THE ROLE OF THE SHIA SECT IN ISLAMIC LAW: DOES IT MAKE SENSE?

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Abstracts: Shia sect was born due to political factors that later developed into Fiqh (Islamic Jurisprudence). The different perspectives on the Caliph of Ali ibn Abi Talib’s position have led to several sectarianisms in Shia, from ordinary to extreme views, claiming that angel Gabriel sent wrong revelations to Muhammad instead of Ali ibn Abi Talib. Thus, not all of the Sects of Shia are misleading. The Shia’s teachings are contrary to the Aqeedah (creed) and thus should be watched to avoid the negative consequences. This article explores the Islamic law thought from the perception of Shia sects to get a clear point of view and prevent the misunderstanding of Shia sects in the Islamic society.

Keywords: Islamic Law, Role of Shia Sects, Misleading Thought

Introduction
The Shia emerged at the end of the Caliph Uthman ibn Affan and was developed during the Caliph Ali ibn Abi Talib. Ali himself never tried to spread this sect, but his talents have fueled it. When Ali died, Shi’ism was developed into various sects. Some are misleading, and others are not. However, all are fanatics of the Prophet’s family. Shia is not a sect in Ushul Fiqh. However, it is considered a political group that argues that Ali ibn Talib is the rightful successor as the Imam (Muslim community leader) after the Prophet’s death, not Abu Bakr, Umar ibn al-Khattab, or Uthman ibn Affan. The Shia sect was present in Egypt for the first time during the reign of Uthman because the propagandists found fertile land there. They spread widely to Iraq, which became the headquarters and residence of Shia’s adherents in subsequent developments. Medina, Mecca, and other cities in the Hijaz region became a place where the Sunnah and Hadith were developed. While Syria became the cradle of the Umawi people, then Iraq became the residence of the Shiites.

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1 Imam Muhammad Abu Zahrah, Aliran Politik Dan ‘Aqidah Dalam Islam [Tārîkh Al-Madzâhib Al-Islâmiyyah] (Abd Rahman Dahlan dan Ahmad Qarib ed, 1st edn, Logos 1996), p. 36.
2 Huzaemah Tahido Yanggo, Pengantar Perbandingan Mazhab (Logos 1997), p. 36.
Shia emerged in Iraq since Ali ibn Abi Talib ruled and lived there during his Caliphate. Iraqis have perceived Ali as having supremacy and privilege that made them adore him.

Shiites believe that the Caliph/Imam (head of government) appointment is part of the pillars of Islam. Muslims must carry it out and are not perfect in Islam if they have not implemented it yet. Therefore, Shia became a political sect and Fiqh.3

There are differences of opinions in the procedure of appointing a Caliph or Imam among Shiite scholars, as follows: 4

a. The previous Caliph/Imam appointed a new Caliph/Imam, with the condition that the candidate must be descended Fatima, the daughter of the Prophet.
b. The appointment of the new Caliph/Imam through deliberation and the candidate must be descended Fatima, the daughter of the Prophet.

These differences of opinion have led to the emergence of sects’ branches within the Shia. This article will discuss various thoughts that arise in the Shia sects, which still have adherents or no longer followed, influenced the development of thought in Islamic law. The authors only elaborated about the Shia sects and their thoughts to limit the extensive Shia problem.

BRANCHES IN SHIA

Saba’iyah
The Saba’iyah was the follower of ‘Abdullah ibn Saba’, an enslaved person from the tribe of al-Hijrah who declared himself converted to Islam. He was among one of the hardest to oppose Uthman and his officials. When Ali was killed, Abdullah tried to provoke the people’s love and the pain of losing ‘Ali by spreading lies. In this way, he appeared like a good person when he aimed to mislead and destroy religion.5 He said that the one killed was not Ali, but a devil who resembled Ali, while Ali himself ascended to the sky like Isa ibn Maryam.6 Abdullah said, “Just as the Jews and Christians lied when they said that Isa was killed, the Kharijites (the first identifiable sect of Islam) lied when they said that Ali was killed. Verily, the person on the cross that the Jews and the Christians saw was a person who resembled Isa. The same thing happened to the people who said that Ali was killed, but they saw someone who resembled Ali. They thought Ali was killed, but he ascended to the sky”. He also spreads the notion that the thunderbolt is Ali’s voice and lightning is his smile. Saba’iyah followers who hear thunderbolt must say, ‘Al-Salâmu ‘alaika yâ Amîr al-Mu’mînîn.” Umar ibn Shurahbil narrated that when someone told him about the killing of Ali, he said, believing that he was dead. He will not die until he descended from heaven and led the world.”7

Some adherents of the Saba’iyah said, “Indeed, God resided in Ali and the Imams after his death.” This expression is similar to the teachings of some ancient religions, which say that God resides in certain people and passes from one priest to another, as the ancient Egyptians thought of the Pharaohs.8 Some other adherents said that God incarnated in the

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3 Wahab Afif, Pengantar Studi Perbandingan Madzab (Darul Ulum 1991), p. 48.
4 Huzaemah Tahido Yanggo (n 2), p.36. See also, Huzaemah Tahido Yanggo, Beda Pendapat Bagaimana Menurut Islam (Gema Insani Press 1994), p. 133-136. See also, Muhammad Siddiq Armia, ‘Ultra Petita and the Threat to Constitutional Justice: The Indonesian Experience’.
5 Imam Muhammad Abu Zahrah, Dictionary of Islam (Oriental Book of Reprint Corporation 1976). Compared to Thomas Patrick Hughes, Dictionary of Islam (Oriental Book of Reprint Corporation 1976), p.133-140.
6 Muhammad Taqi al-Hakim, Al-Ushûl Al-‘âmmah Li Al-Fiqh Al-Muqârran (Daar Abdalus 1963), p.135.
7 ‘Abdul Qahir ibn Thahir al-Tamimi al-Baghdadi, Al-Farq Bain Al-Firaq (Maktabah Subaib 1986), p. 113.
8 Muhammad Taqi al-Hakim (n 6). See also, Muhammad Salâm Madkûr, Al-Ijtihad Fi
body of Ali. They said to Ali, “He is You, Allah.”

**Al-Ghurabiyyah**

This sect does not deify Ali but glorifies him more than the Prophet Muhammad. They assumed that prophetic revelation should be to Ali, not Muhammad. They were called al-Ghurabiyyah because they thought that Ali resembled the Prophet Muhammad, just as a raven (al-ghurâb) resembled another. Al-Ghurabiyyah and other misleading sects are not recognized as part of the Shi’ites themselves. In general, they believe that the adherents of those misleading teaching are not Muslims. They have carried the name Shia for themselves in Islamic history. Many Shia writers grouped them outside the Shia and wholly dissociated them. However, the teachings that do not follow Islamic Aqeedah have no actual existence among the Shiites. Nowadays, Shi’ites do not openly deify the Imams, nor do they claim that the angel Gabriel was mistaken in revelations prophethood.  

**Kaisaniyyah**

The adherents of Kaisaniyyah are the followers of al-Mukhtar ibn Ubaid al-Tsaqafi. Al-Mukhtar came from the Kharijites, then joined the Shia group that supported Ali. The name Kaisaniyyah was related to the name Kaisan. According to one group, this name derived from mawlâ (the person freed by Ali), or his Ali’s grandson’s disciple name, Muhammad ibn al-Hanafiyyah. The Aqeedah of the Kaisaniyyah sect is not based on the divinity of the Imams of the Ahlul -Bayt as adhered by the Saba’iyyah sect. However, it is based on the understanding that Imams are the holy people and must be obeyed. They fully believe that they are infallible and the symbol of divine knowledge. The adherents of Kaisaniyyah also follow the doctrine of Al-badâ´ (revealing after concealing), believing that Allah revealing His will about a decision, wherein the people thought His will had already been made on that issue.

This sect also adheres to the reincarnation concept, which releases the spirit from one body and takes place in another body. This understanding was taken from Hindu philosophy. Hindus believe that the soul is tortured by moving from one life to a higher life. Kaisaniyyah does not adopt this concept as a whole but is limited to the Imams.

They are indoctrinated that everything has a physical, soul, and spirit, and all revelation has its meaning; everything in this world has its essence, all the laws and secrets of this nature are accumulated in a person, and that knowledge which Ali passed on to his grandson, Muhammad ibn al-Hanafiyyah. So whoever in himself has accumulated all this knowledge, he is the true Imam. Kaisaniyyah sect denied the notion of prophethood in Muhammad ibn al-Hanafiyyah, although their fanaticism towards the descendants of Ali encouraged them to elevate Muhammad to the degree of prophethood. In addition, there was no evidence of their sayings concerning the sanctity of God’s attributes, except in the case of Al-badâ. However, they associated Islam with philosophical views such as the spiritual reincarnation, the physical and spiritual side of everything, and the laws and secrets of nature that exist

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9 Ahmad Hasan, *Pintu Ijtihad Sebelum Tertutup* (Pustaka 1970), p. 179.
10 Muhammad Yusuf Musa, *Al-Madkhal Li Dirâsât Al-Fiqh Al-Islâmiy* (Daar al-Fikr al-`Araby 1961), p. 236.
11 Asep Saefuddin al-Mansur, *Kedudukan Mazhab Empat Dalam Syariat Islam* (Pustaka Al Husna 1984), p. 103-107.
12 Shobhy Mahmasany, *Falsafah Al-Tasyri’ Al-Islamy* (Daar al-Fikr al-`Araby 1961), p. 146-149.
13 Muhammad Ibn `Abdul Karim, *Al-Milal Wa Al-Nihal* (Daar Maktabah), p. 233.
within a person, namely Ali, and only passed on to Muhammad ibn al-Hanafiyyah.

**Zaidiyah**

Zaidiyah is a Shia sect closest to the Islamic congregation (Sunni) and the most moderate because this sect does not elevate the imams to the degree of prophethood, not even close to that degree. However, the adherents of this sect regarded the Imams as the most crucial human after the Prophet Muhammad. They also believed the Companions, especially those who are bai’at (pledged) by Ali and acknowledged their leadership. The leader of Zaidiyah was Zaid ibn Ali ibn Zainal Arifin. He declared war on Caliph Hisham ibn Abdul Malik, and eventually, he was crucified in Kufa. The followers of the Zaidiyah sect believe that people who commit major sins will remain in hell as long as they have not truly repented.

Assaults from other Shia sects caused this sect to falter and lose. Therefore, those who carried the name of the Zaidiyah teachings did not justify the appointment of the *mafdhûl* Imams (not the best people), so they were considered an extreme sect. They rejected and opposed the Caliphate or the faith of Abu Bakr and Umar, thus losing the identity of Zaidiyah teachings. Several scholars admired Zaid’s expertise in several branches of knowledge, including the Koran, Tawhid Science, Fiqh Sciences, Philosophy Sciences, and others. Zaid had been a teacher of Imam Abu Hanifah for two years. Yoseph Schact concluded that there are several main notions from the teachings of this sect, as follows:

1. The preferred Hadith Sanad are those from the Ahlul-Bayt.
2. Zaid argued that the Caliphate is not a position that must be passed down from generation to generation. However, the best Caliph is appointed through deliberation and prioritizes the descendants of Fatima or the Prophet’s bloodline.
3. Zaid opposed the belief that Imam Mahdi would appear before the Day of Judgment.
4. Every Muslim must perform *amar ma’ruf* and *nahi munkar* (enjoining right and forbidding wrong). Therefore, Zaid fought against the government of Amawiya, and he was eventually killed.
5. The person who is a big sinner is put between *kufr* (unbelief) and faith, who is called *Fasiq* (someone who violates Islamic law).
6. Humans are capable of trying and acting according to their abilities.
7. Only the Apostles/Prophets have the miracles, while the Imams do not.

Zaidiyah rejected Qiyas (analogical reasoning) and only adhered to the Nass (legal injunction) received from the Prophet. Furthermore, they acknowledged the words of the Imam (Caliph), who are *Ma’sum* (sinless). Some great scholars they followed were Abu Abdillah, Dja’far Ash-Shidiq (80 H-148 H). The following are Zaidiyah’s teachings that violate the majority of scholars’ understanding:

a. It is permissible to marry the kids of a sister.

b. It is permissible to marry a woman and her aunt as long as they are both happy.

c. It is not permissible for a sick Muslim to give *Talaq* (repudiation). If the

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14 J.N.D. Anderson, *Law Reform in the Muslim World* (University Press 1976), p. 341. See also, Muhammad Siddiq Armia, ‘Public Caning: Should It Be Maintained or Eliminated? (A Reflection of Implementation Sharia Law in Indonesia)’ [2019] Qudus International Journal of Islamic Studies.

15 Yoseph Schacht, *An Intruduction to Islamic Law* (Oxford University Press 1971), p. 59.

16 ibid.

17 M.Hamdani Yusuf, *Perbandingan Madzhab* (Aksara Indah 1986), p. 53-57.

18 Thomas Patrick Hughes (n 5). pp.133-140.
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A married person is sick and dies before *Dukhul* (marriage’s consummation), the marriage is considered null and void, with no relation between husband and wife.

d. The forbidden milk kinship is the one that is sufficient for fifteen times simultaneously.

e. Strengthening the understanding of Ibn Abas, which stipulated that Triple *Talaq* in one assembly is considered one.

f. Their Imams are required to have *Ijtihad* (mandatory *mujtahid*).

**Imamiyah Itsna ‘Asyariyyah (Twelver Shi’ism)**

In general, the predominant sect of Shia in the Islamic world, such as in Iran, Iraq, Pakistan, and other countries, adhere to Imamiyyah or Twelver Shi’ism. They believe that there are only twelve Imams who must be followed, namely:

1. Ali ibn Abu Talib
2. Hasan ibn Ali
3. Husayn ibn Ali
4. Ali Zain al-Abidin
5. Muhammad al-Baqir
6. Ja’far al-Shadiq
7. Musa al-Kazhim
8. Ali al-Ridha
9. Muhammad al-Jawwad
10. Ali al-Hadi
11. Hasan al-Askariy
12. Muhammad al-Mahdi

Twelver Shi’ism believed that Ali was the testament recipient of the Prophet Muhammad through the *Nass*. They agreed that *Al-awshiya* (testament) after Ali was the descendant of Fatima, namely al-Hasan and then al-Husayn. However, they differed in opinion about people becoming *Al-awshiya’* after the two. Some argued that they were divided into more than seventy groups, and the largest of them were *Itsna ‘Asyariyyah* and *Isma’iliyyah*. Imamiyyah Itsna ‘Asyariyyah adherents currently occupy areas of Iraq, Iran, Syria, Lebanon, and several other countries. Nearly half of its adherents are in Iraq. They live according to their sect’s teachings in the fields of Aqeedah, civil law, inheritance law, waqf, zakat, and worship. This group can coexist with the followers of the Sunni sect.

Like other Imamiyyah branches, the Imamiyyah Itsna ‘Asyariyyah believed that an Imam had sacred power, which he acquired through the testament of the Prophet Muhammad. Thus, an imam’s wisdom and all activities in leading are based on that testament. Therefore, it is necessary to explain their power and limits in forming legislation and laws. At first, the Twelver Shi’ism scholars carried out *Ijtihad* following the Imam Shafi’i method of establishing the law. However, over time, they stipulated their *Ushul Fiqh* (Islamic Jurisprudence) and practiced their way of *Istinbath* (excavation and stipulation of law). They do the *Ijtihad* using the *Maslahat* (public interest), not with *Qiyas*. The examples of their thought in the laws of *Fiqh* such as:

1. It is not permissible to prostrate on anything other than soil and vegetation (grass) such as wool, leather, and prayer mats.

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19 Huszaemah Tahido Yanggo (n 2), p. 38.
20 Mohammad Ali al-Saiyis, *Tarikh Al-Fiqh Al-Islamy* (Daar al-Thiba’ah Muhammad Ali Shabih 1970), p. 173-180.
21 Huszaemah Tahido Yanggo (n 2), p. 150.
2. *Istinja’* (cleaning one’s private part) with stones should not be used for urination, particularly for defecation.

3. It is not acceptable to wipe the head in ablution except with the remaining water still attached to the hands when washing both hands. If the person performing ablution wets his hands again to wipe his head, then his ablution is invalid. Even though he has wiped his hands, he must repeat his ablution.

4. A man committing adultery with a married woman is forbidden to marry the woman, even though her husband later divorced her.

5. Allowing *Mut’ah* (pleasure/temporary) marriage.

6. Forbidden to marry a Kitabiyah woman (a woman whose ancestors were from the Bani Ya’qub).

7. And others.

*Isma’iliyyah*

Isma’iliyyah is a part of the Imamiyyah. Adherents of this sect are scattered in various Islamic countries: South and Central Africa, Syria, India, and Pakistan. During the Fatimid dynasty in Egypt and Syria, they had triumphed with great power in Islamic history. Likewise, Qaramithah once ruled in various Islamic areas. The name of this sect was attributed to Isma’il ibn Ja’far al-Sadiq. He was the sixth imam in the Twelver Shia. The seventh Imam was Musa al-Kazim. However, Isma’iliyyah’s teachings stipulated that the seventh Imam was the son of Isma’il ibn Ja’far al-Sadiq, named Isma’il. They said it was based on a Nass from his father, Ja’far, but Isma’il died before his father. However, they continued to apply the Nass and their beliefs. Their principle is that practicing the Nass is better than abandoning them. It was not surprising because they believe an imam’s words are entirely the same As syara’ Nass that must be implemented and should not be abandoned.  

The opinions believed by the moderate Isma’iliyyah sect are based on three theories which are mostly embraced by the Twelver Shiites, namely:  

*First:* the abundance of divine light (*Al-faidh al-ilâhî*) in the form of knowledge bestowed by Allah on the Imams. They adopted this theory to state that an imam has a degree of knowledge that surpasses what other humans can achieve. The knowledge that other humans do not own, especially the knowledge of the Sharia (Islamic religious law).

*Second:* an Imam does not have to appear and be known. Even so, he must be obeyed. He is al-Mahdi, who will guide humans and he will appear in a certain line of descent and will indeed be confirmed. The Day of Resurrection will not occur before he appears and establishes justice on earth when tyranny and deceit run rampant.

*Third:* an Imam is not accountable to anyone. His followers should not blame him when he commits an action and must admit that all his actions contain good, not evil, because he has knowledge that no one understands. Something we understand as a mistake, could be not according to them because there is the knowledge that illuminates an Imam so that he can do it, while other humans should not.

*Al-Hakimiyyah and Druze*

The leader of this extreme sect was al-Hakim bi Amrillah al-Fathimi. He said that Allah resided in him and provoked the others to worship him. Different narrations explained
his fate that he disappeared, died, or was killed. According to the strongest narration, the part of his family has killed him. His disciples and followers who emerged after his death denied that he was dead. They believe that he is hiding and will return later.\textsuperscript{25}

Druze, adherents of this sect, mostly live in Syria and have close relations with the Al-Hakimiyah sect. It was said that the person who had spread this teaching into society was a Persian man named Hamzah al-Darazi. The name of this sect was probably attributed to him. It is not clear the current fate of this group, as they hide their practices and beliefs from their neighbors and families.\textsuperscript{26}

\textbf{Nassiriyyah}

Nassiriyyah sect has deprived its roots of Islamic teachings and followed the footsteps of Al-Hakimiyah in Syria. Although this sect did not attribute to Isma'iliyah, their teachings have similarities and are influenced by Isma'iliyah's thinking. In general, Nassiriyyah's thoughts are mixed with extreme thoughts sects classified as Shia, but most Shites dissociate themselves with them. This extreme sect has uprooted the teachings of Islam and distorted its meanings. There is nothing left in them except they are still called Muslim. Their activities expanded when the Fathimiyah Daula ruled in Egypt and Syria. In al-Hakim bi Amrillah they found people who had the same lustful desires. His followers are known as \textit{al-Hasyâsyîn} (opiate suckers), and they also joined the Crusaders to fight the Muslims in Syria.\textsuperscript{27}

\textbf{Conclusion}

The sects within the Shia emerged due to political factors. It eventually developed into Ushul Fiqh. Differences within the Shia sects are due to varying perceptions of Ali's position. The contrast opinion among the Shia generally occurred on the following issues; Firstly, some Shia adherents argued that the new Caliph/Imam was appointed by the previous Caliph/Imam, with the condition that he must be a descendant of Fatima, the daughter of the Prophet Muhammad. Secondly, other groups argued that the appointment of the Caliph/Imam must be through deliberation, and the candidate is descendants of Fatima, the daughter of the Prophet. Not all sects in Shia are misleading, and we must appreciate this difference as a blessing because it is what makes Islam great. Shia groups contrary to the Islamic Aqeedah should not be tolerated because it will damage ordinary people who do not fully understand Islam.

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