Taqlīd: Trusting a Mujtahid

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Islām is like a fortress, or castle, that is guarded continuously by armed sentinels, within its many-feet thick walls that are impenetrable, save for one heavily protected gate and drawbridge that opens by falling over a crocodile-infested moat, that is many metres wide, and cannot be crossed nor overcome. How do you destroy such a people who are so aggressively protected by revealed laws and sincerely adopted rules, yet are themselves so pure of presence, serene of spirit, modest of manners and content of custody?

Islām is a socio-political system that requires no safeguarding by its adherents due to its divine guardianship promised by the Lawgiver, Allāh ﷻ. It is the Muslim who requires to seek protection for himself, the Muslim who dwells inside a fortress, or castle, as has been described above, who may consider himself to be safe from the attacks of the enemies outside that haven, but is continually susceptible to the mischievous whispers of the Satanic forces within that dwelling.

As long as the Muslims are humble and revering to their elders and their righteous scholars, they shall remain united, steadfast and victorious. But once the ego stirs within the individual and his satanic side begins to take control, whereby his respect for the scholars of Islām begins to weaken and, thus, causes him to believe himself as an equal with regards to their status of knowledge, scholastic ability, *fatwa-issuing* [1] authority, qualifications of *ijtihād* [2] and forming his own personal *madhhab* [3], etc. then what could be more pleasurable to the enemies of Islām than the efforts of this individual who resides within the Muslims, inside the castle of Islām, i.e. no more brilliant a scheme could ever have been devised than to create billions of '*mini-madhhabs*', one for every individual Muslim and watch the Muslim Ummah disintegrate and destroy itself.

Many new 'scholars' have advocated the abandonment of authoritative scholarship and to throw off the 'shackles of *taqlīd* [4]', thus, forming one's own independent school of

[1] *Fatwa*: a legal ruling in Islam that is issued by a legal authority. The authority issuing such *fatwa* is known as a *mufti*.

[2] *Ijtihād*: The use of intense individual reasoning in the deduction of information regarding rulings with respect to the Shariah. One who qualifies to exercise *ijtihād* is a *mujtahid* (Jurist).

[3] *Madhhab*: School of thought and interpretation, belonging to a particular Imam, pertaining to the methodology of the deduction of laws from the sources of the Sharī`ah.

judicial authority, and the most prominent amongst them are Muhammad `Abdū and Muhammad Rashīd Rida [5], considering *taqlīd* as a sin, whereas some even go to the extent of declaring it as *shirk* (polytheism)!

The following is a humble attempt to clarify misconceptions that may have crept into the Muslim mind concerning *taqlīd* and adhering to the legal rulings of one particular school within the context of various Islāmic issues.

Sources of Islāmic Law

Basically speaking, there are four major sources of Islāmic Law that have been agreed upon by the consensus of the Muslim scholars, and those sources are: Firstly - the Qur'ān, secondly – the Sunnah of the Messenger of Allāh ﷺ, thirdly – the *ijmā`* (consensus of scholars on a legal ruling), fourthly – the *qiyās* (analogical reasoning). The importance of all four sources follows in this very sequence (Qur'ān, Sunnah, ijmā` and qiyās) and when deducing a ruling on any issue, the respective sources need to be consulted likewise. For example, if one requires the ruling on any particular issue then he is primarily required to consult the Holy Qur'ān. If he is unable to find the ruling there, he shall then search the Sunnah (saying, doing or silent consent) of the Messenger of Allāh ﷺ. If he finds no textual remedy to his issue in the Sunnah, he shall then search for historical evidence for the proof of a consensus of the Muslim scholars on that very issue. Lacking evidence therein, he shall apply his ability of *qiyās (or ijtihād*, which is the wider term*)* to the subject, only if he is qualified to do so.

The evidence to the above can be found in the Hadīth (Tradition) of Ma`ādh ibn Jabal ؓ, when the Beloved Messenger of Allāh ﷺ dispatched him to Yemen and asked him how he would adjudicate and he replied: 'With the book of Allāh.' The Beloved Messenger of Allāh ﷺ asked, 'What if you do not find (the ruling)?' He replied, 'With the Sunnah of the Messenger of Allāh ﷺ.' The Beloved Messenger of Allāh ﷺ then asked, 'What if you do not find (the ruling there either)?' He replied: 'I shall practise my reasoning.' The Messenger of Allāh ﷺ then patted him on the chest and said: 'All praise is to Allāh *Ta`āla* who has enabled the envoy of the Messenger of Allāh to that which the Messenger of Allāh is pleased.' [6]

Sayyidunā Ma`ādh ibn Jabal ؓ mentioned the Qur'ān, the Sunnah and using his own reasoning as a means of the deduction of Islāmic legal rulings, but he refrained from mentioning *ijmā`* (Consensus) due to the fact that it was not required during the Prophet of Allāh's ﷺ apparent lifetime.

In another Hadīth, Sayyidunā `Abdullāh ibn Mas`ūd ؓ narrates:

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[4] *Taqlīd*: The adhering of a non-*mujtahid* to the juristic decisions of a *mujtahid* in matters of practical Islamic law, and without the demand for proof thereof.

[5] Muhammad Rashīd Rida, Muhammad `Abdū, Sayyid Qutb, Abūl `Alā Mawdūdī, and others have been accused to have committed links to Freemasonry, with Muhammad `Abdū as chief of the Cairo Masonic Lodge.

[6] *Mishkaat al-masaabeeh*, Book of Leadership
also Tirmidhī, Vol.1
also Dārimī

'As from after today, whomsoever of you is faced with an issue, then he should decide by what is in the Book of Allāh *Ta`āla*; and if an affair comes to him which is not in the Book of Allāh *Ta`āla*, then he should decide by what His Prophet ﷺ decided; and if an affair comes to him that is not in the Book of Allāh *Ta`āla* and His Prophet ﷺ did not decide it, then he should decide by what the *Righteous Ones* decided; and if an affair comes to him that is not in the Book of Allāh *Ta`āla* and His Prophet ﷺ did not decide it and the *Righteous Ones* did not decide it, then he should decide using his own reasoning.'[7]

In this Hadīth, deducing laws from the Qur'ān and the Sunnah is mentioned explicitly, and so is *ijtihād*, as well as *ijmā`*, where the *Righteous Ones* can only be referred to the scholars of Islām who have agreed unanimously upon any particular issue. Following their decisions in matters of religious importance is essential for Muslims due to the *ijmā`* being the third most important source of decision-making in Islām. Moreover, *ijmā`* carries more weight than *ijtihād* by an individual due to the greater number of *mujtahids* all agreeing upon one and the same decision, whereas in *ijtihād* the *mujtahid* is alone in his decision-making. If a consensus has already been won on any particular issue in Islām, then *ijtihād* on that matter would be utterly erroneous as it would be a proxy rebellion against the majority of the scholars of Islām. The Majority of the Ummah cannot be wrong [8], therefore a rebellion against the Ummah would be a rebellion against Allāh ﷻ.

The Noble Qur'ān tells us: ***'O' You who believe! Follow Allāh and follow the Messenger and those of authority amongst you.'*** *(4;59)*

The exegetes of the Glorious Qur'ān explain that in this verse; following Allāh *Ta`āla* means following the Qur'ān, following the Messenger ﷺ means following the Sunnah, and following 'those of authority amongst us' can only mean the following of the unanimous rulings of religious scholars in matters of religious nature, i.e. the *mujtahids* (Distinguished Jurists). Those who support the interpretation that 'those of authority' could mean 'political leaders' then we agree only up to and as far as the political aspect is concerned, but, the strictly religious aspect, which is the major portion in a Muslim society, belongs only to the respectable *`Ulemā* (religious scholars). Nevertheless, if any of the decisions of the political leaders is in conformity with the rulings of Islām, then such decisions shall be adhered to by the masses, but if any such decision goes against the Islāmic rulings or principles then the decisions of such leaders shall be disregarded.[9]

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[7] Sunan al-Nasā'ī, Vol.2, Book of Adjudication, Chapter of Ruling in Accordance with the People of Knowledge

[8] There are a number of sayings of the Beloved Messenger of Allāh #*SAW*# that identify this point, e.g. *'My Ummah will not come together on an error.', 'My Ummah will not come together on a wrong.', 'I asked Allāh ta`ālā that my Ummah not come together on wrong and He gave that to me.', 'The mercy of Allāh is with the majority (of Muslims).', 'Whatsoever the Muslims see as good, then it is good with Allāh ta`ālā.'*, etc. Although these narrations are of *ahad* (single chain of narration) nature, but due to their collective reference to the validity of Ijmaa` , which is proven by *al-tawātur al-ma`nawī* (Continuous Implication – same meanings transmitted by many chains of narration, though the words may differ), this benefits a sound belief and solid evidence in the favour of Ijmaa`. [Dr. Hussayn Hāmid Hassaan, *usūl al-fiqh* (Arabic), Dār al-Nahdat al-`Arabiyya, Cairo: 1970, p.297]

[9] Professor Shaykh Muhammad Imdad Hussain Pirzada, *tafsīr `imdād al-karam* (Urdu), Al-Karam Publications: 2004 , Vol.1, p.274

It can be understood from many *Ayāhs* of the Noble Qur'ān that *ijmā`* and *qiyās* have a very solid basis in the field of lawmaking and judiciary in Islām. The Lawgiver ﷻ has provided mankind with such a solid, yet dynamic system of legislation that it would be nothing but sheer stupidity if we are to ignore it and follow our devious desires.

Ijmā` (Consensus) can, thus, be defined as: 'The agreement of all the *mujtahids* from the Muslim Ummah, in any one time, after the time of the Messenger of Allāh ﷺ, on any ruling of the Shariah.'[10]

In order for a law to be passed, there must be a consensus of the *mujtahids* from amongst the Muslims and not a consensus of any Tom, Dick or Harry. Imām ash-Shawkāni writes:

> 'According to the majority of the Scholars, the decision of the people for a consensus shall not be taken into consideration, (irrespective of) whether (that decision) is in accordance with or against (Islāmic law), due to them (the general people) lacking qualification in matters pertaining to Shariah and due to their lack of understanding of the evidences.' [11]

According to Imām ash-Shawkaani's view, the western form of democracy is unacceptable, where the public, literate or not, intelligent or not, and only as long as they are a particular age, may voice their 'thoughts' on any national topic, irrespective of whether their choice is in their national favour or against. A recent example is the referendum that was held in France and Holland last June on whether the people of those countries are in the favour of a political constitution for the European Union or not, and an overwhelming majority in both countries voted 'non'. That was a devastating blow to the Union itself. Jacques Chirac, the French President, voiced his concern over the 'people's' decision and regretted the holding of the referendum, choosing next time to bring about decisions to matters of such crucial nature within the parliament.

In Islām, we leave such crucial matters to be decided by the *mujtahids*.

What is a Mujtahid?

The word *mujtahid* is derived from the word *ijtihād* which in Islāmic legal terminology is defined as: 'The intense effort of a jurist in the deduction of a ruling in practical Shariah from Islāmic texts.'[12]
A *mujtahid* is, therefore, one who is trained in traditional sciences and qualified to make rulings in practical Shariah.

The qualifications of a *mujtahid* are strict and conducive. The great masters of Islāmic jurisprudence have prepared the rigorous requirements that need to be fulfilled before one may attain any degree of making such rulings in the practical sphere. The conditions

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[10] `Abdul Qādir Audah, *al-tashrī` al-Janā' al-Islāmī* (Arabic), Dar al-Katib al-Arabi, Vol.1, p.179, also, *al-āmidī* (Arabic), Vol.4, p.115

[11] al-Shawkāni, *irshād al-Fuhūl ilā tahqīq al-haqq min `ilm al-usūl* (Arabic), Al-Maktabah al-Athariyya: 1327AH, p.83

[12] Dr. Hussayn Hāmid Hassān, *usūl al-fiqh* (Arabic), Dar al-Nahdat al-Arabiyya, Cairo: 1970, also Dr. `Abdul Karīm Zaydān, *al-wajīz fī Usū al-fiqh* (Arabic), 6th ed. p.401

that one needs to fulfil if his enthusiasm leads him to the want of practising *ijtihād* and, thus, declare himself a *mujtahid*, in brief, are:

1. He must be Muslim
2. He must know sufficient Arabic language
3. He must have sufficient knowledge of the Qur'ān and its sciences
4. He must be well acquainted with the Sunnah of the Prophet ﷺ
5. He must have knowledge of the principles of Islāmic jurisprudence
6. He must have knowledge of the issues upon which the scholars have a consensus (*ijmā`*)
7. He must understand the general objectives of the Lawgiver with respect to lawmaking and judiciary (necessities, comforts, luxuries, etc.)
8. His understanding and intelligence must be of a high degree
9. He must be far from innovations and wrongful beliefs
10. He must be pious, compassionate, modest, sincere and work for the sake of Allāh ﷻ

For a *mujtahid*, it is forbidden to follow the decisions of another *mujtahid*, with respect to *ijtihād*, if such decision is not in compliance with his own, whereas for one who is not a *mujtahid*, it is unlawful for him to practise *ijtihād* and to follow his own decisions due to his lack of '*ijtihādic*' qualifications. *ijtihād* is no walk in the park. It is a very tedious and serious responsibility that requires time, intelligence, input, awareness and honesty. One is never born a *mujtahid*, nor does one suddenly transform from a mere college student into a fully-fledged *mujtahid* overnight.

The Difference between Ijmā` and Ijtihād

There is a very basic difference between *ijmā`* and *ijtihād*, and that can be compared to a whole and a part. If a *mujtahid* comes to a decision by practising *ijtihād*, then that shall be his own decision on an individual basis, but if all of the *mujtahids* of that time come to the same conclusion and they collectively agree upon it, then that very decision shall become binding upon all the Muslims as *ijmā`*.

Ijtihād and Qiyās

ijtihād technically means to strive and to put effort into something, and in the terms of Islāmic jurisprudence (Usool-ul-Fiqh, and not Fiqh itself), it means to deduce the legal status of an issue in the light of the Holy Qur'ān and the Beautiful Sunnah, when the two, that is the Qur'ān and the Sunnah, are unclear regarding such status on that issue.

qiyās technically means to measure, weigh or calculate using an instrument or otherwise. In the terms of *usūl al-fiqh* (Islāmic principles of jurisprudence), it refers to the application of the ruling of one issue which is found to be mentioned in the texts of the Noble Qur'ān and the Noble Sunnah, and applying the ruling of that issue to another issue where the Qur'ān and the Sunnah are unclear, or quiet, about the latter.[13]

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13 Shahzad Iqbal Shaam, *The Sources of Islamic Law, Fourth Source: Qiyaas* (Urdu), Shariah Academy, International Islamic University Islamabad:1417AH,1997CE p.2

The difference between *ijtihād* and *qiyās* lies in the fact that *ijtihād* is a much wider and general phenomenon whereas *qiyās* may be considered as a portion of *ijtihād* itself. *ijtihād* is the process of deducing rules and laws and of law-making and judiciary, whereas *qiyās* is a category, a bit like the Qur'ān and the Sunnah. *qiyās* is practiced where the ruling of one problem is not expressly provided in the primary texts[14] but the ruling of another, very similar problem does expressly exist, and the ruling to the latter may be applied by analogy. The process of searching, formulating or legislating a law is *ijtihād*, not *qiyās*. If we are to look at the practical meanings of both, we shall see an obvious difference of applicability. Examples of both should suffice our understanding here.

If one was to confront an issue whereby its textual evidences were not to be found in the Qur'ān, he would search for them in the Sunnah. If the Sunnah was quiet on such an issue, then one would exercise his 'qualified' right of judgement, keeping in mind the Noble Qur'ān, the Sunnah, the principles of Islāmic jurisprudence (which would include qiyās) and the methodological approach of his superior *mujtahid* Imām.

If, however, the textual evidences were not to be found in the Blessed Qur'ān and the Noble Sunnah, one would first of all search for a similar example that may be found in the Holy Qur'ān, or the Sunnah. The example of intoxicating and harmful drugs against alcohol is presented in the Qur'ān. The Noble Qur'ān says: ***'O you who believe! Alcohol and gambling, (deification of) stones, and (divination of) arrows are an abomination of Satan's handiwork; avoid it'*** *(5;90)*

The ruling of *Haraam* has been declared with regards to alcohol. The reason for this ruling is not because of its nature of being in liquid form, nor for its colour, nor for its odour, nor for its taste and neither is alcohol *Haraam* due to its method of production. We find that alcohol has been pronounced as forbidden due to its intoxicating nature. It is the effect of intoxication that is harmful for the consumer which renders the mind impotent and useless whilst it is under the influence of an intoxicant. Alcohol intoxicates, and that is why it is *Haraam*. Drugs that intoxicate are, therefore, *Haraam*.

So, although Drugs have not specifically been mentioned in the Holy Qur'ān with respect to any ruling of their legal status, we have used analogy, or *qiyās*, as a method to deduce their legal ruling. The intoxicating nature of drugs has rendered them illegal; Why? Because alcohol intoxicates and it is therefore forbidden. In other words, anything that intoxicates, be it alcohol, drugs or anything else, it is prohibited in Islām.

The four ingredients of Analogy (*qiyās*) are: 1. the Source, 2. the Matter, 3. the Ruling, 4. the Reason. If any of these ingredients are missing, then *qiyās* cannot be practiced.

In our example, we see alcohol as the source, drugs as the matter in question, prohibition as the ruling and intoxication as the reason.

Ijtihād, therefore, is the complete practice of deducing laws from the sources of Islām, and *qiyās*, if and when required, is only a part of this whole procedure.

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[14] The Holy Qur'ān and the Noble Sunnah of the Messenger Muhammad #SAW# are the primary sources in Islamic jurisprudence due to their express nature of textual evidence.

Taqlīd

Taqlīd, technically means 'to put a noose around one's neck'. In Shariah, *taqlīd* means: 'To accept the saying of another without proof.' [15]

The Arabic word for proof used here is '*hujjah*' whereas the text of the Glorious Qur'ān is itself a '*hujjah*' and so is the Sunnah of the Beloved Messenger of Allāh ﷺ. We, therefore, cannot practise '*taqlīd*' of Allāh *Ta`āla* nor of the Messenger ﷺ because The Qur'ān and the Sunnah are both '*hujjah*'. To exercise *taqlīd*, one must accept the saying of another without demanding '*hujjah*' (proof), and that can only be possible when such a saying is away from the direct context of the Qur'ān and the Sunnah, i.e. one cannot practise '*taqlīd*' with respect to the Holy Qur'ān nor the Sunnah, one cannot be a *muqallid* of Allāh *Ta`āla* nor can one be a *muqallid* of His Messenger ﷺ; but *mutī`* of Allāh *Ta`āla* and *mutī`* of His Messenger ﷺ, and *muqallid* of Imāms Abū Hanīfa, al-Shāfi`ī, Mālik and Ahmad ibn Hanbal, etc. *`alayhimu-r-rahma ajma`īn*.

If one was to command me to do a particular act or omission which was not to be directly found in the Holy Qur'ān or the Noble Sunnah, or that it was to be found in them but that the directive was vague and unintelligible by a person of my inability, my obedience to such an instruction of that qualified person would be my practising of *taqlīd*.

The Holy Qur'ān and the Sunnah are the primary sources of Islāmic law. All laws of the Shariah are deduced from them, directly or indirectly. The importance of the Noble Qur'ān comes first, wherein if we are unable to find any text that is required for the clarification of any issue, we search for it in the Sunnah. If we do not find anything relevant to our search in the Sunnah, we then turn to the *ijmā`*, and thereafter, to *qiyās*. Of course, the qualities of a *mujtahid* must be found within us if we are to take up a task of such responsible nature. If we do not fulfil the conditions that are required from a *mujtahid* in the deduction of laws from the sources of Islāmic law, then it becomes essential upon us to accept the decisions of those Scholars who do rightfully claim to practise *ijtihād* in the judicial process.[16]

Allāh ﷻ says in the Majestic Qur'ān: ***'So ask the people of remembrance, if you do not know.'*** *(16;43)*

In other words, there will always be people who 'do not know' when compared to what some do know in matters of practical religious nature; the 'non-knowers' should ask the 'knowers', i.e. the people of remembrance, for guidance. By virtue of this text, it becomes essential for one, who is not qualified to decide matters pertaining to the Shariah, to adopt and practise upon the decisions of the qualified legal experts. Everyone needs not practise *ijtihād*, but rather, leave it up to the experts. There are many such Ayāhs that refer to this matter (25;74 / 9;122 / 4;83 / 17;71).

Though there are differences of opinion amongst the legal jurists, with respect to the interpretation of various texts, the *muqallid* (follower) needs to follow him whom he

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[15] Imām al-Ghazālī, *al-mustasfā* (Arabic), Vol.2, p.387

[16] Muhammad Zakariyya al-Bardaysī, *Usūl al-fiqh* (Arabic), Dar al-Thaqafa li Nashri wa Tawzi, p.477

considers more comfortable, with respect to practising Islām. The *muqallid* should then try to follow all the decisions which that respective *mujtahid*, or Imām, has deduced from the sources, irrespective of whether they are easy or difficult. That would be the real essence of *taqlīd*, otherwise following one *mujtahid* in one issue and leaving him for another Imām in a different issue, within the same act of worship, would not qualify as *taqlīd*. The *muqallid* should accept all the decisions of that particular *mujtahid* as final at all times, because the decisions of one who is qualified to practise *ijtihād* is always reward-worthy with Allāh ﷻ.[17]

There have been many 'schools of thought', or *madhhabs*, established by qualified *mujtahids*, who have deduced the laws of the Shariah for the masses from the sources of Islāmic law. Some of those schools died out due to various factors within the Muslim Ummah. Out of those that survived, we have the *madhhabs* of Imām Abū Hanīfa *`alayhi-r-rahma*, Imām al-Shāfi`ī *`alayhi-r-rahma*, Imām Mālik *`alayhi-r-rahma* and Imām Ahmad ibn Hanbal *`alayhi-r-rahma*. These *madhhabs* remain because of the differences of opinion amongst them on different legal matters, but, nevertheless, all are considered correct. We have evidence that the Sahāba ﷺ *ajma`īn* differed on matters of practical nature, whereas some practised *ijtihād* whilst others did not, but preferred to follow those who did. After the Battle of Badr, for instance, the Messenger of Allāh ﷺ awaited a revelation from the Creator ﷻ so that he may deal with the prisoners of war respectively. It was due to the delay of the revelation that the Beloved Messenger of Allāh ﷺ asked his Sahāba ﷺ *ajma`īn* to decide upon the fate of the prisoners. Two opinions were more popular than the others: 1. The prisoners should pay a ransom to secure their release, which was the opinion of Sayyidunā Abū Bakr al-Siddīq ﷺ 2. The prisoners should be handed over to their respective Muslim relatives, who shall kill them themselves, which was the opinion of Sayyidunā `Umar al-Farūq ﷺ. It was the first opinion that was enforced by the Messenger ﷺ.[18] So, here we find the *ijtihād* being put into practise by the Sahāba ﷺ *ajma`īn* on the encouragement of the Messenger of Allāh ﷺ, and the differences, constructive of course, between the Sahāba ﷺ *ajma`īn*, are evident.

In short, the difference of opinions issued by the different legal experts, on which no *ijmā`* has been won, is a part and parcel of Islāmic lawmaking and judiciary, especially where the Lawgiver ﷻ has not expressly given us a definite text of legislation.

Talfīq al-Madhāhib (Mix and Match)

Out of sheer humbleness and piety, which would obviously be expected from distinguished juristic experts of such calibre, Imām Abū Hanīfa and Imām al-Shāfi`ī *`alayhimaa-r-rahma* have instructed that 'if you find a Hadīth that contradicts my verdict, then follow the Hadīth.' Brothers in some learned circles have taken statements as such a little too close to heart and, thus, taken undue advantage of them. Some have attempted to belittle and insult such great Imāms with accusations of ignorance and lack of qualifications, whilst others have brought 'stronger' references against their Imām and acted against his legal decisions, whilst at the same time they claim to be adherents of

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17 *Mishkāt al-masābīh*, Book of Leadership; also 'Agreed Upon'

18 Justice Professor Pir Muhammad Karam Shah al-Azharī *`alayhi-r-rahmah*, *zia' al-nabī #SAW#* (Urdu), Zia' al-Qur'an Publications, Ganj Baksh Road, Lahore (Pakistan):1415AH,1994CE, Vol.3, p.385,

that particular Imām. I would like to quote a clarification to the above-mentioned saying of the respectable Imāms, by Professor Abdul Hakim Murad, who says: 'It is obvious that whatever some writers nowadays like to believe, such counsels were intended for the Imām's sophisticated pupils, and were never intended for use by the Islāmically-uneducated masses. Imām al-Shafi`i was not addressing a crowd of butchers, nightwatchmen and donkey-drovers.'[19]

The honourable Imāms were well aware of what they did, and what would be the outcome of whatever they uttered, which is why they were always cautious. If we, the uneducated masses, were to go by their sayings of looking for narrations that go against their teachings, then the Shariah would be reduced to nothing but a mere joke. It would be an insult, not only to the respectable Imāms, but to Islām itself if each and every one of us was to begin an *ijtihād*, be it at any level.

An example of the above could be made from the attempts of Nasiruddīn al-Albānī, the former chief '*muhaddith*' [20] of Saudi Arabia, who attempted to make a derision of many of the Ahaadeeth of the Messenger of Allāh ﷺ that are contained in various books of authority[21], by declaring them as having weak chains of narration, unacceptable narrators or even unknown narrators in the chains. Many a contemporary scholar has lambasted Mr. Al-Albany for his lack of qualifications and his irresponsible misjudgement in this category where immense crucial accuracy and honest research is required.

Similar attempts are being made by *lā-madhhabi* persons (those who do not belong to any particular school of interpretation and thought), but these attempts have been to make a mockery of practical Islāmic law; the Shariah. It must at all times be borne in mind that the various degrees of a *mujtahid* [22] must remain focussed within his field of limitations and not transgress that boundary. There have been many Muslim scholars and experts of the highest calibre and all have remained steadfast to his particular *madhhab*, to his particular Imām, differing within his scope of authority and level of *ijtihād* capability.

Rukhsa, in Islāmic legal terminology, means concession in a normal enforced law. For example, there are four *fard* (obligatory) units in the Zuhr (afternoon) prayer. When one is travelling over a specific distance [23] away from his normal place of residence, he must shorten his prayer from four *Fard* units to only two. This shortening is known as *Qasr* (shortening) and it is shortened due to *rukhsah* (concession). We find many such *rukhsahs* in the different *madhhabs*, pertaining to different actions; we have *rukhsas* in the *Wudu*, in the *Salaah*, in the *Zakaah*, in the *Saum*, and in almost every aspect of daily life. Now, the

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[19] Abdal Hakim Murad, *Understanding the Four Madhhabs – The Facts about Ijtihad and Taqlid* (English), Wise Muslim Publications: 1995, p.12}

[20] *Muhaddith*: Master of Hadīths – one who is acquainted with the Hadeeth literature and is qualified to determine the value and authenticity of Hadīths

[21] Sahīh al-Bukhārī, Sahīh al-Muslim, etc.

[22] There are mainly six degrees of a *mujtahid* and today there is none who can claim the Degree Number 1, that is a *mujtahid fil Shar`i*, (*mujtahid* in the Sharī`ah) a.k.a *al-mujtahid al-mutlaq* (Unrestricted Jurist); the four great Imams belong to this category.

[23] The distance of travel differs in the different *madhhabs*

question arises whether we are permitted to take *rukhsas* from the different *madhhabs*, and bring them all together practically, in order to facilitate ourselves further in the pursuance of ease and simplicity. The mixing and matching of the *rukhsas* from the different *madhhabs* is known as '*talfiq* of the *madhhabs'*. The main supporters of *talfiq* are, once again, Mawlanā Mawdūdī, Sayyid Qutb and Muhammad Rashīd Rida [24], who say that the *rukhsas* of different *madhhabs* should be brought together. This, inevitably, would create a confusion within the Muslims and a 'shadow' fifth *madhhab*, that would be based on *rukhsa* as the first source. A fine joke that would be.

Talfiq, that is to do any *ibāda* or any act in accordance with the rules of more than one *madhhab* that disagree with one another, means to go out of the four *madhhabs* and to make up a fifth *madhhab*. [25] Imām Jalaluddīn al-Mahallī *`alayhi-r-rahma*, the first author of *tafsīr al-jalālayn*, says in his commentary to *'jam` al-jawāmi`'*of Imām Jalaluddīn al-Suyūtī *`alayhi-r-rahma* :

> 'One's doing an ibāda by following those rules of the two, three or four *madhhabs* disagreeing with one another is disobedience to the *ijmā`* of these *madhhabs*. That is, *talfiq* is not possible.' [26]

Qāsim ibn Qatlubāgha *`alayhi-r-rahma*, in his 'tashīh', Muhammad al-Baghdādī al-Hanafī*`alayhi-r-rahma* in his '*taqlīd*', Ibn Humam *`alayhi-r-rahma*, in his '*tahrīr*', Hasan al-Sharanbulālī *`alayhi-r-rahma*, in his *'al-`iqd al-Farīd'*, Isma`īl an-Nablūsī *`alayhi-r-rahma*, in his commentary to *'al-durar'*, `Abdul Rahmān al-`Imādi al-Hanafī *`alayhi-r-rahma*, in his *'al-muqaddima'*, Ibn Humām *`alayhi-r-rahma*, in his *'fath al-qadīr'*, Ibn Nujaym *`alayhi-r-rahma*, in his *'bah al-rā'iq'*, Muhammad `Abdul Rahmān al-Silhatī *`alayhi-r-rahma*, in his *'sayf al-abrār al-maslūl `alāl fujjār'* and Ibn `Abidīn *`alayhi-r-rahma*, in his *'radd al-mukhtār,'* etc. all reject the concept of *talfiq*.[27] These scholars denounce the proponents of *talfiq* and some even go to the extent of accusing the *mulfiqs* (those who support *talfiq*) of heresy.

Muhammad al-Baghdādī al-Hanafī and al-Imām al-Manawī *`alayhimaa-r-rahma* have quoted Ibn Humām *`alayhi-r-rahma* as saying that *ta`zīr* (non-textual legislated punishment) should be applied to a person who transfers oneself to another *madhhab* by using *ijtihād* or a document as a proof. [28] In his work '*tahrir*', Ibn Humām *`alayhi-r-rahma* writes clearly that unification of the *madhhabs* (*talfī al-madhāhib*) is not permissible. [29]

`Allāma Hāfiz Hasan ibn Muhammad at-Tayyibī *`alayhi-r-rahma* in his explanation of a Hadīth in *'mishkaat'* says, 'A person who gathers the easy ways (*rukhsas*) of the *madhhabs*

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[24] See Muhammad Rashīd Rida's book '*muhāwarāt*', which attacks the four *madhhabs* of the Ahlul Sunnah wal Jamā`ah and rejects the *ijmā'*.

[25] *The Sunni Path*, Waqf Ikhlas Publications, Istanbul: 1991

[26] ibid.

[27] ibid.

[28] ibid.

[29] ibid.

becomes a *zindiq* [30].'

Conclusion

It has been unanimously agreed upon by the honourable scholars of Islām that for one to deduce laws from the sources of the Shariah, one must possess the credible ability of a juristic expert in that field. One must be a *mujtahid* (Muslim Legal Jurist), one who has rigorously fulfilled all the conditions required, to perform *ijtihād*. It is strictly unlawful for a *mujtahid* to accept the decisions of another *mujtahid* without proof. If he lacks any one of those conditions, then he must accept the decisions of the *mujtahid* above him in the degrees of *ijtihādic* excellence. It becomes essential (*wājib*) on one who is not a *mujtahid* to become a *muqallid* (follower of a *mujtahid*) – or *muqayyad* (restricted to a *mujtahid*'s juristic decisions). One is not permitted to mix and match *fatwas* and *rukhsas* etc. from different *madhhabs* (in a single act of *ibāda*), thereby creating a fifth *madhhab*. There is no such thing as a 'fifth *madhhab*' in Islām, and this has been agreed upon by consensus of the scholars of the Ummah. What the Imāms have, or may have, said regarding having their respective *fatwas* rejected in the face of evidence found against that particular *fatwa*, does not concern us non-scholars here on the low level of *taqlīd*, but, rather, it applies to their elite class of pupils who do possess the distinctions of *mujtahid fi madhhab* (*mujtahid* within the methodological scope of that school of thought and interpretation). We, the common folk, must accept the majority ruling of the school that we adhere to, without question. *taqlīd*, for us, is *wājib*, and we must accept this fact. Scholars of the highest calibre, those whom we deem to be the cream of creation after the Prophets *`alayhimu-s-salaam*, Messengers #AS# and the Companions ﷺ *ajma`īn*, elite experts of Islāmic sciences – the likes of Sayyidunā Imām al-Rāzi, Sayyidunā Imām al-Ghazālī, Sayyidunā Imām at-Tirmidhī, Sayyidunā Imām Abū Dawūd, Sayyidunā Imām al-Bukhārī, Sayyidunā Bā Yazīd al-Bistāmī, Sayyidunā Abdul Qādir al-Jīlānī, Sayyidunā Bahā al-Haqq al-Naqshbandī, Sayyidunā Imām an-Nawawī, Sayyidunā Ibn Abī Shayba, Sayyidunā Ibn Khuzayma, Sayyidunā Musaddad ibn Musarhad, Sayyidunā Imām al-San`ānī, Sayyidunā Imām Jalaluddīn al-Mahallī, Sayyidunā Imām Jalaluddīn al-Suyūtī, Sayyidunā Ibn `Abidīn, Sayyidunā Ibn Qudāma, Sayyidunā Imām Zufar, Sayyidunā Imām Muhammad al-Shaybānī, Sayyidunā Imām Abū Yūsuf, Sayyidunā Imām Ahmad Rada Khān and Sayyidunā Abdul Haqq Muhaddith al-Dehlawī, etc. etc. are all adherents of one *madhhab* or the other, they are all *muqallids*. There are hardly any 'orthodox scholars' in Islām that have not been followers of a particular *madhhab*, none to be precise.

Sayyidunā Imām al-Ghazālī al-Shāfi`ī said that it was necessary for the Muslim to follow a recognised *madhhab* in order to avert the lethal danger of misinterpreting the revealed sources (whilst being respectful of the other schools). [31]

Sayyidunā Shaykh Sa`īd Ramadān al-Būtī, in his book 'Non-Madhhabism: The Greatest Bid`ah threatening the Islāmic Sharī`ah' asks:

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[30] *Zindiq*: an atheist who does not believe in any religion (*madhhab*) but pretends to be a Muslim in order to make Muslims irreligious, atheistic (*lā madhhabi*). (*al-mu`jam al-wasīt*, al-Maktabat al-Islamia li-Tiba`at al-Nashri wal Tawzi`, Istanbul, Turkey: Rabī` al-Awwal 1392AH, May 1976CE)

[31] Abdal Hakim Murad, *Understanding the Four Madhhabs – The Facts about Ijtihad and Taqlid* (English), Wise Muslim Publications: 1995, p.11)

> 'If one's child is seriously ill, does one look for oneself in the medical textbooks for the proper diagnosis and cure, or should one go to a trained medical practitioner?' He answers his own question saying, 'Clearly, sanity dictates the latter option. And so it is in matters of religion, which are in reality even more important and potentially hazardous: we would be foolish and irresponsible to try to look through the sources ourselves, and become our own *muftis*. Instead, we should recognise that those who have spent their entire lives studying the Sunnah and the principles of law are far less likely to be mistaken than we are.' [32]

My very honourable teacher, Professor Imrān Ahsan Khan Nyazī, in the introduction to his translation of '*bidāyat al-mujtahid wal niyāyatt al-muqtasid*' by Sayyidunā Qādī Muhammad Ibn Rushd al-Qurtubī (al-Hafīd) (520AH – 595AH), namely

> 'The Distinguished Jurist's Primer' writes: '*taqlīd*, as distinguished from blind conservatism, is the foundation of all relationships based on trust, like those between a patient and his doctor, a client and his lawyer, and a business and its accountant. It is a legal method for ensuring that judges who are not fully-qualified *mujtahids* may be able to decide cases in the light of precedents laid down by independent jurists … The system of *taqlīd* implies that as long as the layman does not get the training for becoming a doctor he cannot practice medicine, for example. In the case of medicine such a person may be termed a quack and may even be punished today, but in the case of Islāmic law he is assuming a much graver responsibility: he is claiming that the opinion he is expressing is the law intended by Allāh.' [33]

We, therefore, conclude, in the light of many textual evidences from the Noble Qur'ān, the Sunnah of the Messenger of Allāh ﷺ, the *ijmā`* of the qualified scholars of Islām, the practical consensus of the Muslim Ummah, and much common sense, that if one has not attained the degree of a *mujtahid*, he must follow and accept the juristic decisions of a qualified *mujtahid*, an Imām, and adhere to a particular school of thought, a *madhhab*, in order to live life as a successful Muslim in this world, and succeed in the Hereafter.

[32] ibid. p.16 [Editor's note: the English translation of 'Al-Lā Madhhabiyya' by Shaykh Muhammad Sa`īd Ramadān al-Būtī is currently being released by Sunni Publications (**www.sunnipubs.com**)

[33] ibid. p.32; Professor Imran Ahsan Khan Nyazee, *The Distinguished Jurist's Primer*, Garnet Publishing: 2003, Vol.I, p.xxxv.