well as a general outline of the literature involved. The introduction also outlines the background to Imāmī Shī'ī jurisprudence during the time of the presence of the Imāms and the period immediately after the greater occultation of the Twelfth Imām. The main body of the thesis analyses the available major texts written by Imāmī-Shī'ī Uṣūli scholars from the time of al-Shaykh al-Mufid (413/1022) to the end of the nineteenth century with a brief discussion of the views of some recent Imāmī Shī'ī scholars. From the outset a difference of emphasis can be observed between scholars who argue in favour of a major role for reason, such as al-Sharīf al-Murtaḍā (436/1044) and those in favour of a greater reliance on Traditions from the Prophet and the Imāms, which is moderately represented by al-Shaykh al-Ṭūsī (459/1067). The subsequent generations of scholars refined and further defined these concepts. In particular, in opposition to the movement in favour of general adherence to the Traditions, there arose from the proponents of the use of uṣūl al-fiqh a definition which gave much greater scope to the use of reason and the continuing guidance of the Twelfth Imām. The latter proposition reached its final form in Imām-Shī'ī uṣūl al-fiqh at the end of the nineteenth century in Kifayat al-uṣūl by Muḥammad Kāẓim al-Khurāsānī. Finally, there is a brief examination of the work of some recent scholars and a conclusion to the thesis.

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Furū' al-fiqh and uṣūl al-fiqh are the focus of the fourth and fifth chapters of Understanding Islamic Sciences. In the terminology of the Qur'an and hadith literature, Muṭahharī notes that fiqh is a profound and extensive understanding of Islam with no special emphasis on a certain branch of Islamic scholarship. Gradually, fiqh became associated specifically with the legal dimension of Islam. The reason underlying this shift to a narrower definition of fiqh is an intriguing object of research—Muṭahharī speculates that the particular association between fiqh and the Uṣūl Al-Fiqh. Encyclopedia of Religion COPYRIGHT 2005 Thomson Gale. Uṣūl al-fiqh. Uṣūl al-fiqh . The Zāhirīyah, in the interests of legal development, tended to stretch the concept of meaning to include much of what the four principal madhhab s considered to be established by analogy, so that the dispute was, partly at least, over methodological. The Shī'ī theory. Even more potent than the Zāhirī theory as a challenge to the thinking of the four madhhab s were the theories developed within Shī'ī Islam and especially within that branch known as Imāmī, or Twelver, Shiism. Twelver theory, like the Zāhirī, rejects analogical deduction, but the prevailing school of thought among the Twelvers, This concept differs from the kinds of analogy known in legal theory: (a) analogy by 'illa and (b) analogy by similarity. Evidence is supplied concerning a group of Zāhirīs who advanced a peculiar type of (b) later in time. The teaching and learning of usul al-fiqh is important in order to derive Islamic legal rulings (hukm). With regards to public universities in Malaysia, the subjects of usul al-fiqh are taught to shariah students and covers Islamic legal resources (Quran, sunnah, consensus, analogy, public interest, juristic preference, custom, etc), interpretation of legal texts, methodology of Muslim Jurists, conflict and preference (ta' arud and tarjih), legal maxims and others. However, some scholars are skeptical as to the ability of graduates to practice the tools of usul al-fiqh.