

The View of Shariah on Differences among Various Schools of Islamic Jurisprudence♦

There can be no denial that the interpretation of Shariah in different ages according to principles of the Qur'an, Traditions of the Prophet (peace be upon him), Analogy (*Qiyās*) and Consensus (*Ijma*) have led to inter-school and intra-school differences on several issues. Consequently, some serious doubts have been raised regarding the existence of underlining unity of the Islamic thought and people are at loss to see divergent, contradictory and sometimes diametrically opposed views on the same issue in different schools of Islamic jurisprudence. The matter was thoroughly dealt with in the Twelfth Fiqh Seminar of the Islamic Fiqh Academy and the following decisions were made.

- 1.1 The provisions of guidance in Shariah are of two kinds: *Mansoos* (Specified) and *Ghair Mansoos* (Unspecified). The Specified provisions of Shariah are its those precepts which have been indubitably mentioned in the Qur'an and the *Sunnah* while the Unspecified provisions are ones which are related to the deduction and the Interpretation (*Ijtihad*) of the eminent jurists of the Ummah. Undoubtedly, the authoritative interpretations and deductions of all the Islamic scholars and jurists are indeed a precious treasure for us forming an indispensable part of the Islamic Shariah.
- 1.2 The difference in opinions amongst the Islamic jurists is not merely black or white or that of truth and falsehood, rather a large number of the disputed issues are due to the difference in views with respect to "*Afzal* (Superior), *Ghair Afzal* (Inferior), *Rajih* (Acceptable) and *Ghair Rajih* (Non-Acceptable)." In other issues, the nature of difference is such that one opinion is correct with the apprehension that it may be wrong and the other opinion is wrong with the likelihood of its being correct.
- 1.3 A common man who is ignorant of the Qur'an, the *Sunnah* and the rules of Shariah are required to consult any reliable and authentic religious scholar regarding the viewpoints of Shariah for discharging obligations of the Shariah accordingly.
- 1.4 It is absolutely impermissible to condemn and criticize the different juristic schools or their followers or to refute them straightaway or to make the mockery of their juristic deductions and inferences. It is indeed a cause of enormous misfortune for any Muslim in both the worlds.

♦ 12th Fiqhi Seminar (Basti) 11-14 February 2000.

- 1.5 Tolerance, respect and regard, the attitude of being considerate towards the place and status of the scholars of different schools of thought and honoring their esteemed works have been the hallmark of the virtuous predecessors, in the matters of any sort of disagreement in viewpoints. These people have kept the high moral values in mind during academic debates and dialogues. Indeed, the exemplary deportment adopted by the virtuous people has set an illuminating example for all of us. The entire Ummah ought to follow their path and take up a balanced view in case of confrontation.
- 1.6 In the eventuality of the society getting into a serious trouble because of the changing times and circumstances and it seems difficult and troublesome to act upon according to one of the Fiqhi recommendations of one juristic school while the recommendation of another school, in this regard, is feasible and in tune with the prevailing conditions; under such circumstances, the scholars and jurists who are purely pious and God-fearing besides having thorough knowledge, are allowed to give a "*Fatwa*" on the lines which make the things easy. In fact, on such sensitive issues, it is preferable to resort to the collective deliberations rather than giving out *Fatwas* (Edicts) individually.
- 1.7 Such issues upon which a section of renowned scholars and jurists feels the need to adopt another opinion and accepts a particular Fiqhi recommendation to get rid of the taxing situation and issues a "*Fatwa*" in this regard whereas the other group differs from it and sees no necessity at all to accept this particular Fiqhi recommendation, under such circumstances, the common people are permitted to adopt the former recommendation which has been justifiably called and is an easy and facilitating way. It is quite permissible for the "*Fatwa-givers*" to issue *Fatwas* (Edicts) accordingly.