

Imitation (Taqlid)

The Shi'ah hold: Regarding branches of religion (*furu' al-Din*), which represent the rules of Shari'ah (Islamic Law) related to worship acts like: *salat*, *sawm* (fasting), *zakat* and *hajj*, for whose rules the following conditions are obligatory:

- a. Man should exert himself and strive to deduce rules from its valid sources, if being competent for this.
- b. Or either he can take precaution in all of his acts if it be in his capacity.
- c. Or otherwise he should imitate a mujtahid possessing full qualifications, on condition that he (mujtahid) be: alive, sane, just, knowledgeable, and who safeguards his soul, takes care of his Din, opposes his desires, and obeys the commands of his Lord.

Ijtihad in the sub-laws being a *kifai* obligation on all the Muslims, when any full-qualified one performs it, other Muslims will be exempted from it, and it is permissible for them to imitate him and refer to him regarding branches of religion. Because the position of *ijtihad* can never be attained so easily, or be accessible for all people, but rather requires abundance of time, sciences, knowledge and capability, the characteristics that can never be possessed but only by whoever toiling and striving hard, spending his life in investigation and seeking knowledge.

Ijtihad can never be acquired and attained but only by that who is lord of rare good fortune.

The Prophet (S) said:

“When Allah intends good for anyone, He shall make him learned in religion.”

There is no difference between this opinion of the Shi'ah and that of the Sunnah, except in respect of the condition of the mujtahid's being alive.

But the manifest disagreement between them lies in applying taqlid. The Shi'ah believe that the qualified mujtahid being the viceroy of the (12th) Imam ('a) during his occultation, and he shall be the ruler and absolute chief, entitled to whatever be in the capacity of the Imam, in settling the disputes regarding all issues and judging among people, and that who contradicts him is contradicting the Imam.

The qualified mujtahid, in the perspective of the Shi'ah, is not only a reference (*marji'*) to be referred to in

cases of giving verdicts, but also he enjoys all-inclusive *wilāyah* (guardianship) over his imitators, who refer to him in respect of rules (*ahkām*), settling all the disputes and differences among them in judicial matters, handing him the *zakāt* and *khums* of their properties and funds, to dispose of them as ordained in the *Shari‘ah*, on behalf of the Imam of Time (peace be upon him).

While, the mujtahid does not enjoy this position in the perspective of Ahl al-Sunnah, who refer in the jurisprudential questions to one of the four imāms, leaders of the schools of thought (*madhāhib*): Abu Hanifah, Mālik, al-Shāfi‘i and Ahmad ibn Hanbal. The contemporary Sunnis may not abide by imitating anyone of these four in particular, as they may take the rules for some of their questions from one of them and some others from another one, according to what their needs necessitate, as practised by Sayyid Sābiq who composed a *fiqh* derived from the four leaders.

And since the Sunnis believe that blessing lies in their disagreement, so the Māliki is entitled, for instance, to refer to Abu Hanifah when finding near him the solution for the problem he has, that may not be found near Mālik.

I will cite an example to demonstrate for the reader so as to be able to conceive the meaning.

In Tunisia (during the epoch of judicial courts) there was a mature girl who fell in love with some man and intended to get married to him. But her father refused to marry her to that youth, for a reason God knows alone. Then the girl fled her father’s house and got married to that young man, without taking the permission of her father. The father lodged a suit against that marriage.

When the girl and her husband were summoned and brought before the judge, he asked her about the cause behind her escaping from her father’s house, and getting married without the permission of her guardian (*wali*). She replied: Sir, I am twenty-five years old, and I desired to marry this man according to the Sunnah of Allah and His Messenger; and since my father intends to marry me to someone I dislike, so I married in accordance with the opinion of Abu Hanifah, who gives me the right to marry the one I love, as I am full-grown (adult).

The judge (who himself narrated this story to me) — may God’s mercy be upon him — says: “When we considered and investigated the case, we found her claim to be right, and I think that one of the well-aware ‘ulamā’ has taught her what to say”. The judge says: Then I rebutted the father’s complaint and endorsed the marriage (judged it to be correct). So the father departed the court being at loss, reiterating these words: “The she-dog became Hanafi”, i.e his daughter has abandoned Mālik and followed Abu Hanifah, and the word “she-dog” (*kalbah*) implies an insult to his daughter, from whom he has disowned later on.

The issue stems from the difference in the *ijtihād* of the schools. As Mālik is of the opinion that the marriage of the maiden girl (*bikr*) can never be valid but only with the permission of her guardian (*wali*), and even when she be a *thayyib* (that is, a girl who has had sexual intercourse), he will be her partner in marriage, and she is not allowed to decide to marry anyone without his consent. Whereas Abu Hanifah

holds that the sane, grown-up female is competent to choose her husband and to contract marriage, irrespective of being a maiden or a thayyib.

So this fihi issue has caused to separate between the father and his daughter, to the extent that he declared his disavowal of her. Very often fathers used to disown of their daughters for several reasons, one of which being to flee home with the man with whom she likes to get married. This sort of disowning entails inconvenient consequences, as the father most often may resort to deprive his daughter from her right to inherit him, so as the girl remaining to be an enemy to her brothers who, in turn, would disown their sister who brought them shame.

Hence the truth is not as claimed by Ahl al-Sunnah that blessing (rahmah) lies in their disagreement, or at the least, blessing can never be implied in all the controversial matters.

Moreover, there is another point of dispute between them, which is imitation of the dead mujtahid (taqlid al-mayyit). The Sunnis imitate imams who died several centuries ago, closing the door of ijtihad since that era, and all the 'ulamā' succeeding them would be content with the expositions (shuruh), and whatever written in poetry and prose from the fiqh of the four schools of thought. Then some of the contemporary 'ulamā' began to call for opening the doors and restoration the practice of ijtihad, due to what the time requirements necessitating, and to find solutions for new questions and issues that were unknown during the lifetime of the four imams (leaders of Sunni schools).

Whereas the Shi'ah never permit (anyone) to imitate the dead mujtahid (for the first time), referring in all their rules to the alive mujtahid possessing all the necessary qualifications we mentioned previously, during the occultation of the Infallible Imam, who charged them to refer to the equitable 'ulamā' in the time of his occultation (ghaybah) till his reappearance.

The Sunni Mawliki, for instance, may declare: This thing is lawful (halal) and that thing is forbidden (haram) according to the belief of al-'Imam Malik, who is dead more than twelve centuries ago. The same claim is uttered by the followers of the Hanafi, Shafi'i and Hanbali schools, since these four leaders lived contemporarily, with each one of them learning under the hand of the other. Besides, the follower of any of the Sunni schools never believes in the infallibility of these four leaders (imams), who never claimed this trait for themselves, but believing in the possibility to err and to be correct. Besides, they claim that they are worth rewarding in all their exertions of opinion (ijtihadat), deserving two rewards in case of being right, and one reward in case of being wrong.

While the Imami Shi'i, for instance, has two stages in taqlid (imitation):

First Stage: Which being during the lifetime of the Twelve Imams that extended for almost three and a half centuries. During that epoch, every follower of the Shi'i school was imitating the Infallible Imam, who never speaks out of his opinion or ijtihad, but through knowledge and narrations he inherited from his grandfather (S), saying regarding any issue: My father has reported from my grandfather, from Gabriel, from Allah, the Glorified and Mighty.

Second Stage: Which represents the time of occultation that extended up to the present time. Every Shi'i says: This thing is *halāl* and that one is *harām* according to the opinion held by al-Sayyid al-Khu'i or al-Sayyid al-Khumayni, for instance, who both being alive, and their opinion never exceeds striving (*ijtihād*) in deducing the laws from the texts of the Qur'ān and Prophetic Sunnah, depending on the traditions of Ahl al-Bayt Imams at first, and after them the trustees among the Companions. The reason behind their discussing the traditions of Ahl al-Bayt Imams at first, lies in the fact that these Imams refuse the use of opinion in respect of Shari'ah (Islamic Law), observing: There is nothing but a judgement was revealed regarding it by Allah. When we lack the law (*hukm*) on any issue, this never means that it is neglected by Allah, the Glorified, but our inadequacy and ignorance prevented us from being able to recognize the *hukm* (law) of the issue. Ignorance of anything and inability to realize it can never be an evidence indicating its non-existence, as stated by Allah, the Glorified in the Holy Qur'ān:

“We have not neglected in the Book (the Qur'ān) anything” (6:38)

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