



ḤELLI, NAJM-AL-DIN ABU'L-QĀSEM JA'FAR

ḤELLI, NAJM-AL-DIN ABU'L-QĀSEM JA'FAR b. Ḥasan b. Abi Zakariyā Yahyā b. Ḥasan b. Sa'īd Hodali, known as Moḥaqqueq or Moḥaqqueq-e awwal, a leading jurist of the Twelver Shi'ite school of Ḥella. He was born in about 602/1205-06 and spent most of his life in his home town. He studied with his father, with Faḵār b. Ma'add Musawi, Ebn Namā Ḥelli and Sadid-al-Din Sālem b. Maḥfuẓ ('Abbās Qomi, p. 155). When Naṣir-al-Din Ṭusi arrived in Ḥella on a mission from Hülegü, he addressed Ḥelli as the representative of the scholars of the town and attended one of his study sessions (Ebn Moṭahhar, pp. 64-65). This visit occasioned Ḥelli's epistle *al-Tayāsor le-ahl al-'Erāq*, where he defended the position that it is commendable (*mostaḥabb*) for those in Iraq to pray in a direction somewhat to the left of the Ka'ba. Ḥelli's numerous students included his nephew Ebn Moṭahhar Ḥelli, Jalāl-al-Din Moḥammad b. 'Ali b. Ṭāwus (d. 680/1281-82) and his cousin Ġiāṭ-al-Din 'Abd-al-Karim b. Aḥmad (d. 693/1294), and Taqī-al-Din Ḥasan Ebn Dāwud, to whom Ḥelli transmitted all his works (Ebn Dāwud, p. 83). Ḥelli died in Rabi' II 676/September 1277, or on 23 Jomādā II 676/22 November 1277 (the date of 726/1325 given in some sources is a result of confusing him with Ebn Moṭahhar.) Some maintain that his body was carried to Najaf for burial; according to others, he was buried in Ḥella, where his tomb was turned into a shrine (Kvānsāri, p. 187). When the shrine fell into disrepair, Moḥammad-Bāqer Behbehāni (q.v.) ordered it rebuilt (*Ayān al-šī'a*, p. 372; for a photo see Karakuš, II, facing p. 20).



Ḥelli's best known work is the *Šarā'e' al-eslām*, which became one of the most influential Twelver Shi'ite legal compendia (*al-Dari'a*, XIII, pp. 47-50, no. 161). In this work Ḥelli divides *feqh* into four categories: *'ebādāt* (acts of devotion, e.g., prayer), *'oqud* (bilateral legal acts, e.g., marriage), *iqā'āt* (unilateral legal acts, e.g., divorce, *ṭalāq*), and *aḥkām* (rules, e.g., laws of inheritance). This classification was followed by later jurists. The style is clear and concise. Where there are conflicting views Ḥelli notes them and often gives his own preference, using terms such as *ašbah*, *ašhar*, *aṣaḥhá*, *aḥwaṭ* (more likely, better known, sounder, more cautious). The expression *fihe taraddod* is employed to indicate uncertainty as to the correct view on a given issue. Very occasionally Ḥelli identifies his sources, citing author (e.g., Mortazā [Ḥelli, 1970, I, p. 66, II, p. 309]), title (e.g., *Man lā yaḥzoroho'l-faqih* [II, pp. 290, 291]) or both (e.g., *qāla'l-šayk fi'l-Kelāf* [II, pp. 93, 205, 208, 229]). Numerous commentaries were written on the *Šarā'e'*, and it was translated several times into Persian (Modarressi, pp. 67-70). A Russian translation by Kazembeg was published in St. Petersburg in 1862, followed by Querry's French rendition (Paris, 1871-72; cf. Kohlberg, p. 37). Ḥelli wrote an abridgement of the *Šarā'e'*, entitled *al-Nāfe' fi moḳtašar al-šarā'e'* or *al-Moḳtašar al-nāfe'* (*al-Dari'a*, XX, p. 213, no. 2636). In addition to being published several times in the Shi'ite world, it also came out in Cairo (in 1376/1957) as part of efforts to promote Sunnite-Shi'ite ecumenism. Over 30 commentaries on the *Nāfe'* are extant (Modarressi, pp. 65-66). The earliest, by Ḥelli himself, is the *Mo'tabar*, dedicated to Amir Bahā'al-Din Moḥammad b. Jowayni (d. 678/1279), son of Šāḥeb-e Diwān Šams-al-Din (d. 683/1284). This commentary remained incomplete (*al-Dari'a*, XXI, p. 209, no. 4648). Another legal work by Ḥelli is the *Nokat al-nehāya* (also known as *Ḥall moškelāt al-nehāya*), a commentary on Abu Ja'far Ṭusi's legal compendium *al-Nehāya fi mojarad al-feqh*; the most recent edition was published as *al-Nehāya wa-nokatohā* (Qom, 1412/1991-2). In this work Ḥelli defends Ṭusi against the critique of Ebn Edris (d. 598/1202) in his *Sarā'er*, while refining and systematizing Ṭusi's legal doctrine. Ḥelli also composed a considerable number of epistles on legal and theological matters; nine are available in *al-Rasā'el al-tes'* (ed. Reżā Ostādi, Qom, 1371 Š./1992-93).

Ḥelli's most significant contribution was in the realm of legal methodology (*oṣul al-feqh*), a subject to which he devoted his *Ma'ārej al-oṣul*. Ḥelli maintains that as long as the Imams were present the divine law became known through them. During the occultation, some rules could be derived from Shi'ite tradition; specifically, traditions that are widespread and reliable (*motawāter*) provide certain knowledge (Ḥelli, 1983, p. 139). In addition, when there is



consensus (*ejmā'*) among Imami scholars, this consensus incorporates the opinion of the Imam and is therefore binding (Ḥelli, 1983, p. 132; Stewart, p. 162). Yet Ḥelli was aware that certainty as to God's wishes cannot always be achieved during the *ḡayba*. Thus one cannot automatically rely on solitary traditions (*ḡabar wāḡhed*): these are only to be acknowledged when there are indicators of their trustworthiness, for example, when they have been accepted by Imami scholars (Ḥelli, 1901, p. 6; Ḥelli, 1983, pp. 140-48; Calder, pp. 65-66). The role of the scholars is, in Ḥelli's view, crucial. They practice *ejteḡād*; that is, they attempt to discover the laws (*al-aḡkām al-ṡar'īya*) through theoretical considerations usually not derived from the literal meaning of the texts (*e'tebārāt naḡariya laysat mostafāda men ḡawāher al-noṡuṡ fi'l aḡṡar*; Ḥelli, 1983, p. 179; Madelung, 1982, p. 168). Such methods do not include the use of legal analogy (*qiās*; Ḥelli, 1983, pp. 179-80, 188-94). The *mojtahed* may err, but such an error is no sin (Ḥelli, 1983, p. 181). Ḥelli stressed the role of the *mojtaheds* as *moftis* to whom any lay member of the Imami community (called '*āmmi*, *mostafti*, or *moḡalled*) could turn for answers to legal questions (Ḥelli, 1983, pp. 197-99). Yet he also set limits to their authority, stating that it is not permitted to follow their opinions on matters of creed when these opinions are not based on textual proof (*ḡojja*; Ḥelli, 1983, p. 199), and giving his support to those who rule that they may not impose the divinely prescribed legal punishments (*ḡodud*; Ḥelli, 1970, I, p. 160; Madelung, 1980, p. 27, note 25). Ḥelli's methodology owed much to Sunni thought. It was further elaborated by Ebn Moṡahhar Ḥelli and eventually became part of mainstream Oṡuli Shi'ism.

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