

Prelude:Ijtihad and Taqlid

Necessity of Seeking Knowledge

We believe that since Almighty Allah has endowed us with the faculty of thinking and gifted us intellects, He has ordered us to ponder over His creation, to note with care the signs of His making, and to meditate on His wisdom and His excellently perfect planning in His signs in the horizons and in ourselves. He has thus said (in the Holy Qur'an):

سَنُرِيهِمْ آيَاتِنَا فِي الْأَفَاقِ وَفِي أَنْفُسِهِمْ حَتَّىٰ يَتَبَيَّنَ لَهُمْ أَنَّهُ الْحَقُّ

We shall show them Our signs on the horizons and in themselves, until it is clear to them that it is the Truth. (41/53)

Almighty Allah has likewise shown His disapproval of those who blindly follow the ways of those who were before them. Hence, He says in the Holy Qur'an:

قَالُوا بَلْ نَتَّبِعُ مَا أَلْفَيْنَا عَلَيْهِ آبَاءَنَا ۖ أَوَلَوْ كَانَ آبَاؤُهُمْ لَا يَعْقِلُونَ شَيْئًا وَلَا يَهْتَدُونَ

.. They say: 'No, but we will do what we found our fathers doing.' And, what if their fathers had no understanding of anything! (2/170)

He has also shown His dislike for those who follow their personal whims and conjectures.

He, the Exalted, thus says:

إِنْ يَتَّبِعُونَ إِلَّا الظَّنَّ

... They follow naught but an opinion... (6/116)

We believe that it is our intellect that forces us to reflect upon creation to know the Creator of the universe, as also to examine the claims and miracles of anyone who claims prophethood. Such being the case, it will no longer be acceptable to act upon the view of any person, even if that person has the gift of great knowledge or holds an esteemed position.

The Holy Qur'an has urged us to reflect upon creation, stick to science, and acquire knowledge. This urging has come to confirm the natural freedom of thought, which all sages agree upon, draw the attention to the human soul's inclination to knowledge and thinking, and open and direct the mind towards the functions for which it was created.

It is thus impossible for man to neglect the doctrinal affairs or to depend upon his mentors or any other persons concerning his beliefs. It is necessary for man—on account of his natural intelligence that is confirmed by the Holy Qur'an—to investigate, examine, and come to a clear understanding of the fundamentals of his religion (*usul al-din*),⁽¹⁾ which are:

- Monotheism (belief that there is only one God),
- Prophethood (belief that Muhammad (s) is the Prophet and messenger of Almighty Allah),
- Imamate (belief in the Divinely commissioned leadership of the Twelve Imams (‘a)) and,
- Resurrection (belief that there is another life after death).

One who follows the dictates of his forebears or any other person in these matters has indeed committed a big mistake, strayed off the Right Path, and made all his acts inexcusable.

The above discussion can be summed up in the following two points:

(a) It is obligatory to investigate and understand the fundamentals of our beliefs, since it is unacceptable to depend upon others' beliefs in this respect.

(b) In addition to its being a religious duty, reflection upon the fundamentals of one's belief is a requirement stemming from reason, i.e. such knowledge must not be derived from religious texts, which, however, can act as supportive factors after the exercise of the intellects.

The meaning of reason-based requirement is that we must realize the necessity of knowledge, the reflection upon the fundamentals of one's beliefs, and the inference of these beliefs through reason.

Following an Authority in the Secondary Religious Affairs

By secondary affairs of the religion, we mean those religious laws which govern our actions after we have rationally accepted the religious faith. In such affairs, it is not obligatory upon us to reflect upon them or apply our personal views. If such secondary affairs are not among the religious fundamentals

fixed by decisive texts of religious laws, such as the obligation of offering prayers, fasting, and defraying the poor-rate (*zakat*), then an ordinary person is required to do one of the following three matters:

- (a) one may practice *ijtihad* (that is: exert all possible efforts to extract religious laws from the sources of the Islamic code of laws), by engaging oneself in the highest levels of studies of jurisprudence, and then investigating the proofs of the religious laws after qualifying to reach such a stage and becoming a *mujtahid*, or
- (b) exercise juristic precaution (*ihtiyat*: act according to the views of the jurists so as to act upon the actual ruling) if one is able to do so, or
- (c) act upon the verdicts of a well-qualified *mujtahid* who must enjoy decency and rationality in addition to other qualifications. Such a *mujtahid* according to religious traditions:

صَائِنًا لِنَفْسِهِ، حَافِظًا لِدِينِهِ، مُخَالِفًا لِهَوَاهُ، مُطِيعًا لِأَمْرِ مَوْلَاهُ.

...preserves himself against wrongdoing and worldly pleasures, cares for his religion, opposes the dictates of his desires, and obeys the commands of his Lord.(2)

It follows that if one is not qualified enough to practice *ijtihad*, or to act upon *ihtiyat*, and still refrains from acting upon the verdicts of a well-qualified religious authority, then all of one's acts of worship will be invalid and unacceptable even if one offers prayers, observes fasting, and performs acts of worship one's entire lifetime unless:

- (1) Such acts be compatible with the views of the jurist upon whose verdicts one relies after that,(3) and
- (2) previous acts were intended to seek nearness to Almighty Allah (*qurbah*).).

Ijtihad

We believe that *ijtihad* in secondary matters of religion is a collective duty (*wajib kifa'i*)(4) in the ages of occultation (of Imam al-Mahdi—may Almighty Allah hasten his reappearance).(5) In other words, all Muslims in all ages are under the obligation of practicing *ijtihad*, but should one of them become proficient in *ijtihad* thus becoming a well-qualified *mujtahid*, all Muslims will be acquitted from this responsibility and they will then act upon his verdicts and refer to him in the secondary affairs of religion.

In all ages, Muslims must consider their religious duty to choose an authority from among themselves. If they find a volunteer who has gained the degree of *ijtihad*, which cannot be gained except by those who have good fortune, and who is qualified enough to be followed by the others, they may then accept him as their religious authority and turn to him in getting knowledge of the laws of their religion.

If they fail to find one enjoying such a supreme degree of knowledge, then they are religiously required to attain the rank of *ijtihad* individually or to nominate one from among them to obtain this rank when it is impossible or unfeasible for all to devote themselves to gaining this rank.

It is impermissible for them to act upon the verdicts of a deceased *mujtahid*.

Ijtihad can be defined as the examination of the sources of the *shari`ah* (i.e. the religious code of Islamic laws) to reach knowledge of the secondary laws which the Holy Prophet (s) has conveyed to his nation. Of course, these laws are unalterable and cannot be changed when times or conditions change. It has thus been declared:

حَلَالٌ مُّحَمَّدٌ حَلَالٌ إِلَى يَوْمِ الْقِيَامَةِ، وَحَرَامُهُ حَرَامٌ إِلَى يَوْمِ الْقِيَامَةِ.

What Muhammad (a) has made halal (legal) will be halal until the Day of Judgment, and what he has made haram (forbidden) will be haram until the Day of Judgment.”⁽⁶⁾

The sources for religious laws are the Holy Qur’an, the Holy Sunnah (words, deeds, and confirmations of the Holy Prophet (s) and the Holy Imams (a)), consensus (*ijma`*) and reasoning (*`aql*). Details of these sources are mentioned in the texts of *usul al-fiqh* (fundamentals of jurisprudence).

To attain the position of a *mujtahid* requires many years of study and acquiring various branches of science that not everyone can attain except one who works painstakingly and makes every possible effort by devoting himself to attaining this position. requires many years of study and acquiring various branches of science that not everyone can attain except one who works painstakingly and makes every possible effort by devoting himself to attaining this position.

The Mujtahid

We believe that a well-qualified *mujtahid* is a representative of the Imam⁽⁷⁾ during the age of occultation. He is also an absolute ruler and authority over Muslims and he enjoys the same power that is enjoyed by the Imam concerning issuance of judgments and administration among the people.

Hence, to reject such a well-qualified *mujtahid* is to reject the Imam, and to reject the Imam is to reject Almighty Allah, which does not differ from polytheism, as is declared in a tradition reported from Imam Ja`far al-Sadiq (a).⁽⁸⁾

In view of that, a well-qualified *mujtahid* is not only a competent authority for issuing verdicts; but he also enjoys general authority (i.e. in all aspects of life) over people. People should therefore turn to him in judicature, passing of judgments, and ruling—affairs that are relegated to him exclusively—since none is allowed to hold these positions without permission of the well-qualified *mujtahid*. Similarly, it is impermissible to carry out the religious punishments and provisions (*hudud*) except by the permission of

such supreme authority.

Moreover, in issues pertaining to finance, it is obligatory to refer to the well-qualified *mujtahid* as long as such financial items are the Imam's rights and responsibilities. Such general authority has been given to the well-qualified *mujtahids* by the Imam (‘a) so that they will act as representatives of the Imam (‘a) when the latter is absent.

1. () Not all the doctrines mentioned in this thesis are among the fundamentals of the religion. In fact, it is not obligatory to believe or even consider many of the doctrines mentioned in this thesis, such as al-qadha' wal-qadar (predestination and Divine Decree), al-raj'ah (The Return), and others. Moreover, it is permissible to act upon others whose opinions are decided as valid, such as the Prophets and the Holy Imam, with regard to such doctrines. My belief in many such doctrines is based on the acceptably reported traditions of our Holy Imam (‘a).

2. () The Holy Qur'an has censured the public of the Jews for they had followed their rabbis on two occasions:

وَمِنْهُمْ أُمِّيُونَ لَا يَعْلَمُونَ الْكِتَابَ إِلَّا أَمَانِيَّ وَإِنْ هُمْ إِلَّا يَظُنُّونَ قَوْلٌ لِلَّذِينَ يَكْتُبُونَ الْكِتَابَ بِأَيْدِيهِمْ ثُمَّ يَقُولُونَ هَذَا مِنْ عِنْدِ اللَّهِ لِيَشْتَرُوا بِهِ ثَمَنًا قَلِيلًا قَوْلٌ لَهُمْ مِمَّا كَتَبَتْ أَيْدِيهِمْ وَوَيْلٌ لَهُمْ مِمَّا يَكْسِبُونَ

And there are among them illiterates who know not the Book but only lies, and they do but conjecture. Woe, then, to those who write the book with their hands and then say: 'This is from Allah,' so that they may take for it a small price; therefore, woe to them for what their hands have written and woe to them for what they earn. (2/78–9)

Concerning the two holy verses, a man asked Imam al-Sadiq (‘a), "These ordinary Jews had no knowledge of the Book except the amount that they heard from their scholars. They did not have any other way to learn the Book. How is it then that the Qur'an censures them from their following their scholars and adopting their words? Are these ordinary Jews not exactly like the ordinary people among us (i.e. Muslims) who only follow their scholars? If it is impermissible for these Jews to follow their scholars, then it must be impermissible for our ordinary people to follow their scholars."

The Imam (‘a) explained the points of similarity and difference between the ordinary Jews and their scholars and the ordinary Muslims and their scholars. He (‘a) then added:

وَكَذَلِكَ عَوَامٌ أَمَّنَّا إِذَا عَرَفُوا مِنْ فُقَهَائِهِمُ الْفِسْقَ الظَّاهِرَ، وَالْعَصِيْبَةَ الشَّدِيدَةَ، وَالتَّكَالُبَ عَلَى حُطَامِ الدُّنْيَا وَحَرَامِهَا، وَإِهْلَاكَ مَنْ يَتَعَصَّبُونَ عَلَيْهِ إِنْ كَانَ لِإِصْلَاحِ أَمْرِهِ مُسْتَجِقًا، وَبِالتَّرَفُّقِ بِالْبِرِّ وَالْإِحْسَانِ عَلَى مَنْ تَعَصَّبُوا لَهُ، وَإِنْ كَانَ لِلْإِذْلَالِ وَالْإِهَانَةِ مُسْتَجِقًا. فَمَنْ قَلَّدَ مِنْ عَوَامِنَا مِثْلَ هَؤُلَاءِ الْفُقَهَاءِ فِهِمْ مِثْلُ الْيَهُودِ الَّذِينَ دَمَهُمُ اللَّهُ تَعَالَى بِالتَّقْلِيدِ لِفَسَقَةِ عُلَمَائِهِمْ. فَأَمَّا مَنْ كَانَ مِنَ الْفُقَهَاءِ صَائِنًا لِنَفْسِهِ، حَافِظًا لِدِينِهِ، مُخَالِفًا لِهَوَاهُ، مُطِيعًا لِأَمْرِ مَوْلَاهُ، فَلِلْعَوَامِ أَنْ يُقَلِّدُوهُ.

It is the duty of ordinary Muslims not to follow scholars that demonstrate apparent transgression, intense fanaticism and mad contention for the degrading and illegal pleasures of this world. They should be wary of those scholars who humiliate the one with whom they do not agree when he deserves guidance towards the truth, and they treat the one with whom they agree with leniency, kindness and favor even when he deserves to be humiliated and disgraced. If (ordinary) people of our nation follow such (irreligious) jurisprudents, they will be just like the Jews whom Almighty Allah has censured, for they too followed the wicked among their scholars. As for any jurisprudent who keeps himself from sinning, abides by his religion, opposes the dictates of his own desires, and obeys the commands of his Master, then it is allowable for (ordinary) people to follow him...

Reference: Tafsir al-Imam al-‘Askari (260 AH), pp. 300. The following reference books have also cited this tradition, yet with little difference in the order of the statements. For instance, some traditions have mentioned the phrase "opposes the dictates of his desires" in another form but the same purport. Refer to: al-Ihtijaj by al-Tabrisi (AH 560), 2:263; Wasa'il al-Shi'ah by al-Hurr al-'Amili (AH 1104), 27:131, H. (hadith no.) 33401, H. 20, Chapter: bab 'adam jawaz taqlid ghayr al-ma'sum fi ma yaqulu bira'iyhi (Illegality of Following anyone—other than the Infallible—who adopts his own opinions); Bihar al-Anwar by al-Majlisi (died in AH 1111), 2:88, Ch. 14, H. 12.

3. () As a matter of fact, the acts of such a person are acceptable if he knows that they are compatible with reality or the verdicts of the mujtahid who is accepted as marji` taqlid (i.e. a well-qualified jurisprudent whose verdicts are acceptable and can act as directions for the ordinary people). See Minhaj al-Salihin (Verdicts of the Religious Authority, the Head of the Seminary Sayyid Abu'l-Qasim al-Musawi al-Khu'i) 1:7, Question No. 2 in Taqlid.

Commenting on this topic, Professor Ayatullah al-Kharrazi says, "Even if the religious duties of an ordinary person correspond to what is religiously required by chance and these deeds do not correspond to the verdicts of the one whom he follows, then his deeds are decided as valid. Such being the case, the opinion of a mujtahid loses its authority, because it is no more than a way that leads to the validity of deeds." See Bidayat al-Ma'arif al-Ilahiyyah fi Sharh `Aqa'id al-Imamiyyah by al-Kharrazi (a contemporary writer) 1: 18 (footnote No. 1).

The deeds of an ordinary person are also decided as valid when he is sure that his performance of that deed or abandonment of another will not lead to infringing a religious duty. Such certainty may come from the person's attainment of sentimental knowledge or certainty that stems from reason-based resources, such as common sense or information of a well-versed person. See Minhaj al-Salihin (Verdicts of the Grand Ayatullah Sayyid `Ali al-Sistani) 1:9.

4. () Religious duties are either collective (kifa'i), that is if all Muslims abstain from performing them, all of them will have committed a sin, but if only one of them carries them out, then the others will be acquitted from their religious responsibility, such as the duty of enjoining the right and forbidding the evil. The other category of religious duties is the individual (`ayni) one, that is each Muslim is required to carry it out individually, such as offering of the obligatory prayers, observance of fasting in the month of Ramadhan, and the like. [translator]

5. () This is based on Almighty Allah's saying in the Holy Qur'an:

فَلَوْلَا نَفَرَ مِنْ كُلِّ فِرْقَةٍ مِنْهُمْ طَائِفَةٌ لِيَتَفَقَّهُوا فِي الدِّينِ وَلِيُنذِرُوا قَوْمَهُمْ إِذَا رَجَعُوا إِلَيْهِمْ لَعَلَّهُمْ يَحْذَرُونَ

"Why should not then a company from every party from among them go forth that they may apply themselves to obtain understanding in religion, and that they may warn their people when they come back to them that they may be cautious. (9/122)"

6. () Basa'ir al-Darajat al-Kubra by al-Saffar (AH 290), pp. 168, H. 7, S. 13. This hadith is reported from Imam al-Sadiq ('a).

In (the book of) al-Kafi by al-Kulayni (AH 329), 1:58 Section: bab al-bida` wal-ra'y wal-maqayis (Heresies, Opinionism, and Analogy), H. 19, this hadith is reported in the following form:

حَالِلٌ مُحَمَّدٌ حَالِلٌ أَبَدًا إِلَى يَوْمِ الْقِيَامَةِ، وَحَرَامُهُ حَرَامٌ أَبَدًا إِلَى يَوْمِ الْقِيَامَةِ، لَا يَكُونُ غَيْرُهُ وَلَا يَجِيءُ غَيْرُهُ.

What was deemed halal (lawful) by Muhammad will remain halal forever up to the Day of Resurrection, and what was deemed haram (unlawful) by Muhammad will remain haram forever up to the Day of Resurrection. Nothing will replace or change it.

The hadith has been also reported in a third form in al-Kafi by al-Kulayni 2: 17-18, Section: bab al-Shara'i` (Religious Laws), H. 2; al-Mahasin by al-Barqi (AH 274 or 280), 1:420, H. 963/365; and Kashf al-Ghummah fi Ma'rifat al-A'immah by al-Arbali (AH 693), 2:414.

7. () By Imam, we mean the twelfth Imam in the sequence of the Imam of the Ahl al-Bayt ('a), namely Imam al-Mahdi—may Allah hasten his reappearance—who disappeared from sight during the `Abbasid reign in AH 329 under certain circumstances and for a Divine logic. He is still expecting a Divine Command to reappear and establish the global government of justice. The author of this book will shed more light on this issue later on.

8. () Muhammad ibn Yahya has reported on the authority of Muhammad ibn al-Husayn on the authority of Muhammad ibn `Isa on the authority of Safwan ibn Yahya on the authority of Dawud ibn al-Husayn that `Amr ibn Hanzalah said:

I asked Imam Ja'far al-Sadiq ('a) whether it is or it is not acceptable for two Shi'ite men, who had disputed in an issue of debt or inheritance, to summon one another to the judgment of the ruling authority or the governmental judges.

The Imam (‘a) answered, “Verily, to go for judgment to such parties, whether in legal or illegal issue, is to resort for judgment to false deities (taghut). Whatever is decided for any party by such judges is considered illegal, even if it was the right of a party. This is because such party has taken it from the judgment of the illegal judge. In fact, Almighty Allah has ordered such false deities to be abjured. He has thus said (in the Holy Qur’an):

أَلَمْ تَرَ إِلَى الَّذِينَ يَزْعُمُونَ أَنَّهُمْ آمَنُوا بِمَا أُنْزِلَ إِلَيْكَ وَمَا أُنْزِلَ مِنْ قَبْلِكَ يُرِيدُونَ أَنْ يَتَحَاكَمُوا إِلَى الطَّاغُوتِ وَقَدْ أُمِرُوا أَنْ يَكْفُرُوا بِهِ وَيُرِيدُ الشَّيْطَانُ أَنْ يُضِلَّهُمْ ضَلَالًا بَعِيدًا

‘Have you not seen those who pretend that they believe in that which is revealed to you and that which was revealed before you, how they would go for judgment in their disputes to false deities when they had been ordered to abjure them? Satan would mislead them far astray. (4/60)’”

‘Amr asked, “Then, what must such parties do instead?”

The Imam (‘a) replied, “They must search for one from among themselves (i.e. followers of the Ahl al-Bayt (‘a)) who has been reporting our traditions, is acquainted with what is deemed legal and what is deemed illegal by us, and is familiar with the laws decided by us. They must then accept him as arbitrator, because I have appointed him as the judge among you. If he then issues a judgment compatible to our laws but a party (of a dispute) does not submit to it, then this party has in fact belittled Almighty Allah’s judgment and has rejected us. Verily, whoever rejects us has in reality made an objection to the authority of Almighty Allah, and this is tantamount to polytheism (shirk).”

This hadith can be found in the following reference books: al-Kafi by al-Kulayni (AH 329), 1:67, H. 10, Section: bab Ikhtilaf al-Hadith (Discrepancy of Hadith); 7:412, H. 5, Section: bab karahiyyat al-Irtifa‘ ila Qudhat al-Jawr (Discommendation of Submitting before an Unjust Judge); Tahdhib al-Ahkam by Shaykh al-Tusi (AH 460), 6:218, H. 514, Section: kitab al-Qadhaya wal-Ahkam (Issues and Laws), No. 6 Chapter: bab man ilayhi al-hukm wa aqsam al-qudhat wal-muftin (The Authorized for Judgment and the Kinds of Judges and Muftis). S. 87; 6:302, H. 845, H. 52, Section: bab min al-ziyadat fi al-qadhaya wal-ahkam (Additions in Issues and Judgments), S. 92; al-Ihtijaj by al-Tabrisi (AH 560), 2:106; ‘Awali al-La’ali by al-Ihsa’i (app. AH 880), 3:192, H. 37, Section: bab al-jihad (Jihad); 4:134, H. 231, Section: bab al-ahadith al-muta’alliqatu bil-‘ilmi wa-ahlihi wa hamilihi (Traditions Concerning Knowledge, its People, and its Bearers); Wasa’il al-Shi’ah by al-Hurr al-‘Amili (AH 1104), 1:43, H. 51, H. 12, Section: bab thubut al-kufr wal-irtidad bijuhudi ba’dhi al-dharuriyyat wa ghayriha mimma taqumu al-hujjatu fihi binaqli al-thuqat (Proving Atheism and Apostasy Due to Denial of the Essential Beliefs (of the Religion) and Other Matters Upon Which There Are Proofs Confirmed by Reports of Trustworthy Narrators); 27:137, H. 33416, H. 1, Section: bab wujub al-ruju‘ fi al-qadha’ wal-fatwa ila ruwat al-hadith min al-shi’ah (The Obligation of Reference to Shi’ite Narrators of Hadith in Issues of Judicature and Verdicts).

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