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Does the Taliban subscribe to the Hanafi School?²

EVALUATION NOTE

Almost all Pashtuns and other ethnic groups who joined the Taliban are Sunni, and Hanafi sects account for the majority. So, what does this mean? Firstly, it is necessary to define correctly what Hanafism is. Hanafism, one of the four Sunni schools of law, is widely followed by Muslims. Others are Shafi, Maliki, and Hanbali. From how Muslims pray to how they will take the taxes, the sects which tell what the Muslims should do or not to do are referred to as the Islamic Schools of Law.

In Islam, the Islamic School of law has a wider meaning than law. It includes all aspects of life, such as worship and treatment. To put it another way, these sects determine religious practices such as prayer and fasting, family law such as marriage and divorce, commercial law such as shopping, and criminal law provisions such as crimes and punishments. In some ways, sects of Islamic Law are necessary for the establishment of a legal state and the existence of legal society. These sects had doctrines to follow or precedents to give importance when making laws. In that sense, doctrines can be named as a way of law-making, and the fatwas as the law. Yet these fatwas are more personal and do not mean the laws that every citizen is supposed to obey like in our modern society. The authority to make laws in traditional Muslim societies belonged to autonomous sectarian scholars rather than the state. In every school of Islamic Law, the law-making technique might not change yet the fatwas might change depending on time and place.

As it is well known, in the Qur'an prohibitions and commands regarding the law are quite a few. While it is obviously pointed

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<https://www.turkgun.com/talibanin-hanefilik-anlayisi-makale-164543>

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out such topics as murder, alcohol, pre-marital sex, and calumny of pre-marital sex are punished, the other issues are mostly determined by the law-making professionals. Therefore the sects of Islamic Law filled the area of legislation with the fatwa they give depending upon the time and place.

Therefore 'being Hanafi' has two meanings. The first one is the law doctrine (jurisprudence culture) which Hanafism seeks in legislation, the second one is following the fatwas in its history. As the production of Islamic Law in the Islamic world is continued by the institutions which follow the teaching of the sects, and these did not have the political authority to prefer and apply these laws, there was an interruption to a large extent with the last period of the Ottoman Empire.

Especially after the 19th century, the work that has been done mostly consists of the verbal transmission of the Islamic Law produced in the past. Because the Islamic Law is not a rigid structure, but a dynamic one that is constantly renewed and new fatwas are given according to the new situations encountered. To maintain the continuity of the Islamic Law, novel fatwas should be issued on a regular basis within the same sect. For example, within Hanafism in the Ottoman Empire, two viewpoints emerged regarding monetary foundations: Ebussuûd and Ibn Kemal found it acceptable, while Birgivi opposed it. The political authority, on the other hand, put the views of Ebussuud and Ibn Kemal into practice. Therefore, a fatwa given in a sect is not one and only. "It cannot be denied that the rules change with the change of time." As it passed into the constitution, with the change of time unless haram is changed into halal, the Islamic professionals can give fatwas in other areas constantly. This is an undeniable feature of the mentality of Islamic Law.

Let's take, for instance, the fatwa that music is "haram". According to the Taliban, this is absolutely prohibited. All kinds of music involving instruments should be banned. However, Abdulganî Nablusi (d. 1143/1735), who is both a Hanafi Islamic jurist and a mystic, has a unique study on this subject. All the negative evaluations about the music in Nablusi sources indicate that the lyrics are related to the content of prohibited elements in religion. Also, the opinion of scholars such as Imam al-Ghazali (d. 505/1111) and Kinalızade Ali Efendi (d. 979/1572) is in this direction too. Indeed, a very important and deep music genre such as Islamic Sufi music has developed in large Islamic geographies, especially in the Ottoman Empire.

Then how does the Taliban use Hanafism? Or rather how the Taliban's Hanafism should be understood? Even though the sectarian affiliation of the Talibanis Hanafism, they prefer to use it with a Salafi mindset. So as a sect, Hanafism finds some fatwas suitable for its own ideology, just like it accepts the hadith texts of Salafism as absolute, unchangeable texts. The main problem of Salafism is that it treats the Prophet's Hadiths (meaning the narrations about his speech, acts, and applications) as law. For example, it is reported that the Prophet said 'A society who entrusts their affairs to women will never prosper', accepted as absolute, it determines women cannot be leaders. However, Hanafi Jurist Ibn Nucaym states that it is valid for a woman to come to the sultanate, for example, it is stated that Najm al-Din Ayyub's concubine Sharuddur came to rule Egypt for a while. Also, it is accepted by Hanafis that women can be judges apart from heavy criminal cases.

As it could be seen, statements above which are in hadith books aren't accepted by Islamic scholars as law articles just by their superficial meaning. Depending on the context, it is interpreted based on whom, why, or how it is said, and sometimes they are subjected to text criticism, as Abu Hanifa did. Treating the narrations in Hadith books as the law is a reflection of the Salafi mindset. The Hadith texts are likened to the herbs that pharmacists collect to make medicine. The pharmacist is not a doctor. Not every medicine in pharmacies is healing to everyone. Today the Salafication in the Islamic world, unfortunately, reflects the acts on whatever is found in Hadith books, and the pharmacists are consulted instead of doctors. Ahl al-Ra'y, which is based on the mind and contemplation of Hanafism, is replaced by the Salafi mentality, which treats the hadith texts as absolute laws and tries to apply whatever information is obtained there.

For a long time, Hadith-based teaching has been prevalent in Taliban madrasahs. While the Deobandi madrasahs were being established, a division was made in the form of Naqli (revelational) and Aqli studies. Naqli studies consisted of Hadith, Qur'an, Tafsir; while Aqli studies were Fiqh, Kalam, Logic, and Philosophy. There was a contraction in the Naqli studies over time. In Naqli studies, especially the Hadith study emerged as the main study, and in Islamic schools, the most reputable scholar is titled "Sharaf al-Hadith".

However, as al-Ghazali says in his work "Mustasfâ", Hadith is a material discipline. There are two disciplines in Islamic thought that really deserve learning. One deals with disciplines, which is Kalam, and the other one deals with practical issues, which is Fiqh. So, the Taliban let up Fiqh with fatwas, absolutelize fatwas with the Ahl al-Hadith and Salafi mentality.

Additionally, it is incorrect to associate the Taliban with Madrasa as traditional Islamic school. Madrasa is a term used for schools that give 8-10 years of religious education. The story of madrasah education for Afghanistan and Pakistan begins after 1947, which is the date Pakistan gained its independence. The actual madrasah education started in India in the 19th century against the British Education system. Deobandi School, which bases its education on Sharia rules; was organized as the Bareilvi school, which has a Sufi tendency, and the Ahli Hadith school, which focuses on reading the hadiths transmitted from the age of the Prophet to the present day. While Pakistan was separating from India, madrasahs opposed this separation as these traditional institutions would remain their place in India. Later, Madrasahs related to these schools were opened both in Pakistan and Afghanistan. Yet their number was not high. Also, these madrasahs should not be confused with the madrasahs in the Ottoman Empire. While sciences such as Philosophy, Logic, and Astronomy were also taught in Ottoman madrasahs, the madrasahs in these places were based only on religious matters such as Hadith, Fiqh, and the Qur'an.

According to the details that were given by Abdul Hai Mutma; in the geography where the Taliban came from, religious education was mostly held in places called "cell" or "deirah", as well as the mosque, these cells had one or two rooms for the student dormitory. Islamic scholars who could teach religious education were the imams of the great mosques and there were one or two big villages associated with the mosque. Thus, it would not be quite right to refer to the Taliban as students of madrasahs. Most of the Taliban leaders are not from madrasahs in this sense. You can also understand this from Mawlawi or Mullah titles that are used before their names. While Mawlawi is used for Islamic scholars who have completed their

madrasah education, the name Mullah is used for people who have received education from family members such as father and uncle and the cell. Therefore, it should not be thought that the Taliban and their leaders graduated from madrasahs that provide comprehensive religious education and that they were scholars at the high level of ijtihad in Islamic law.

These are fighters who mostly grew up in war and accepted the traditions practiced within the rural society as religion. It is not even known how many of the soldiers who joined the Taliban were literate. Consequently, the main factor that controls religious senses is the Pashtun culture and the needs of the rural society. Here, it is not an effort to follow past fatwas and to understand and re-update the tradition, but only to preserve what one understands.

Sadly, this is not only a problem of Taliban Hanafism either. In other words, some of the modern-day Muslims who view Hanafism with both the Taliban and Salafi mindset, treat Hanafism the same and try to follow it only by caring about its fatwas.

Otherwise, this does not mean continuing that legal teaching and making laws. Hanafism today consists of carrying the disciplines in the fatwa books that were produced mostly in the 16th-18th centuries to today. In summary, today the mindset of Taliban, even mindset of many Hanafi groups, is not to find new solutions to the problems arisen from the use of ijtihad culture, but to approach the Hanafi culture with a Salafi mindset and to carry the old fatwas to today by seeing them as Hadiths.

As Yunus Apaydin stated in "Modernization, Protestantization, and Salafism", it is some kind of Salafism to carry the views of a sect that were constructed in the classical period, without considering the time and place. Regarding the views in El-Ihtiyar or Ibn Abidin, especially regarding the field of law, as Hadith, deserves to be called Salafism in terms of mentality, even if it is called Hanafism.

For instance, most of the fatwas on the issue of women are shaped by the traditional customs of societies. Surely, the view of women in rural Pashtun culture and Hanafism, which is based on urban Turkish culture is not the same. The reason for the difference between the woman who heads the congress and the Pre-Islamic assembly and the woman who could not stick her nose out is not because of Hanafism, but two different cultures. This is like the difference between the village and the city.

Taliban takes these fatwas based on rural culture as definitive truth and by bringing the past traditions to the present, tries to put modern-day people into that mold. They accuse people who do not fit into this mold by opposing the Sharia. Sure, as it is said, this is not just an approach only to the Taliban, there are many examples around.

In this sense, the Taliban apply the fatwas under the name of Sharia law, with the texts of Hanafi Islamic Law, together with their own traditions. While it is carried out the process of giving fatwa of Hanafism, it does not take into account the ijtihad/educational side of Hanafism. This feature of Hanafism has long been abandoned.

The function of creating new solutions to the problems run into within the Hanafi mentality continued for some time in the Ottoman Empire, and al-Majalla (The Civil Code of the Ottoman Empire) came out as a result of this necessity. Yet unfortunately, in the next era, without giving importance to the Ottoman experience, the majority of Islamic movements turned to the past fatwas.

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When we look at the Taliban's way of law-making, it is seen that they use a mixed system. It both understands hadiths as legal texts and takes past fatwas as the only explanation. In this sense, understanding the hadith texts solidly, and not looking at to whom, why, and how they are spoken is an important vein that nourishes the Salafi mindset. Al-Mawlana criticizes this understanding as follows;

“O those who worship the appearance! Why the concern of image? Your meaningless soul could not escape from the appearance yet. If a human were to be human with appearance, Ahmad and Abu Jahll would be equal.”

In these couplets, al-Mawlana says that Abu Jahl resembles the Prophet in appearance with his clothing and beard. He criticizes this literal religiousness by saying that to resemble the real Prophet is to follow his principles, not his appearance.

So, the Taliban's Hanafism exactly has a formalism that al-Mawlana criticized. The most basic feature of rural religiosity is giving importance to formality and freezing the time. In this respect, the Taliban's Hanafism requires them to use traditional practices instead of solving problems of today. Instead of directing life and progress, it tries to fit it into past patterns and trim the parts that donot fit the past. Even though the Taliban is a kind of Hanafi, that Hanafism will never benefit neither them nor the Muslims. We too have so many of these people who share the same mindset in Turkey indeed!