

An allegation against Imam as-Subki

The charge leveled against Imâm Taqiyy ad-Dîn as-Subkî is that despite possessing all the requirements for ijtihâd, he did not perform ijtihâd, and preferred to remain within the bounds of his madhhab, since the adoption of independent ijtihâd would preclude him from rising to positions which were reserved for fuqahâ of the madhâhib. This allegation appears in a conversation between Abû Zur'ah Ahmad ibn al-Husayn al-'Irâqî and his teacher Sirâj ad-Dîn 'Umar ibn Ruslân al-Bulqîni. The former asks the latter the reason why as-Subkî does not adopt independent ijtihâd despite having all the requirements. The latter does not know. Abû Zur'ah then suggests this reason, and al-Bulqîni agrees.

The points requiring discussion are four:

1. How is the adoption of ijtihâd supposed to manifest itself?
2. as-Subkî's character
3. The ijtihâd of as-Subkî vs the ijtihâd of al-Bulqîni
4. as-Subkî's opponents

1. HOW IS IJTIHAD MANIFESTED?

It appears from the conversation between Abû Zur'ah and al-Bulqîni that as-Subkî did not perform ijtihâd. However, this contention does not tally with the facts. As-Subkî's son Tâj ad-Dîn 'Abd al-Wahhâb, in his father's biography in *Tabaqât ash-Shâfi'iyyah al-Kubrâ*, has given us a list of the masâ'il in which his father's independent ijtihâd led him to opinions completely outside the madhhab. (vol. 10 pp. 226-234) The list contains 54 masâ'il. In another list (vol. 10 pp. 234-266) thrice as long than the first one, he tabulates the masâ'il in which his father adopted positions within the madhhab at variance with the official positions of ar-Râfi'î and an-Nawawî. This too, is an exercise requiring a certain level of ijtihâd.

But let us assume that al-Bulqîni and Abû Zur'ah were unaware of the above. Would it then mean that as-Subkî did not practice ijtihâd? That conclusion can only be drawn by someone labouring under the impression that the performance of ijtihâd must, as a matter of necessity, lead to the adoption of positions that differ from the official position of the madhhab. When a faqîh of a madhhab performs independent ijtihâd he will arrive either at a position different from that of his madhhab, or he will discover that the position of his madhhab was in fact the correct one. The value of the ijtihâd which leads back to the madhhab is in no way less than the ijtihâd leading away from the madhhab. To expect that every exercise of independent ijtihâd must lead away from the madhhab betrays a lack of understanding.

Thus in the case of as-Subkî, his ijtihâd was not restricted to the 50-odd cases in which he adopted positions completely outside the madhhab. In the hundreds, if not thousands of other masâ'il in which he concurs with the madhhab the chances of him having adopted those positions as a matter of ijtihâd and not taqlîd, are as great as in the case of his ijtihâd-based departures from the madhhab. The only difference lies in the fact that the latter are obvious while the former are oblivious.

The history of the madhhab contains abundant examples of ijtihâd which leads to conformity with the madhhab rather than departure from it. The case of al-Qaffâl al-Marwazî comes to mind. This faqîh, who was the shaykh of the Khurâsânî tarîqah of the madhhab, used to say: "We are not muqallids of ash-Shâfi'î. Rather, our ijtihâd

coincided with his.” This same statement was echoed by his pupil al-Qâdî Husayn, Shaykh Abû ‘Alî as-Sinjî, al-Ustâdh Abû Ishâq al-Isfarâyînî and others. (*Tuhfat al-Muhtâj* vol. 10 p. 109)

2. AS-SUBKÎ'S CHARACTER

A person who takes the conversation between Abû Zur‘ah and al-Bulqînî at face value cannot be blamed for forming an impression of Imâm as-Subkî as an avaricious, impious and egotistic person who is prepared to abandon ijtihâd for the sake of worldly gain. But does this correspond to what is known about the character of Imâm as-Subkî?

The character of Imâm as-Subkî is a topic on which many pages can be filled, and in fact have been filled in the past. Suffice to say that the austerity and piety of Imâm as-Subkî, and his complete disregard for the world, and disdain of wealth and splendour is a matter of consensus between his biographers. The historian Salâh ad-Dîn al-‘Alâ’î said of him: “People say that there has not appeared anyone like him (as-Subkî) since al-Ghazâlî. I am of the opinion that they do him an injustice. To me he is comparable to no one less than Sufyân ath-Thawrî.” (*Tabaqât ash-Shâfi‘iyyah al-Kubrâ* vol. 10 p. 197)

His first appointment as qâdî came at the age of 56, and up to that age he lived a life of isolation, only given to teaching and writing. His appointment as chief justice of Shâm in 739 came at the insistence of the Mamlûk king, Barqûq. He persistently refused the appointment, but the king would not excuse him. Eventually, after a long and tedious meeting with the king, he was forced to accept the appointment. (*Tabaqât ash-Shâfi‘iyyah al-Kubrâ* vol. 10 p. 168) It goes without saying that this is not the behaviour one would expect of someone who is prepared to abandon ijtihâd for the sake of appointments.

3. THE IJTIHAD OF AS-SUBKÎ VS THE IJTIHAD OF AL-BULQÎNÎ

Imâm Taqiyy ad-Dîn as-Subkî was not the only Shâfi‘î faqîh of his era to have reached the level of ijtihâd. Another one who reached it was this very same Sirâj ad-Dîn al-Bulqînî. Such was his level of erudition that he was regarded by many as the mujaddid of the eighth century. As-Sakhâwî quotes his mentor Ibn Hajar as saying that al-Bulqînî possessed the full requirements for ijtihâd. (*ad-Daw’ al-Lâmi’* vol. 6 p. 88) Yet we find that his recorded departures from the madhhab are markedly less than those of as-Subkî. In fact, it is quite difficult to pinpoint the instances of his departure.

We also know that he had accepted positions of teaching as well as judicial appointments in his lifetime. Would it therefore be justified for us to apply the same standard to him as Abû Zur‘ah has applied to as-Subkî and say that despite having the full ability for ijtihâd he desisted from practicing it in apprehension that he might lose out on appointments?

No, that would not be justified. The correct way of dealing with aspersions cast by one recognised scholar on another is to disregard it as what the muhaddithûn term *kalâm al-aqrân ba’dihim fî ba’d*, disparaging remarks of contemporaries, which are often inspired by subjective factors. As to what subjective reasons there were for al-Bulqînî to acquiesce to Abû Zur‘ah’s disparaging conclusion, that will come to light in what follows.

4. AS-SUBKÎ'S OPPONENTS

The brilliance of Imâm Taqiyy ad-Dîn as-Subkî had started showing even in his youth. It was inevitable that he would engage the ‘ulamâ of his time in discussion, and that he would rise above them. The fact that he excelled

his contemporaries is attested to even by Ibn Taymiyyah. In fact, it on record that Ibn Taymiyyah had greater respect for as-Subkî than anyone else in his time. (*Tabaqât as-Shâfi'iyyah al-Kubrâ* vol. 10 p. 194)

Some of the discussions which he had with the older generation of 'ulamâ of his time gave rise to negative feelings towards him on account his age. Amongst the names mentioned in this regard are those of Ibn al-Katnânî, Ibn 'Adlân and Ibn al-Ansârî. (*Tabaqât as-Shâfi'iyyah al-Kubrâ* vol. 10 p. 379)

Now, turning to the biography of al-Bulqînî we discover the following: "Amongst his shuyûkh in fiqh are Taqiyy ad-Dîn as-Subkî, but most of his learning was received from Shams ad-Dîn Ibn 'Adlân, Shams ad-Dîn Ibn al-Qammâh, Najm ad-Dîn Ibn al-Aswânî and Zayn ad-Dîn Ibn al-Katnânî." (*ad-Daw' al-Lâmi'* vol. 6 p. 85)

With two of as-Subkî's opponents —Ibn 'Adlân and Ibn al-Katnânî— featuring prominently amongst his main teachers of fiqh, it becomes understandable, to a certain degree, how al-Bulqînî could be ill-disposed towards as-Subkî, under whom he himself had studied very little. His attitude towards as-Subkî was in all probability inherited from his teachers.

The correct manner of dealing with instances of this nature is to place it within its proper historical and circumstantial perspective. This has been the way the 'ulamâ dealt with the disparaging remarks of Imâm Mâlik against Muhammad ibn Ishâq, the remarks against Imâm Abû Hanîfah by his contemporaries, the remarks of Abû Hâtîm and Abû Zur'ah ar-Râzî against Imâm al-Bukhârî, the remarks of Ibn Mandah against Abu Nu'aym and vice versa, and the mutual disparagements of as-Sakhâwî and as-Suyûtî.

To do what Sayyid Sâbiq has done — to use the remarks of Abû Zur'ah al-'Irâqî and Sirâj ad-Dîn al-Bulqînî against Imâm Taqiyy ad-Dîn as-Subkî as evidence that the fuqahâ abandoned ijtihâd for the sake of positions and appointments — smacks of opportunism compounded by a lack of adequate respect for the 'ulamâ of the past, and regrettably aided by a failure to understand the context of such statements.

Be that as it may, for the observer who looks back at the past — and right now, our past includes Sayyid Sâbiq — the manner of response is dictated not by sentiment, but rather by Divine Revelation: *Those who come after them, say: Our Rabb, forgive us and our brothers who preceded us in faith. And place not in our hearts rancour towards those who believe. Our Rabb, You are Most Kind, Most Merciful.* (al-Hashr:)