

Lesson 23: Ijtihād, Taqlid & Ihtiyāt

1. Introduction

As mentioned in the previous lessons, a Muslim must follow the sharʿa in every aspect of his or her life. If Islam is a religion which is to stay till the end of time, then there must always be some people who can guide the Muslims in the changing circumstances of time and of place. After the Prophet of Islam, the most ideal persons to guide the Muslims were the Imams of Ahlu ʿl-bayt. However, the Present Imam, Muhammad al-Mahdi (a.s.) has gone into the Occultation and will re-appear when Allāh wishes him to appear. So what is to be done in the meantime? Are the Shiʿas to suspend the sharʿa? No, of course not! Islam is the religion for all times and places.

2. Ijtihād

The Imams of Ahlu ʿl-bayt had foreseen the time of the Occultation and had prepared their followers for the situation in which they will not be in direct contact with their Imam. This preparation was done by training the Shiʿas in the science of Islamic laws, or in other words, in ijtiḥād. (Ijtiḥād means “the process of deriving the laws of the sharʿa from its sources.”) Ijtiḥād is an essential phenomenon for the survival of the Islamic sharʿa during the Occultation of the Imam (a.s.). Without the system of ijtiḥād, we would not be able to apply Islamic laws in the rapidly changing circumstances of human society.

Ijtiḥād is not only permissible, but essential from the Islamic point of view. It is an obligation in Islam to study everything that is necessary for the spiritual development and material wellbeing of the Muslim community. However, this obligation is of the category which is known as *wājib kifāʾī*.¹ In the present instance, for example, Islamic society needs experts in the medical sciences, in physics and chemistry, in engineering, education; and as long as there is a lack of expertise in these areas, it is an obligation on the community as a whole to acquire it. This means that a group of Muslims must devote themselves to research so as to benefit the Muslim community. Similarly, an Islamic society without experts in the sharʿa cannot properly consider itself Islamic, and so it is an obligation for a group of persons from this society to devote themselves to the study of the religious sciences to provide proper guidance to all

Muslims.

This is such an important obligation that Allah has exempted those who go to seek religious knowledge from the duty of jihād. He says:

“It is not (right) for the believers to go forth all together (for jihād). So why should not a party from every section of them (i.e., the believers) go forth to become learned in the religion, and to warn their people when they return to them—so that haply they may beware.” (9: 124)

It is clear from many narrations that the Imams of Ahlu ’l-bayt (a.s.) used to be pleased whenever any of their companions taught religion or gave legal rulings (*fatwa*) to others. There are several documented cases of Shi’as who lived far from Medina asking the Imam of their time to appoint someone in their area to adjudicate between them in religious problems: Zakariyyah ibn Adam al-Qummi and Yunus bin ‘Abdu ’r-Rahmān, for example, were named by Imam ‘Ali ar-Riza, to solve disputes in their own districts.

In a famous hadīth, ‘Umar ibn Hanzalah asked Imam Ja’far as-Sādiq (a.s.) about the legality of two Shi’as seeking a verdict from an illegitimate ruler in a dispute over a debt or a legacy. The Imam’s answer was that it was absolutely forbidden to do so. Then Ibn Hanzalah asked what the two should do, and the Imam replied:

“They must seek out one of your own who narrates our traditions, who is versed in what is permissible and what is forbidden, who is well-acquainted with our laws and ordinances, and accept him as judge and arbiter, for I appoint him as judge over you...”

Besides these ahādīth, we have quite a few sayings of the Imams that tell us what to do if we come across two ahādīth which are contradictory or semi-contradictory—and solving the contradictory ahādīth is one of the functions of ijtihād. These types of ahādīth are known as *al-akhbār al-’il’ijjiyyah*, the ahādīth which solve the problems in the studying of the hadīth.

In conclusion, we can say that one way of following the shar’ā is to study the science of shar’ā, learn the process of ijtihād and become a mujtahid.

3. Taqlīd

Although we have mentioned ijtihād as the first of the possible ways of following the shar’ā, it is not something which every person can do. To become a mujtahid means spending the major part of your life in studying the Islamic sciences in general and the Islamic legal system in particular. A person must, first of all, study the Arabic language (especially classical Arabic) since all the sources of the shar’ā are in classical Arabic. Then he must study and gain expertise in Usūlu ’l-Fiqh (the Principles of Jurisprudence) which involves the methodology of defining and using the sources of the shar’ā. One also has to study the Qur’ānic verses on laws, the hadīth literature, and also the conclusions reached by the past mujtahids. In studying the hadīth literature, one has to also study ‘ilmu ’r-rijāl which deals

with the narrators of hadīth—otherwise he will not be able to distinguish the authentic hadīth from the inauthentic ones. In short, ijtihād is not everyone’s cup of tea.

The social life of human beings is based on mutual co-operation: each one of us takes the duty of fulfilling one of the needs of the society, and, in return, each one of us expects to benefit from the expertise of the others. Just as not everyone can become his or her own doctor, in an Islamic society, not everyone can become a mujtahid. Those who are not mujtahid will follow the shar‘a by doing taqlīd—following the opinions of a high-ranking and pious mujtahid.

(A) Is Taqlīd Reasonable?

First of all, taqlīd is not “blind following,” it is based on an informed decision taken by the individual Shi‘a man or woman. Before you start following the opinions of a mujtahid in the shar‘a laws, you have to ascertain that he has the required expertise and that he is of upright character.

Secondly, it is not always unreasonable to follow others and to hold uncritical faith in them. We can logically distinguish four possible forms of imitation:

1. an ignorant person imitating another ignorant person;
2. a more learned person imitating a less learned person;
3. a less learned person imitating an ignorant person;
4. a less learned person imitating a more learned person.

It is quite clear that the first three forms of imitations are unreasonable and can serve no purpose. However, the fourth kind of imitation is obviously not only reasonable, but also necessary and a matter of common sense; in our everyday life we follow and imitate others in many things; we like to take the advice of experts in matters outside our own knowledge.

Someone who wishes to build a house, explains the basic idea of what he wants to the builder and then submits to his advice as to how he should go about the actual construction. The patient follows the treatment advised by the doctor; a litigant consults a lawyer when drawing up his case for a court. The examples are abundant; in most cases the advice is taken voluntarily, but sometimes the citizen may be required by law to seek expert advice and act upon it, before, for example, he is allowed to take some particularly dangerous drug. The clearest example is obviously a case of a legal dispute between two parties, when they are required to take their grievances before a judge and abide by his decision if they cannot settle their dispute amicably.

The practice of taqlīd is an example of the same kind: the person who is not an expert in Islamic jurisprudence is legally required to follow the instructions of the expert, that is, the mujtahid.

(B) Support from the Qur'an & Sunnah

This sensible practice of following the mujtahid in shar'ah laws has been endorsed by Islam.

As mentioned in a verse quoted earlier, the Qur'an strongly exhorts at least a group of Muslims to devote their time and energy in studying religion. This obligation is of such importance that Allah has exempted such persons from the duty of jihād. More interesting is the reason and purpose of their knowledge: **"...to warn their people..." (9:124)** This verse divides the people into two groups: those who are learned in religious sciences and those who are not. It is the duty of the learned to **"warn"** (a broad term which implies advice and guidance) the common people, and it is expected of the common people to **"beware"** (take heed of the learned persons' advice and follow). In shar'ah matters, this process of guiding the common people is technically known as "ijtihād," and the process of following the guidance by the common people is technically known as "taqlīd".

The Imams of Ahlu 'l-bayt (a.s.) have endorsed this system in theory as well as in practice:

In Theory: In a famous hadīth quoted earlier, 'Umar ibn Hanzalah asked Imam Ja'far as-Sādiq (a.s.) about the legality of two Shi'as seeking a judgment from an illegitimate ruler or a judge appointed by such a ruler in a dispute over a debt or inheritance. The Imam's answer was that it was absolutely forbidden to do so; and then he read the following verse: **"...(Yet in a dispute) they desire to summon one another to the judgment of the tūghāt though they were commanded to reject and disbelieve in him."** (4:60)

Then 'Umar ibn Hanzalah asked, "What should the two (Shi'as) do then?" The Imam replied, "They must seek out one of your own who narrates our traditions, who is versed in what is permissible and what is forbidden, who is well-acquainted with our laws and ordinances, and accept him as judge and arbiter, for I appoint him as judge over you. If the ruling which he based on our laws is rejected, then this rejection will be tantamount to ignoring the order of Allāh and rejecting us, and rejecting us is the same as rejecting Allāh, and this is the same as polytheism."

In another hadīth, Abi Khadrāj relates that Imam Ja'far as-Sādiq (a.s.) sent him to his companions with the following message: "If a dispute or a difference occurs among you about a property, then take care not to seek judgment from those illegitimate [judges]; instead, you must seek a person who knows what is permissible and what is forbidden by us, for I appoint him as a judge over you. And take care that you do not seek judgment against one another with an unjust ruler."

The least that these two narrations prove is that Shi'as are not allowed to refer to unauthorized jurists for solutions to their problems, instead they are advised to seek the guidance of those who are well-versed in the teachings of the Ahlu 'l-bayt. In these ahādīth, the practice of seeking the advice of experts in shar'ah laws is taken for granted.

In Practice: There are several documented cases of Shi'as who asked the Imams of their time to appoint

someone to adjudicate between them in religious problems. Such questions were raised by those who lived far from Medina or those who could not gain access to their Imam in Medina itself.

4. Ihtiyāʿ

If a person is not a mujtahid and does not even want to do *taqlīd* of any *mujtahid*, then according to the laws of sharʿā he must do *ihtiyāʿ*. Doing *ihtiyāʿ* means taking precaution. In the context of our present discussion, it means that one must adopt a line of precautionary action by which he or she can be sure of fulfilling the requirements of God's commandment.

In practical terms, *ihtiyāʿ* means that a person, in each and every problem, will have to study the views of mujtahids on that issue and act on the most precautionary of all views. For example, if one mujtahid says that "it is disliked to smoke" and another says that "it is harām to smoke," then one has to follow the second view. Or if one mujtahid says that "you must shave your head during the first pilgrimage to Mecca" while another says "you have a choice between shaving or just cutting a little of your hair," then one has to follow the first view. This has to be done in each and every issue.

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In short, during the Occultation (*ghaybat*) of the Present Imam (a.s.), there are three ways of following the sharʿā: *ijtihād*, *taqlīd* and *ihtiyāʿ*.

This lesson is based on *An Introduction to the Sharʿā* by Sayyid M. Rizvi

Question Paper on Lesson 23

Question 1: [15 points]

True or False:

- (a) *Ijtihād* enables us to apply Islamic laws in the rapidly changing circumstances of human society.
- (b) A Muslim society cannot be truly Islamic unless it also has mujtahids in its midst.
- (c) *Taqlīd* of a mujtahid by a non-Mujtahid is unreasonable and illogical.
- (d) *Ihtiyāʿ* is the easiest way of following the sharʿā.
- (e) A person can follow the sharʿā by doing *ijtihād*, *taqlīd* or *ihtiyāʿ*.

Question 2: [20 points]

Explain what you understood from the hadith of 'Umar ibn Hanzalah mentioned in this lesson.

Question 3: [15 points]

How would you defend the practice of *taqlīd* in the present time?

[1.](#) An obligation which is on every member of the community as long as it is unfulfilled; but as soon as some person or persons has fulfilled it; it is no longer an obligation on those who have not fulfilled it.

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