BOOK REVIEWS

Syed Yaqub Shah: ISLAMIC JURISPRUDENCE IN THE LIGHT OF THE QUR'AN AND THE SUNNAH

Published by Ferozsons Ltd., 365, Circular Road, Lahore
June 1971, Price: Rs. 6/- Pages 146

The author has earned some good name in Pakistan for his writings on the economic problems relating to the Muslim society and the Islamic state. The book under reference deals with the Sources of Islamic Jurisprudence — a subject which is so fascinating to the present generation of the Muslims in general and to the Muslim intelligentsia in particular.

The book consists of nine chapters. The first chapter discusses the enforcement of Islamic plan, Islamic ideals and ideological state. Then it deals with the position of Sunnah, Spurious Traditions and Sunnah as a Source of Law. Chapters 2-7 deal with specific problems of divorce, ribā, Insurance, zakāt, cutting of hand and zinā respectively. The content of the eighth chapter is Socialism, while the theme of the ninth chapter is general in character and explains the difficulties encountered, lack of proper education, strictness in interpretation, Tarāwīh prayers and other matters requiring early attention.

Thus, the book, as the writer himself declares (p.i), combines his two books, one named "Chand Ma'āshi Masā'īl aur Islam" and the other "Qawānīn-i-Islāmī kā Naẓāz" into one book in English, the former dealing with the subjects of interest, insurance and zakāt and the latter with certain social and penal problems like divorce, polygamy, theft, adultery, etc.

Keeping in view the contents of the book one may hazard the opinion that the title of the book hardly suits the themes discussed in most of the chapters. Although the writer claims to have written his book "Islamic Jurisprudence" in the light of the Qur'ān and Sunnah, the contents of the book in fact indicate that the writer has based his researches on translations and secondary sources instead of relying on the texts of the Qur'ān and the Sunnah.

The learned scholars will indeed find the short introduction of the book printed inside the dust-cover amusing. It begins with the following sentences: "After centuries of slumber Muslim countries have awakened to the need of constructive thinking and independent judgment. The stagnation of thought over such a long period has, in the sphere of law, led to slavish adherence to the decisions given by the great jurists over a millennium ago even where these have become inappropriate to the radically changed conditions of the time. And this in spite of the belief that the Qur'ānic injunctions have eternal applications."

© Dr Muhammad Hamidullah Library, IIU, Islamabad. http://iri.iiu.edu.pk/
In view of the fact that the learned 'ulama' continued rational thinking all the world over, in all ages, the references mentioned in the book themselves bear witness to the unsoundness of the statement mentioned just now. While recording the appreciation of the good attempt made by the author one feels that it is one's duty to reassess some of the statements mentioned in the book just to realize the truth and recall the actual teachings of the Qur'an and the Sunnah.

Page 31 (line 4:) “According to Bukhari, Hazrat 'Ali is reported to have said that the Holy Prophet did not establish any Sunnah (in this respect). There is another saying in Bukhari which lays down that nobody should be given more than 10 lashes in punishment unless that punishment is prescribed in the Qur'an. Yet Hazrat Umar has prescribed 80 lashes for drunkards and this punishment forms part of Islamic jurisprudence to this day.”

As against the above statement the following two ahādīth are quoted which clearly dismiss the conjectures of the writer who continues the statement by saying: “This shows that Hazrat Umar did not consider the Holy Prophet’s action in the matter of drunkards as Divinely guided, otherwise he would not have imposed a punishment which was not in conformity with the Holy Prophet’s practice”.

It has been narrated by Anas that the Prophet used to hit a drunkard with date-stick and shoes and Abū Bakr hit him forty (40) lashes (see al-Bukhāri Vol. II p. 1002). Muslim (vide II, 71) adds: ...Anas narrated that a drunkard was brought to the Prophet who hit him with two date-sticks about forty times. He also said, Abu Bakr did likewise. When a similar case was brought to 'Umar he consulted the people and Abdur Rahman said, the lightest hadd (prescribed in the Qur'an) is eighty lashes (for false accusation). 'Umar, therefore, enforced eighty lashes.

‘Imām Mālik (p. 357) holds that he who suggested eighty lashes was 'Ali. Moreover, Ḥadrat ‘Umar’s action was approved unanimously by the Sahabah and no body ever objected to the order given by 'Umar. Nor was it considered an innovation inconsistent with the Divine guidance, rather the number of lashes ordered by ‘Umar in the case under reference was prescribed quite in conformity with the Qur'ānic punishment for false accusation.

P. 34 (bottom): “(b) Zakat money can be spent for (talif al-Qalb) winning of hearts. The Holy Prophet and Ḥadrat Abu Bakr both used it for that purpose. When Ḥazrat Umar became Caliph, he cancelled the allotments made by Ḥazrat Abu Bakr to certain non-Muslims, saying that there was no more any need for such grants.”

The example is usually cited by the modern rational thinkers disregarding the fact that the zakāt money as prescribed by the Qur'ānic verse can be spent for anyone of the eight kinds of people mentioned in the verse. Ḥadrat ‘Umar therefore did not like to spend money out of zakāt fund to induce non-Muslims to come into the fold of Islam which had then extended its sway far and wide. Ḥadrat ‘Umar obviously did not violate or disregard any Qur'ānic injunctions.

P. 35: “(c) When famine invaded Arabia, Ḥazrat ‘Umar suspended the cutting of hands, even though this punishment is prescribed by the Qur'ān for theft”.
The Qur'anic injunction lays no condition but the Prophet (Peace and blessings be upon him) has given instructions (see Muwaṭṭā'): 'There is no cutting of hand in stealing away fruits from the tree and what is kept in mountains but if they are stolen from stables and the place of their protection and preservation, the punishment will be inflicted only in case the article costs the price of a shield (equivalent of ten dirham)'. Ḥaḍrat ‘Umar, therefore, did not violate the injunction in the case referred to above. Again, Ḥaḍrat Ḥasan says, as recorded by Abū Dāwūd (Marāṣil p. ‘26), "I do not cut the hand of one who steals food."

Chapter 2 is devoted to "Simultaneous pronouncement of three divorces". Unfortunately the ḥadīth referred to under this chapter are not quoted fully nor were studied carefully and critically. A jurist is expected to examine the case minutely and thoroughly before he concludes the case. It is, therefore, necessary to recall a few points mentioned in the book:

P. 51: "38 From the Holy Prophet's irritation with a person who pronounced three divorces simultaneously some Ulama have inferred that the divorce was considered irrevocable by him, otherwise there was no occasion for him to get angry."

The statement refers to the case of Ḥaḍrat ‘Abdullah b. ‘Umar who had divorced his wife during her menstrual period. As it was obviously contrary to the Qur'anic recommendation, the Holy Prophet got very angry and asked that she should be taken back.

Now, the writer seems to be under the impression that Ḥaḍrat Ibn ‘Umar had "pronounced three divorces simultaneously" but the contents of the ḥadīth, as recorded below, does not support him. "On the day that Allah sent His Messenger to the World, and He has given him all things, He sent him with the truth that he may make it victorious. And He has sent him to all nations a witness. The Messenger of Allah said: ‘What is the matter with you that when they come to you you repudiate women before they repudiate them. Allah has not repudiated women, nor He will repudiate them. Allah has prescribed an ‘iddat period for which He has ordered to divorce women."

Al-Bukhārī has recorded that ‘Abdullah b. ‘Umar divorced his wife during her menstrual period in the time of the Messenger of Allah. Ḥaḍrat ‘Umar, thereupon asked the Prophet to advise in the case. The Messenger of Allah said: "Give him order to take her back then keep her till she enters the period of purity. then the period of menstruation, then the period of purity, then if he wills so he may keep her afterwards, and if he wills so he may divorce her before mating. This is the ‘iddat (period) for which Allah has ordered to divorce women."

This ḥadīth indicates two points: (1) Ḥaḍrat Ibn ‘Umar pronounced with the word which obviously means one repudiation and not three. Moreover, the Prophet would not have asked to take her back in case of three ṭalāq. (2) The other point concerns the verse which only mentions the after-effect of ṭalāq and is not at all in favour of rendering a ‘divorce during menstruation' void and ineffective.
While agreeing with the author's point of view as described in the following lines, I would add that in our day-to-day life when we give a five-rupee note to some one, he never contends that he has been given only one rupee. Similarly, when one repudiates a woman three times it cannot be declared invalid. Nonetheless the person is liable to be punished for disregarding the Sunnat of the Prophet and the recommendation of the Qur'ān. Moreover, Ḥaḍrat 'Umar's ruling was not at all challenged by any Ṣaḥābī, not even by Ibn 'Abbās himself. On the contrary, the aḥādīth and aḥār indicate that the Prophet expressed his disapproval of pronouncing three divorces at a time but it was declared effective and the man was considered guilty of disregarding the Divine recommendation. It is therefore our foremost duty to disseminate Qur'ānic teachings among the people just to enable them not to indulge in something discouraged by the Qur'ān and the Sunnah and thus escape the wrath of Allah and His punishment.

The third chapter deals with al-Ribā. The writer has in vain tried to show that the ribā in the Jahiliyyah was imposed on a loan which was taken for consumption. He further opines (p. 59) that "agricultural loans of those days should not be regarded as productive." The Qur'ān however, precisely forbids any excess charged for an amount given as loan and insists on taking back the given amount only. The Prophet in course of his last sermon delivered in the Ḥajjatu'l Wadā' nullified the ribā of his uncle 'Abbās who had lent a huge amount to the traders of Mecca and Ḥaḍrat 'Abbās had to forego the excess amount and realized his capital only. Apart from the fact that consumption is a prerequisite of production, history cannot be belied that the traders of Mecca, in fact, invested the amount of loan for productive purposes.

Again, the saying of the Prophet: "any loan that earns interest is ribā (forbidden)" indicates that loan was not taken for consumption only.

The profit offered by the Government to those who purchase certificates and by the scheduled banks to their depositors under certain specific rules approved by the State does not seem to come under the appellation of ribā as has been explained by the writer. One may for the same reason favourably consider the view of the writer concerning Insurance.

In the presence of the naṣṣ concerning the rate of zakāt (the Prophet has specified the rate elaborately), some of the crimes like theft and zinā, the arguments advanced in the book, however rational they may appear to the readers, cannot be heeded to without committing the sin of violating the text of the Qur'ān and Sunnah.

The writer, however, deserves congratulations for his courageous attempt of solving some of the socio-economic problems without having obviously any adequate training in Arabic and its sciences. I also congratulate the publishers for the care and attention they have displayed in the external get up of this moderately priced book.

M.S.H. Masumi
SAINTS OF EAST PAKISTAN,
by: Syed Murtaza Ali,
Oxford University Press,
Paper back, price unquoted.
pp. 61.

In the history of Islam, Sufism as a discipline is admittedly a later development. Yet it is undeniably well-rooted in the Qur'an itself where innumerable verses will be found bearing mystic tendencies. The Prophet himself was a devotee in the cave of Hira. Many of his Companions are known to have led an ascetic life. It, however, cannot be denied that Islamic mysticism in the various stages of its development has been considerably influenced by certain ideas that were absent in early Islam. But it remains true that sufism, like many other Islamic disciplines, originates from the scriptural teachings of the Qur'an.

The saintly character of the Sufis, or may be some miracles emanating from them has surely gone a long way in the spread of Islam during the past centuries. After the end of the glorious era of the Prophet and his Companions, the world saw many Muslim saints whose sterling character and zealous devotion to the cause of Islam had magnetic influence upon great many non-Muslims in inclining them to accept Islam. The largest Muslim populated area of the world, which is now called East Pakistan and where seventy million people profess the faith of Islam, is probably the best example to illustrate the above contention.

The booklet under review is an attempt to present to the readers of English language an idea of the role played by the Muslim saints in the making of the above largest Muslim populated unit of the world. The work, however, is not a comprehensive disposition of the subject, nor is it so claimed by the author himself. It provides us with biographical notices, as well as short accounts of activities in the propagation of Islam, of a few well-known saints among many who lived in East Pakistan. In the preface the author hopes that his attempt would encourage others to write on the subject.

About half of the book is devoted to Muslim religious movements in Bengal. The author here gives a graphic picture of the spread of Islam in the region and attempts to identify the causes that led Islam to be the popular religion of the rural masses of the area in sharp contrast to the surrounding areas of the capital cities of Delhi and Agra which remained under the powerful control of the Muslim rulers for centuries. In this part the author also sketches the services rendered by personalities of different Sufi orders to the cause of Islam, as well as the impact of some of the recent Muslim religious revivalist movements on the religio-political condition of the region.

Then the writer separately deals with the some of the famous saints who by virtue of their selfless devotion to the cause of Islam and humanity were able to convert a very
large number of natives into Islam and brought succour to an oppressed caste-ridden society. Their names are as follows:

1. Shah Jallal of Sylhet,
2. Shah Dawla of Bagha,
3. Shah 'Ali Baghdadi,
4. Khan Jahân 'Ali,
5. Nur Quṭb 'Ālam,
6. Jalāl al-Dīn Tabrizi,
7. Shaikh Shāraf al-Dīn al-Tawwāmah,
8. Yahya Maniri.

The last article is on Dūdu Miyān's struggle for the Muslim masses, vis-a-vis the Farā'idi movement initiated by his father Ḥāji Shar'i'at Allah. Towards the end of the eighteenth century and onwards, the Farā'idi movement, in addition to arousing religious consciousness among the people, upheld the cause of Muslim peasantry and sometimes clashed with the Hindu Zamindars and their British patrons.

During the discourse, some opinions expressed by the author, however, are incomprehensible. In Bengal we come across a number of Faqirs who were concerned more with inner spiritual experiences than with the observance of the practices enjoined by the Šbāri'at. Our writer is inclined to rank such Faqirs also as Šūfis, the difference being that the former are unorthodox. Similarly, the author's assertion that in Bengali language, the term Qalandar has been used as a synonym for Šūfis is not without any foundation. Though Qalandars claim to be a particular class of Šūfis, they are mostly without fixed abode and fixed rules for their order and with an utter neglect of the tenets of religion, while the Šūfis for their faithful devotion to religion are more prestigious than the Qalandars in the eyes of the general Muslims.

In some places, the author unnecessarily, or rather unwittingly, has dragged into picture the orthodoxy or the orthodox Islam to oppose Sufism. It is not understood how the compromising attitude to some extent with local customs by the Šūfis can be regarded a proof of the fact that the Šūfis emphasised the love of God more than the Orthodox 'Ulamā'. It is not also clear what the author likes to mean by 'Orthodox Islam' against which (in his opinion) the Šūfī Saints rebelled and found Bengal a ready soil for the propagation of Islam as understood by them. It is needless to say that 'Orthodox Muslims' is precisely the English version of Ahl al-Sunnah, the general body of the Muslims who accept the traditionally upheld views of Islamic creed and its tenets in opposition to the Khawārij, the Šī'ās, the Mu'tazila and similar other theological groups. Hence antagonism between orthodoxy and Sufism is incomprehensible. And again the Wahhāabis, the modern puritanic revivalists of Islam, who take inspiration from Imām Ahmad B. Ḥanbal through his distant disciple Ibn Taymiyah, have been held out by our author as different from the Orthodox Muslims. But, the object of Ḥāji Shar'i at Allah movement which also stood for puritanical revivalism was, according to our author, to return to the orthodoxy of Islam on the one hand, and to purify the Muslims from all un-Islamic innovations on the other.
Similarly, as the author would like us to believe, the Ahl-al-Ḥadīth (Indo-Pakistani Ahl-Ḥad th are those who claim to stick to the Ḥad th and do not subscribe to the opinions of the Four Imāms) are not among the Sunnis. It seems that the writer's view of Sunnis or Ahl al-Sunnah is based upon the narrow and erroneous concept of Sunnism as prevalent in certain sections of ‘Ulamā’ in Indo-Pakistan. According to them, the Sunnis are only those who are the followers of the Four Madhhabsh, and none else is a Sunni.

From the beginning to the end of the book, no system of transliteration has been followed, nor even any uniformity in the writing of similar and same words has been maintained. To quote a few from the many:


The most unfortunate is that many words, in complete ignorance of their correct forms, have been written in the typical native pronunciation. For instance:


Frequently repeated errors of this kind are not pleasant for a trained reader. They could have been removed with a little assistance from an expert in this field, just as the author has taken pains to seek assistance from a scholar of English to produce the work in proper English.

The topics discussed in the work are not well arranged. Although a bibliography has been appended, the texts of the work are not documented.

In spite of the above shortcomings, the work is informative and surely useful for the general readers and particularly for those who intend to undertake reasearch in this field.

The author deserves our thanks.

Ziauddin Ahmed