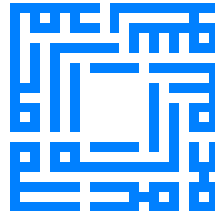


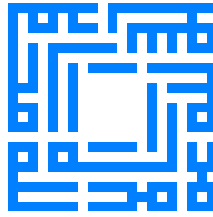


**Advanced Level Topics of Study for:
Importance of Taqlid**



Contents

1. Taqlid is Mandatory.....	3
2. What is a Madhhab? Why is it necessary to follow one?.....	10
3. Fatwa on Following Madhabs.....	13
4. Ikhtilaf (differences) among the Madhhabs in Islam	20



TAQLID IS MANDATORY

The essence of guidance is derived from the Holy Qurān - "Hudan li al-Nas" ("A Guidance for Mankind). But this guidance and its laws are based on fundamental principles, the details of which have been entrusted to and consigned by the Holy Prophet (Sallallaahu Álayhi Wasallam) in order to explain them to mankind. 1. For example, the Holy Qurān says: "Aqimus-Salaat" ("establish prayer"). It does not define the method as to how the prayer should be established; how the various postures should be performed; the mode of recitation of Surah, etc. The complete method of prayer i.e. "Salaat" is explained by the Holy Prophet (Sallallaahu Álayhi Wasallam). 2. "Wa 'Atuz-Zakat" ("And give charity"). Now the Zakaat amounts payable on gold, silver, cattle, land, produce, etc. are only known through the Ahadith and there is no mention of it in the Holy Qurān. 3. "Wa Lillahi `ala an-Nas Hijj Al-baiti" ("It is obligatory on people to perform the Hajj of the House of Allah.) Here again, the method of Tawaf, the number of circumambulations, the details regarding Arafat, Mina, Muzdalifah, the stoning at the Jimar, etc. have all been explained by the Holy Prophet (Sallallaahu Álayhi Wasallam). Thus it becomes imperative to understand the Holy Qurān in the light of the Ahadith even for major obligatory acts like Salaat, Zakat and Hajj without which it is impossible to act and understand the commands of the Holy Qurān. The believers are commanded to attain guidance from the Holy Qurān in accordance with the details explained by the Holy Prophet (Sallallaahu Álayhi Wasallam). Therefore Allah specifies: "Whosoever obeys the Messenger has indeed obeyed Allah." This obedience to the Holy Prophet (Sallallaahu Álayhi Wasallam) would in reality be obedience to Allah Himself. A direction from the Hadith informs us: "Also perform your prayer just as you see me perform my prayer." (Bukhari Vol. 1, p. 1076) It is not said: "Perform your prayer in the manner you may infer from the Holy Qurān." Hadith is divided into different categories:- a. The sayings of the Holy prophet (Sallallaahu Álayhi Wasallam), b. The acts and doings of the Holy prophet (Sallallaahu Álayhi Wasallam), c. The sayings, acts and doings of others, approved by the Holy Prophet (Sallallaahu Álayhi Wasallam). All these categories of Ahadith give guidance to the Umma.

QIYAS

When the Prophet (Sallallaahu Álayhi Wasallam) was asked a question he answered and also counter-questioned the questioner, on a similar (analogical) matter, the answer of which was known to him. On the correct reply being given by the questioner, the Prophet (Sallallaahu Álayhi Wasallam) would say: "The question you had asked is in the same category as this answer of yours."

EXAMPLE: A lady once asked: "Hajj was obligatory on my mother but she passed away. Can I perform it on her behalf?" The Prophet (Sallallaahu Álayhi Wasallam) replied: "Yes, it would be accepted on her behalf. Tell me, if your mother had a debt would you pay it." She replied in the affirmative. Rasulullah (Sallallaahu Álayhi Wasallam) said: "Fulfil what is on her behalf. Certainly, the duty and right of Allah would be more acceptable." This kind of reasoning is called Qiyas, Ijtihad, or Istimbat in Shari`a. These are only used in Shari`a when the Qur`anic or Traditional directives are not specifically spelt out. The Holy Prophet (Sallallaahu Álayhi Wasallam) sent Hadrat Mu`adh ibn Jabal (Radhiyallaahu Ánhu) as a Governor and Qaadhi to Yemen. The Holy Prophet (Sallallaahu Álayhi Wasallam) gave to Hadrat Mu`adh many instructions and advices even while he held the reins and led the horse with Hadrat Mu`adh mounted on it. The Holy Prophet (Sallallaahu Álayhi Wasallam) also asked: "By which law would you dispense justice." He replied: "By the Law of the Holy Qur`an." "And if you do not find it (i.e. what you seek) in the Holy Qur`an." He replied: "By the Prophetic Traditions." "And if you do not find it in there also, then!" He replied: "Then I would make Ijtihad." The Holy Prophet, (Sallallaahu Álayhi Wasallam) expressed his happiness with his reply and fully endorsed and supported his stand and thanked Allah for it. (Abu Daawud Vol 2. p. 149) When after such an Ijtihad all the scholars agree to its conclusion, it is termed "Ijma", for it must be understood that Qiyas or Ijtihad does not prove an order or command; it only makes it evident and known. It was hidden in the Holy Qur`an or the Ahadith; the Mujtahid, by Dalalatan, 'Isharatan or Iqtdha'an, brought it in the open for the generality of people. The person who does not have the power of Ijtihad is bound and compelled to follow a Mujtahid and this act of following a Mujtahid is termed Taqlid. The Holy Prophet (Sallallaahu Álayhi Wasallam) sent Hadrat Mu`adh ibn Jabal as Qadi so that people could act upon his instructions and guidance derived from the Holy Qur`an, the Ahadith and his Ijtihad. To accept all three would in reality be obedience to Rasulullah (Sallallaahu Álayhi Wasallam) as mentioned in Mishk`at Sharif (p. 310). Hadhrat Abu Hurayrah (Radhiyallaahu Ánhu) reported that the Holy Prophet (Sallallaahu Álayhi Wasallam) said, "Who has obeyed me, has obeyed Allah and who was disobedient to me has been disobedient to Allah and

who obeyed the Amir was obedient to me and who was disobedient to the Amir has been disobedient to me."

PRECEPTS, PROPOSITIONS AND THEIR KINDS

Masa'il or precepts are of four kinds:- 1. Clear instructions from the Holy Qurān and Ahadith. No Qiyas is allowed nor Taqlid permissible. The order is to practice on the clear injunction. 2. In such propositions where there are two injunctions, one earlier, and one later, and through historical evidence both are known, then the earlier proposition is abrogated (Mansukh), whilst the latter command is ordered. Here too Qiyas and Taqlid ~ not permitted. 3. Those propositions that have two clear injunctions but it is not known which is earlier and which later, i.e. no historical evidence. 4. Those propositions of which there exist no clear injunctions. Propositions 1 (and 2) are clear. the last two (Propositions 3 and 4) need explanations. Since 3 and 4 are not clear, what must a person do? If he does not practice upon them, he is yet not allowed to go free. The Qurānic verses state: "Is man under the notion that he will be left free?" "Do you think that you have been created in vain?" It is not so, you have to obey Allah's command every second. Now how are we going to obey when it is not known, which is abrogated and which is not. In the fourth kind of proposition when one has no knowledge what is he going to practice on? Allah says: "Do not practice on anything without knowledge." Thus the need of Qiyas and Ijtihad. In the third kind of proposition the need is to verify the clear injunction and in the fourth kind it is to find a clear order and command. This is a known fact that everybody does not have the ability or power to make Ijtihad and this verse also makes it clear. Everybody makes claims of giving opinions but only that ruling is accepted which is in accordance with Shar'iah and of a Mujtahid. The verdict of a Muqallid will not be accepted. The Mujtahid makes Ijtihad while the Muqallid makes Taqlid. Even if the Mujtahid makes a mistake he is rewarded as mentioned in Bukhari, Vol. 1 p. 11092. Here exists a doubt that there were many Mujtahids among the Sahaaba (Radhiyallaahu Ánhum), the Tabi`in and Tabi` Tibi`n; But only the 'I'ima 'Arba` i.e. Imaam Abu Hanifah, Imam Malik, Imam Shaafi`i and Imam Ahmad (Rahmatullaahi Álayhim) are followed and Taqlid made of them. What is wrong in following the Sahaaba (Radhiyallaahu Ánhum) whose virtues have been abundantly mentioned in the Holy Qurān and the Ahadith? There is no doubt that the Sahaaba (Radhiyallaahu Ánhum) have a far greater status and position than the 'I'ima Arba`a does not make Taqlid of any one of the 'I'ima Arba` ever thinking them to be greater than the Sahaaba but its simple reason is that for Taqlid it is necessary to know those injunctions in which Taqlid has to be made. The detailed knowledge which can be found in every section and chapter from Kitaab- at-Taharat to Kitab al-Fara'idh, whether it

concerns acts of worship, or social and cultural aspects, in every department of knowledge, these were the first and only 'I' ima that gathered them all in every detail. They were schools of knowledge in their own right that codified knowledge in every field. We do not find such codification either of the Sahaaba or other Tabi`in. The only choice we have is to follow them. It must also be borne in mind that Allah had bestowed on them the perfection of knowledge of the Holy Qurān and the Ahadith. It is said by Shah Waliullah (Rahmatullaahu Álayhi) in the commentary of Muwatta' Imaam Malik, p.6 that these four Imaams together have encompassed the entire knowledge of the Holy Qurān and Ahaadith to such a degree that not a single Hadith which was reported by the Sahaaba was omitted by them. Clarification is further required regarding another doubt in most minds: What is the necessity of making Taqlid of only one Imaam? One should be allowed to follow any of the four Imaams in the different Masa'il as was the method in the time of the Sahaaba and Tabi`in. Mazhab was not confined to a single Imam. Why must such concessions not be allowed in our times? In the time of the Sahaaba, which was the best of times, there was no ulterior motives regarding religious questions. A question was asked to know the correct method and to practice on it. It was not asked for one's convenience as in later times. For example, A person with Wudhu touched his wife which according to the Shafi Mazhab nullifies Wudhu: Now when he is told to make Wudhu, he replies: "I make Taqlid of Imaam Abu Hanifah and it is not a breaker of Wudhu according to his Mazhab, therefore my Salaat will be valid." Now this person vomits, which according to Hanafi Mazhab, breaks Wudhu. He is now told to make Wudhu. He replies: 'I make Taqlid of Imam Shafi`i; it is not a nullifier of Wudhu, therefore my Salaat is valid'. If this person (who has on the one hand, touched his spouse, and on the other hand, vomited) has to perform his Salaat with such a Wudhu, it would neither be correct by Imaam Abu Hanifah nor by Imam Shafi`i. In terminology this is known as Talfiq which is agreed upon unanimously to be void and not permitted. This is not Taqlid but following one's passions and desires for one's personal convenience which lead one astray. The necessity of following a Mazhab, Imam or Mujtahid is that one would not fall into the temptations of following one's own desires. The Holy Qurān states: 'And do not follow desires. You would be led astray from the path of Allah.' Thus the need of following only one Imam. For centuries we have heard of great scholars, jurists, 'Ulama' and Auliya who had the treasures of knowledge, who were in their personal capacities libraries with encyclopaedic knowledge. Their piety constituted perfect examples in emulation of the Sahaaba. Their entire life was spent in accordance with the Sunnah of Rasulullah (Sallallaahu Álayhi Wasallam). They also followed the 'I'ima Arba` and it would not be incorrect to say that it was because

of this Taqlid that they attained the heights of perfection. Islamic Jurisprudence (Fiqh) is confined to the four schools. Those that do not confirm to any one of them are called Ahle Hadith or Ghair Muqallid.

What is Taqlid or Ittiba ?

Taqlid or Ittiba' is Wajib (compulsory) upon Muslims

Taqlid or Ittiba' is Wâjib (compulsory) upon Muslims. Yet there are many Muslims in the present age who have hardly heard of the words Taqlid or Ittiba'. Others who may have heard about it, do not fully comprehend its meaning. This has led to people even rejecting Taqlid – thereby rejecting a Wâjib. As a general rule, man is suspicious and afraid of that which he does not know. Therefore a proper understanding of the issue of Taqlîd or Ittibâ would dispel the ignorance surrounding it, Inshâ Allah.

Taqlid is a part of everyday life

Taqlîd or Ittibâ in essence, simply refers to the practice of an unqualified, lay person (in a specific field of specialisation) submitting to and accepting the authority of an expert in that field, without demanding proof and justification for every view, opinion or verdict expressed by such an expert authority. This is a natural state of human existence, practised by millions of people worldwide in every facet of life. The simplest and most tangible example of Taqlîd or Ittibâ is that of a child learning his basic alphabets at school. Every child learning his alphabets is unconsciously practising Taqlîd. A learner driver taking instructions from a driving instructor is practising Taqlîd. People going to a specialist doctor for medical treatment and following his instructions is another glaring example of Taqlîd or Ittibâ. A lay person soliciting a legal opinion from an advocate or following the advice of a tax consultant is another common case of Taqlîd. A client at an engineering firm, asking for the engineer's advice on complex engineering calculations is yet another instance of Taqlîd or Ittibâ in action. The millions of 'facts' in the myriad of sciences such as astronomy, archaeology, etc. are all distinct examples of Taqlîd or Ittibâ Who ever questions the 'fact' or asks for proof that the sun is really 93 million miles away from the earth! It is taken for granted that this is the findings of the 'experts' in these fields and everyone simply accepts it as such. School teachers teach these to their pupils as 'gospel truth' and children learn and memorise these 'facts' with the hope of succeeding in their exams. There are countless such examples of Taqlîd or Ittibâ in everyday existence. It is quite clear from the above, that Taqlîd or Ittibâ is a natural way of life, and is not specific to Islam or Islamic Fiqh alone.

Taqlid is the easy option for ordinary people

In the context of Islamic Fiqh or Law, Taqlîd or Ittibâ simply refers to accepting and following the verdicts of expert scholars of Islamic Fiqh in their exposition

and interpretation of Islamic Law, without demanding from them an in-depth explanation of the intricate processes required in arriving at such a verdict, called Ijtihad. It simply means that ordinary folk do not have to do Ijtihâd, i.e. the intricate and complicated procedures involved in deriving Islamic rulings that scholars exercise when issuing a Fatwâ (legal verdict). The duty of ordinary people is to trustingly accept the authority of the learned scholars in this matter and act upon their verdicts.

In this sense, Taqlîd is a great blessing for common people, for it is beyond their capacity to understand the extremely complex and complicated mechanics of Ijtihâd. The ability to do Ijtihâd requires many long years of study and erudition and a great deal of exertion (Ijtihâd means to exert one self) in acquiring a mastery of various Islamic sciences, among other varying requirements.

Misunderstandings regarding Taqlid

Recently, misunderstandings have arisen regarding the issue of Taqlîd. It has become a theme of major debate in many parts of the world among Muslims. This debate has naturally resulted in arguments being promulgated by both the protagonists and the antagonists of Taqlîd.

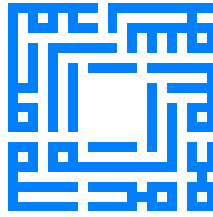
The best way of removing such misunderstanding is to view the original sources of Islam – the Qurân and Hadîth and the teachings of the learned elders of Islam on this subject. After a study of this subject, the correct interpretation and understanding of Taqlîd and Ittibâ would emerge. This would lead to a better understanding and analysis of the arguments and counter-arguments of protagonists and antagonists. (Elsewhere in this issue, check the article on Taqlîd and Ittibâ in the light of Qur'an and Hadith)

Any person who does not follow one particular Imaam is inevitably going to follow his desires. The Qur'aan and Hadith are replete with proofs against following one's desires. This is besides the verses of the Qur'aan and Ahaadith which substantiate the issue of following one particular Imaam. It is obvious that any person or group failing to comply with the dictates of these proofs will be deviant. The following verses and Ahaadith are the references that you require: Surah Nisaa v59; Surah Nisaa v83; Surah Tawbah v123; Surah Nahl v43. All these and many more are proofs of Taqleed in general. Similarly, looking at various Ahaadith, you may check Musnad Ahmad Hadith Nos.23169; 15318; 12633 and the following of one specific Imaam can be proven from Sahih Bukhari Hadith1758; 6736 and Abu Dawud Hadith3587

Each Imaam has based his Madhab on certain principles and on the basis of these principles were the rulings issued. By picking and choosing from these rulings, one would inevitably end up contradicting himself in the principles. An example to illustrate it to

you in our daily lives would be, American pronounce the last letter of the alphabet as 'zee', while the British pronounce it as 'Zead'. This is a principle and pronunciation of words is based on this principle, this zebra is pronounced 'Zeebra' by Americans and Zebra by the British. If a person pronounced the letter as Zead but Zebra as Zeebra, it would be pointed out to him that what you are doing is unacceptable. Similar is the case with regard to picking and choosing between Madhabs. Secondly, while all the Imaam are right, if you pick rulings, your desires will lead you astray by causing you to pick those rulings that suit your whims and fancies and no sooner does a person do that, than he goes astray.

And Allah Ta'ala Knows Best



What is a Madhhab? Why is it necessary to follow one?

©Nuh Ha Mim Keller 2000

The word *madhhab* is derived from an Arabic word meaning "to go" or "to take as a way", and refers to a *mujtahid's* choice in regard to a number of interpretive possibilities in deriving the rule of Allah from the primary texts of the Qur'an and hadith on a particular question. In a larger sense, a *madhhab* represents the entire school of thought of a particular *mujtahid* Imam, such as Abu Hanifa, Malik, Shafi'i, or Ahmad--together with many first-rank scholars that came after each of these in their respective schools, who checked their evidences and refined and upgraded their work. The *mujtahid* Imams were thus explainers, who operationalized the Qur'an and sunna in the specific shari'a rulings in our lives that are collectively known as *fiqh* or "jurisprudence". In relation to our *din* or "religion", this *fiqh* is only part of it, for the religious knowledge each of us possesses is of three types. The first type is the general knowledge of tenets of Islamic belief in the oneness of Allah, in His angels, Books, messengers, the prophethood of Muhammad (Allah bless him and give him peace), and so on. All of us may derive this knowledge directly from the Qur'an and hadith, as is also the case with a second type of knowledge, that of general Islamic ethical principles to do good, avoid evil, cooperate with others in good works, and so forth. Every Muslim can take these general principles, which form the largest and most important part of his religion, from the Qur'an and hadith.

The third type of knowledge is that of the specific understanding of particular divine commands and prohibitions that make up the *shari'a*. Here, because of both the nature and the sheer number of the Qur'an and hadith texts involved, people differ in the scholarly capacity to understand and deduce rulings from them. But all of us have been commanded to live them in our lives, in obedience to Allah, and so Muslims are of two types, those who can do this by themselves, and they are the *mujtahid* Imams; and those who must do so by means of another, that is, by following a *mujtahid* Imam, in accordance with Allah's word in ***Surat al-Nahl***,

" **Ask those who recall, if you know not** " (Qur'an 16:43),

and in ***Surat al-Nisa***,

" **If they had referred it to the Messenger and to those of authority among them, then those of them whose task it is to find it out would have known the matter** " (Qur'an 4:83),

in which the phrase those of them whose task it is to find it out, expresses the words "***alladhina yastanbitunahu minhum***", referring to those possessing the capacity to draw inferences directly from the evidence, which is called in Arabic ***istinbat***.

These and other verses and hadiths oblige the believer who is not at the level of *istinbat* or directly deriving rulings from the Qur'an and hadith to ask and follow someone in such rulings who is at this level. It is not difficult to see why Allah has obliged us to ask experts, for if each of us were personally responsible for evaluating all the primary texts relating to each question, a lifetime of study would hardly be enough for it, and one would either have to give up earning a living or give up ones din, which is why Allah says in ***surat al-Tawba***, in the context of jihad:

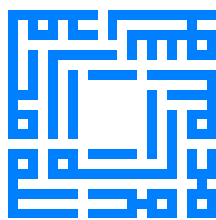
" Not all of the believers should go to fight. Of every section of them, why does not one part alone go forth, that the rest may gain knowledge of the religion and admonish their people when they return, that perhaps they may take warning " (Qur'an 9:122).

The slogans we hear today about "following the Qur'an and sunna instead of following the *madhhabs*" are wide of the mark, for everyone agrees that we must follow the Qur'an and the sunna of the Prophet (Allah bless him and give him peace). The point is that the Prophet (Allah bless him and give him peace) is no longer alive to personally teach us, and everything we have from him, whether the hadith or the Qur'an, has been conveyed to us through Islamic scholars. So it is not a question of whether or not to take our din from scholars, but rather, from which scholars. And this is the reason we have *madhhabs* in Islam: because the excellence and superiority of the scholarship of the *mujtahid* Imams--together with the traditional scholars who followed in each of their schools and evaluated and upgraded their work after them--have met the test of scholarly investigation and won the confidence of thinking and practicing Muslims for all the centuries of Islamic greatness. The reason why *madhhabs* exist, the benefit of them, past, present, and future, is that they furnish thousands of sound, knowledge-based answers to Muslims questions on how to obey Allah. Muslims have realized that to follow a *madhhab* means to follow a super scholar who not only had a comprehensive knowledge of the Qur'an and hadith texts relating to each issue he gave judgements on, but also lived in an age a millennium closer to the Prophet (Allah bless him and give him peace) and his Companions, when taqwa or "godfearingness" was the norm--both of which conditions are in striking contrast to the scholarship available today.

While the call for a return to the Qur'an and sunna is an attractive slogan, in reality it is a great leap backward, a call to abandon centuries of detailed, case-by-case Islamic scholarship in finding and spelling out the commands of the Qur'an and sunna, a highly sophisticated, interdisciplinary effort by *mujtahids*, hadith specialists, Qur'anic exegetes, lexicographers, and other masters of the

Islamic legal sciences. To abandon the fruits of this research, the Islamic *shari'a*, for the following of contemporary sheikhs who, despite the claims, are not at the level of their predecessors, is a replacement of something tried and proven for something at best tentative.

The rhetoric of following the *shari'a* without following a particular *madhhab* is like a person going down to a car dealer to buy a car, but insisting it not be any known make--neither a Volkswagen nor Rolls-Royce nor Chevrolet--but rather "a car, pure and simple". Such a person does not really know what he wants; the cars on the lot do not come like that, but only in kinds. The salesman may be forgiven a slight smile, and can only point out that sophisticated products come from sophisticated means of production, from factories with a division of labor among those who test, produce, and assemble the many parts of the finished product. It is the nature of such collective human efforts to produce something far better than any of us alone could produce from scratch, even if given a forge and tools, and fifty years, or even a thousand. And so it is with the *shari'a*, which is more complex than any car because it deals with the universe of human actions and a wide interpretative range of sacred texts. This is why discarding the monumental scholarship of the *madhhabs* in operationalizing the Qur'an and sunna in order to adopt the understanding of a contemporary sheikh is not just a mistaken opinion. It is scrapping a Mercedes for a go-cart.



Shaykh Murabtal Haaj's Fatwa on Following One of the Four Accepted Madhhabs

Translated by Hamza Yusuf Hanson

In the name of Allah, the Merciful, the Compassionate.

Amongst the most important replies that I have given, is my reply concerning the one who has deviated to the point where he censures the importance of studying the branches [*furu'*] of jurisprudence, and we seek refuge in Allah from the deviation of such a wandering deviant. Would that he simply had claimed independent reasoning (*ijtihad*) for himself only, and Allah is his reckoner, but abandoned the call of Muslims to leave that which is incumbent upon them. In our reply to such a one, we make mention what the scholars of the methodological bases of Islamic jurisprudence (*usuli'un*) and the Imams of jurisprudence themselves have said about such a matter. As for my labelling him a deviant, it is only because he has desired to impose upon common people the precious rank of absolute independent reasoning [*ijtihad*], about which Muhammad an-Nabigha said,

And *ijtihad* in the land of the Moroccans,
The western phoenix has taken to flight with it.

I say in reply, that the following of qualified scholarship (*taqlid*) is an obligation on anyone other than an absolute *mujtahid*. I shall make mention of all his prerequisites if Allah wills. [Sidi Abdullah Ould Hajj Ibrahim] has said in his *Maraqj as-Sa'ud*:

“[*taqlid*] is necessary for other than the one who has achieved the rank of absolute *ijtihad*. Even if he is a limited [*mujtahid*] who is unable [to perform absolute *ijtihad*].”

Commenting on this line, [Sidi Abdullah] said in *Nashru al-bunud*,

“It means that *taqlid* is an obligation on anyone who is not an absolute *mujtahid*, even if he has achieved the limited rank of *ijtihad muqayyad* . . . [until he says], ‘And ask the people of the reminder, if you yourselves do not know.’”

By using the line of Muhammad an-Nabigha above, I am in no way claiming that all *ijtihad* has been severed in every land; how [could I say such a thing] when [Sidi Abdullah] says in *Maraqī as-sa'ud*:

“The earth will never be void of a *mujtahid* scholar until its very foundations shake.”

He also said,

“[Regarding] the necessity of binding to a specific *madhhab*, the [scholars] have mentioned its obligation upon anyone falling short [of the conditions of *ijtihad*].”

He says in *Nashru al-bunud*,

“It means that it is incumbent for whoever falls short of achieving the rank of absolute *ijtihad* to follow a particular *madhhab*.”

Again, in *Maraqī as-Sa'ud*, Sidi Abdullah says,

“The consensus today is on the four, and all have prohibited following [any] others.”

He says in *Nashru al-bunud*,

“This means that the consensus of the scholars today is on the four schools of thought, and I mean by the schools of Malik, Abu Hanifa, Shafi'i and Ahmad. Indeed, all of the scholars have prohibited following any other school of an independent and absolute *mujtahid* since the eighth century when the school of Dawud adh-Dhahiri died out and until the 12th Century and all subsequent ones.”

In the chapter concerning inferential reasoning, from *Maraqī as-sa'ud*, [Sidi Abdullah] says,

“As for the one who is not a *mujtahid*, then basing his actions on primary textual evidence [Qur'an and hadith] is not permissible.”

He says in *Nashru al-bunud*,

“It means that it is prohibited for other than a *mujtahid* to base his actions upon a direct text from either the Book or the Sunna even if its transmission was sound because of the sheer likelihood of there being other considerations such as abrogation, limitations, specificity to certain situations, and other such matters that none but the *mujtahid* fully comprehends with precision. Thus, nothing

can save him from Allah the Exalted excepted following a *mujtahid*. Imam al-Qarafi¹ says,

‘And beware of doing what some students do when they reason directly from the hadith, and yet they don’t know their soundness, let alone what has been mentioned [by the Imams] concerning the subtleties involved in them; by doing this, they went astray and led others astray. And whoever interprets a verse or hadith in a manner that deviates from its intended meaning without proof [*dalil*] is a *kafir*.’”

As for the conditions of the absolute and independent *ijtihad*, they are mentioned in the *Maraqī as-sa’ud* in the following line and what follows:

“And that [word ‘*faqih*’²] is synonymous with the [word] ‘*mujtahid*’ coupled with those things which bear upon [him] the burden of responsibility,

Such as his being of extreme intelligence by nature, and there is some debate about one who is known to reject juristic analogy [*qiyas*]

He knows the [juristic] responsibilities through intellectual proofs unless a clear transmitted proof indicates otherwise.

[Sidi Abdullah] says [in his commentary] *Nashru al-bunud*,

“This means that among the conditions of *ijtihad* is that [the *mujtahid*] knows that he must adhere to the intellectual proof which is the foundational condition [*al-bara’atu al-asliyya*]³ until a transmitted proof from a sacred law indicates otherwise.”

He then goes on to mention the other conditions of a *mujtahid*:

[The sciences of] grammar, prosody, philology, combined with those of *usul* and rhetoric he must master.

According to the people of precision, [he must know] where the judgements can be found without the condition of having memorized the actual texts.

[All of the above must be known] according to a middle ranked mastery at least. He must also know those matters upon which there is consensus.

[Moreover, he must know] things such as the condition of single hadiths and what carries the authority of great numbers of transmissions; also [knowledge of] what is sound and what is weak is necessary.

Furthermore, what has been abrogated and what abrogates, as well as the conditions under which a verse was revealed or a hadith was transmitted is a condition that must be met.

The states of the narrators and the companions [must also be known]. Therefore, you may follow anyone who fulfils these conditions mentioned above according to the soundest opinion.

So, consider all of the above-mentioned, and may Allah have mercy upon you, and [may you] see for yourself whether your companion is characterized by such qualities and fulfils these conditions—and I highly doubt it. More likely, he is just pointing people to himself in his demands that the people of this age take their judgements directly from the Book and Sunna. If, on the other hand, he does not possess the necessary conditions, then further discussion is useless.

In Muhammad ‘Illish’s, *Fath al-‘Ali al-Malik*, there are many strong rebukes for those who wish to force people to abandon the study of the judicial branches and take directly from the Book and the Sunna. The actual text of the question put to him is as follows:

“What do you say about someone who was following one of the four Imams, may Allah the Exalted be pleased with them, and then left claiming that he could derive his judgements directly from the Qur’an and the soundly transmitted hadiths, thus leaving the books of jurisprudence and inclining towards the view of Ahmad bin Idris? Moreover, he says to the one who clings to the speech of the Imams and their followers, ‘I say to you ‘Allah and His Messenger say’, and you reply ‘Malik said’ and ‘Ibn al-Qasim said’ or ‘Khalil said.’”

To this, Imam ‘Illish replies:

“My answer to this all this is as follows: Praise be to Allah, and Prayer and Safety be upon our Master Muhammad, the Messenger of Allah. It is not permissible for a common person to abandon following the four Imams and take directly from the textual sources of the Qur’an and the hadiths for the simple reason that this entails a great many conditions that have been clarified in the books of *usul*. Moreover, these conditions are rarely met by the great scholars, especially in these last days in which Islam has become a stranger just as it began a stranger.”

Ibn ‘Uyyana, may Allah be pleased with him, has said,

“The hadiths are a source of error except for the jurists.”

What he means is that people, other than the scholars, might interpret a tradition based on an apparent meaning, and yet [the hadith may] have another interpretation based on some other hadith that clarifies the meaning or some proof that remains hidden [to the common people]. After a long discussion, he remarks,

“That as for their saying, ‘How can you leave clear Qur’anic verses and sound hadiths and follow the Imams in their ijtihads, which have a clear probability of error,’”

His answer to them is as follows:

“Surely the following of our [rightly guided] Imams is not abandoning the Qur’anic verses or the sound hadiths; it is the very essence of adhering to them and taking our judgements from them. This is because the Qur’an has not come down to us except by means of these very Imams [who are more worthy of following] by virtue of being more knowledgeable than us in [the sciences of] the abrogating and abrogated, the absolute and the conditional, the equivocal and the clarifying, the probabilistic and the plain, the circumstances surrounding revelation and their various meanings, as well as their possible interpretations and various linguistic and philological considerations, [not to mention] the various other ancillary sciences [involved in understanding the Qur’an] needed.

“Also, they took all of that from the students of the companions (*tabi’in*) who received their instruction from the companions themselves, who received their instructions from the Lawgiver himself, may Allah bless him and grant him peace, divinely protected from every mistake, who bore witness that the first three generations of Muslims would be ones of virtue and righteousness. Furthermore, the prophetic traditions have also reached us through their means given that they were also more knowledgeable than us through their means given that they were also more knowledgeable than those who came after them concerning the rigorously authenticated (*sahih*), the well authenticated (*hasan*), and the weak (*da’if*) channels of transmission, as well as the *marfu’u*⁴, *mursal*⁵, *mutawatir*⁶, *ahad*⁷, *mu’dal*⁸ and *gharib*⁹ transmissions.

“Thus, as far as this little band of men is concerned, there is only one of two possibilities: either they are attributing ignorance to Imams whose knowledge is considered by consensus to have reached human perfection as witnessed in several traditions of the truthful Lawgiver, upon him be prayers and peace, or they are actually attributing misguidance and lack of *din* to Imams who are all from the best of generations by the testimony of the magnificent Messenger himself, may Allah bless him and grant him peace.

Surely, it is not the eyes that are blind, but blind are the hearts in our breasts.

As for their saying to the one who imitates Malik, for example, “We say to you ‘Allah says’ or ‘the Messenger of Allah, may Allah bless him and grant him peace, says’ and you reply, ‘Malik says’, or ‘Ibn al-Qasim says’, or ‘Khalil says’, for example,” our response is that the follower who says, “Malik says . . . etc.,” means that, “Malik says based on his deep understanding of the Word of Allah, or of the words of the Messenger, or of those firmly adhering to the actions of the companions, or of the *tabi’in* who understood clearly the Word of Allah and the word of the Messenger of Allah or took their example from the actions of His Messenger.” And the meaning of [a follower] saying “Ibn al-Qasim said . . .” is that he has [faithfully] transmitted what Malik said based on his understanding of the Word of Allah or of what Ibn al-Qasim himself understood from the word of Allah the Most Exalted. And the meaning of him saying, “Khalil said . . .”, for example, is that he is transmitting only from those [Imams] aforementioned. As for Malik and Ibn al-Qasim, they are both Imams whose spiritual and judicial authority is agreed upon by unanimous consensus of this Umma; and they are both from the best of generations.

As for the one who leaves their leadership and says, “Allah said and His Messenger said . . .,” he has relied solely on his own understanding despite the fact that he is incapable of having any precision in the verses and hadiths that he quotes since he is unable even to provide chains of transmission [with any authority], let alone that he lacks knowledge concerning the abrogated, the absolute and the conditional, the ambiguous and the clarifying, the apparent and the textual, the general and the specific, the dimensions of the Arabic and the cause for revelation, the various linguistic considerations, and other various ancillary sciences needed. So, consider for yourself which is preferable: the word of a follower who simply quotes the understanding of Malik, an Imam by consensus—or the word of this ignoramus who said “Allah said and His Messenger said . . .” But it is not the sight that goes blind, but rather the hearts in our breasts.

Furthermore, know that the origin of this deviation is from the *Dhahiriyya*¹⁰ who appeared in Andalusia [Muslim Spain] and whose power waxed from a period until Allah obliterated all traces of them until this little band of men set about to revive their beliefs. Imam al-Barzuli said, “The first one ever to attack the *Mudawwana*¹¹ was Sa’id bin al-Haddad .”

If you consider carefully the above-mentioned texts, you will realize that the one who censures you from following [the Imams] is truly a deviant. And I am using the word “deviant” to describe them only because the scholars [before me] have labelled this little band and their view (*madhhab*) as deviant. Moreover, you should know that those who condemn your adherence to the Imams have been fully refuted by Muhammad al-Khadir bin Mayyaba with the most piercing of refutations, and he himself called them, in his book, “the people of deviation and

heterodoxy.” He called his book, Refuting the people of deviation of heterodoxy who attack the following [*taqlid*] of the Imams of independent reasoning, and I used to have a copy but no longer do. So, my brother, I seriously warn you from following the madhhab of these people and even from sitting in their company, unless there is an absolute necessity, and certainly from listening to anything they have to say, because the scholars have declared their ideas deviant. Ibn al-Hajj says in his book, *al-Madkhal*,

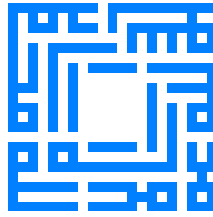
“Umar ibn al-‘Aziz said, ‘Never give one whose heart is deviant access to your two ears, for surely you never know what may find fixity in you.’”

I ask Allah to make you and me from those who listen to matters and follow the best of them.

Murabtal Haaj, Mauritania

Footnotes

1. **Ahmad ibn Idris Shihabudin as-Sanhaji al-Qarafi al-Maliki** was born in Egypt in the seventh Century, and died there in the year 684. He was one of the greatest Maliki scholars who ever lived and is especially known for his work in methodology and law (*usul al-fiqh*). He was a master of the Arabic language and has remarkable works in grammar. His book *adh-Dhakhira* is a magisterial 14 volume work recently published in the Emirates, that looks at Maliki *fiqh* with proofs from *usuli* sources. He is buried in Qarafi in Egypt near Imam as-Shafi'i. May Allah have mercy on them both.
2. **Sidi Abdullah says in his commentary** on this line that the *faqih* is synonymous with *mujtahid* in the science of *usul*. There are different types of *faqih*. A *faqih* according to the scholars of *usul* is anyone who has achieved the rank of *ijtihad*. According to the scholars of *furu'u*, a *faqih* is anyone who has reached the level of knowledge in which he can give valid juristic opinion. This latter definition is important considering endowments that are given to *fuqaha*. See *Nashur al-bunud `ala maraqi as-sa'ud, kitab al-ijtihad fi al-furu'u* (1409 Hijrah. Beirut: Maktabat al-Kutub. p.309)
3. **The foundational condition is** that a human being is not asked by Allah to do anything other than those things which have a firm proof through the transmission of the prophets, peace be upon them, and that the human being is only accountable for those things in which there is clear responsibility. All other matters are considered permissible because of the lack of a proof indicating their impermissibility.
4. **The transmission (*sanad*)** goes to the Prophet (Allah bless him and give him peace) the hadith came from the Prophet (Allah bless him and give him peace).
5. **A *tabi'i* related it** from the Prophet (Allah bless him and give him peace); a companion (*sahabah*) is missing from the line of the transmission.
6. **The hadith comes from** so many sources that it is an absolute proof.
7. **A hadith**, that at some point in the line of transmission, has only one narrator.
8. **Two people in a row** are missing in the chain of narrators.
9. **The narrator of the hadith** is trustworthy, but no one else related the hadith.
10. **The Dhahiriyya** followed Daw'ud ad-Dhahiri's madhhab.
11. **Mudawwana**: Imam Malik's work of *fiqh*.



Ikhtilaf (differences) among the Madhhabs in Islam

1 Al-Hafiz al-Bayhaqi in his book "al-Madkhal" and al-Zarkashi in his "Tadhkirah fi al-ahadith al-mushtaharah" relate: Imam al-Qasim ibn Muhammad ibn Abi Bakr al-Siddiq said: "The differences among the Companions of Muhammad (s) are a mercy for Allah's servants.

Al-Hafiz al-`Iraqi the teacher of Ibn Hajar al-`Asqalani said: "This is a saying of al-Qasim ibn Muhammad who said: 'The difference of opinion among the Companions of Muhammad (s) is a mercy.

2 Al-Hafiz Ibn al-Athir in the introduction to his "Jami` al-usul fi ahadith al-rasul" relates the above saying from Imam Malik according to al-Hafiz Ibn al-Mulaqqin in his "Tuhfat al-muhtaj ila adillat al-Minhaj" and Ibn al-Subki in his "Tabaqat al-Shafi`iyya."

3 Bayhaqi and Zarkashi also said: Qutada said: "'Umar ibn `Abd al-`Aziz used to say: 'It would not please me more if the Companions of Muhammad (s) did not differ among them, because had they not differed there would be no leeway (for us).'"

4 Bayhaqi also relates in "al-Madkhal" and Zarkashi in the "Tadhkira": Al-Layth ibn Sa`d said on the authority of Yahya ibn Sa`id: "the people of knowledge are the people of flexibility (tawsi`a). Those who give fatwas never cease to differ, and so this one permits something while that one forbids it, without one finding fault with the other when he knows of his position."

5 Al-Hafiz al-Sakhawi said in his "Maqasid al-hasana" p. 49 #39 after quoting the above: "I have read the following written in my shaykh's (al-Hafiz ibn Hajar) handwriting: 'The hadith of Layth is a reference to a very famous hadith of the Prophet (s), cited by Ibn al-Hajib in the "Mukhtasar" in the section on qiyas (analogy), which says: "Difference of opinion in my Community is a mercy for people" (ikhtilafu ummati rahmatun li al-nas). There is a lot of questioning about its authenticity, and many of the imams of learning have claimed that it has no basis (la asla lahu). However, al-Khattabi mentions it in the context of a digression in "Gharib al-hadith" . . . and what he says concerning the tracing of the hadith is not free from imperfection, but he makes it known that it does have a basis in his opinion.'"

6 Al-`Iraqi mentions all of the above (1-5) in his "Mughni `an haml al-asfar" and says: "What is meant by "the Community" in this saying is those competent for practicing legal reasoning (al-mujtahidun) in the branches of the law, wherein reasoning is permissible."

NOTE:

What `Iraqi meant by saying "the branches wherein reasoning is permissible" is that difference is not allowed in matters of doctrine, since there is agreement that there is only one truth in the essentials of belief and anyone, whether a mujtahid or otherwise, who takes a different view automatically renounces Islam. (Shawkani, "Irshad al-Fuhul" p. 259 as quoted in Kamali, "Principles of Islamic Jurisprudence" p. 383.) Al-Albani in his attack on the hadith "Difference of opinion in my Community is a mercy" ignores this distinction and even adduces the verse: "If it had been from other than Allah they would have found therein much discrepancy" (4:82) in order to prove that differences can never be a mercy in any case but are always a curse. Al-Albani's point is directed entirely against those who are content to follow a madhhab. The only scholar he quotes in support of his position is Ibn Hazm al-Zahiri, whose mistake he adopts without mentioning it was denounced by Nawawi. ("Silsila da`ifa" 1:76 #57)

7 Ibn Hazm said in "al-Ihkam fi usul al-ahkam" (5:64): "The saying "Difference of opinion in my Community is a mercy" is the most perverse saying possible, because if difference were mercy, agreement would be anger, and it is impossible for a Muslim to say this, because there can only be either agreement, or difference, and there can only be either mercy, or anger." However, Imam Nawawi said in his Commentary on "Sahih Muslim": "If something (i.e. agreement) is a mercy it is not necessary for its opposite to be the opposite of mercy. No-one makes this binding, and no-one even says this except an ignoramus or one who affects ignorance. Allah the Exalted said: "And of His mercy He has made night for you so that you would rest in it," and He has named night a mercy: it does not necessarily ensue from this that the day is a punishment."

8 Al-Khattabi said in "Gharib al-hadith": "Difference of opinion in religion is of three kinds: - In affirming the Creator and His Oneness: to deny it is kufr (disbelief);
- In His attributes and will: to deny them is innovation;
- In the different rulings of the branches of the law (ahkam al-furu`).

Allah has made them mercy and generosity for the scholars, and that is the meaning of the hadith: "Difference of opinion in my Community is a mercy." Al-Jarrahi cited it in "Kashf al-khafa" 1:64 #153.

9 Al-Hafiz al-Suyuti says in his short treatise "Jazil al-mawahib fi ikhtilaf al-madhahib" (The Abundant Grants Concerning the Differences Among the Schools): "The hadith "Difference of opinion in my Community is a mercy for people" has many benefits among which are the fact that the Prophet (s) foretold

of the differences that would arise after his time among the madhahib in the branches of the law, and this is one of his miracles because it is a foretelling of things unseen. Another benefit is his approval of these differences and his confirmation of them because he characterizes them as a mercy. Another benefit is that the legally responsible person can choose to follow whichever he likes among them." After citing the saying of `Umar ibn `Abd al-`Aziz already quoted (#3 above), Suyuti says: "This indicates that what is meant is their differences in the rulings in the branches of the law."

10 The muhaddith al-Samhudi relates al-Hafiz Ibn al-Salah's discussion of Imam Malik's saying concerning difference of opinion among the Companions: "Among them is the one that is wrong and the one that is right: therefore you must exercise ijtiḥad." Samhudi said: "Plainly, it refers to differences in legal rulings (ahkam). Ibn al-Salah said: "This is different from what Layth said concerning the flexibility allowed for the Community, since this applies exclusively to the mujtahid as he said: "you must exercise ijtiḥad," because the mujtahid's competence makes him legally responsible (mukallaf) to exercise ijtiḥad and there is no flexibility allowed for him over the matter of their difference. The flexibility applies exclusively to the unqualified follower (muqallid). The people meant in the saying: "Difference of opinion in my Community is a mercy for people" are those unqualified followers. As for the import of Malik's saying "Among the Companions is the one that is wrong and the one that is right," it is meant only as an answer to those who say that the mujtahid is able to follow the Companions. It is not meant for others."

11 The author of "al-Fiqh al-Akbar" (attributed to Imam Abu Hanifa) said: "Difference of opinion in the Community is a token of divine mercy."

12 Ibn Qudama al-Hanbali said in "Al-`Aqa'id": "The difference in opinion in the Community is a mercy, and their agreement is a proof."

Discussion

The decision of `Umar whereby he gave precedence to `Ubayy ibn Ka`b's ijtiḥad over the ijtiḥad of `Abdullah ibn Mas`ud on the validity of praying in a single garment is not a proof that `Abdullah was wrong, rather it is a proof that `Umar exercised his own ijtiḥad and authority as the Greater Imam in settling the question. He overruled, not invalidated, and if Ibn Mas`ud held his position from the Prophet (s) he cannot change it even after `Umar's ruling. This is true of every true mujtahid at any time: he is obligated to follow the result of his own ijtiḥad even if it should differ with that of every other mujtahid of the past and present, unless he becomes convinced that he was mistaken in his previous ijtiḥad.

According to all the scholars it is incumbent upon the leader of the Muslims to be a mujtahid and it is his responsibility in such cases to settle the question for the sake of the people of his time, and that is the proper context of Imam Malik's

injunction: "Exercise ijtihad." It is addressed to the mufti who must establish what is correct in clearcut fashion, not to the muqallid (follower) who is only interested in "a way to follow" (= madhhab) without having to verify its proofs and inferences. However, another mufti may reach another conclusion and be followed, and is not bound by that of the first, nor are those who take their fatwa from him, and no-one finds fault with the other, as Al-Layth ibn Sa`d stated.

A clear proof that the fatwa of the leader overrules but does not invalidate the opinion of the Companions even if it directly contradicts it, is the fact that when `Umar ibn al-Khattab proposed to have all the hadith collected and written down he consulted the Companions and they unanimously agreed to his proposal; later he disapproved of it and ordered that everyone who had written a collection burn it. Yet `Umar ibn `Abd al-`Aziz later ordered that hadith be collected and written. Al-Hafiz al-Baghdadi relates it in his "Taqyid al-`ilm" 49, 52-53, 105-106, and Ibn Sa`d in his "Tabaqat" 3(1): 206, 8:353.

Those who think they are mujtahid but in reality are unqualified, when faced by the followers of madhahib, cover up their ignorance with the flashy claim: "We follow Qur'an and Sunna, not madhahib." When it is pointed out to them that to follow a madhhab is to follow Qur'an and Sunna through true ijtihad, they become upset: "How can the four madhhabs differ and be right at the same time? I have heard that only one may be right, and the others wrong." The answer is that one certainly follows only the ruling that he believes is right, but he can never fanatically invalidate the following of other rulings by other madhahib, because they, also, are based on sound principles of ijtihad. At this they rebel and begin numbering the mistakes of the mujtahids: "Imam Malik was right in this, but he was wrong in that; Imam Shafi`i was right in this, but he was wrong in that . . ." This is what they say, and what they hide in their heart is worse because it includes even the Companions. This we will never accept. But when they are rebuked for this blatant disrespect they make it known that they have been wronged and "They are arrogant in their sin" (2:206). This is nothing else than the legacy of the Wahhabi/Salafi movement.

Blessings and Peace on the Prophet, his Family, and His Companions. May Allah be well pleased with the Four Mujtahid Imams, and all the scholars who feared Allah truly.

