

Taqlid: Following a Mujtahid

Issue 1: * It is necessary for a Muslim to believe in the fundamentals of faith with his own insight and understanding, and he cannot follow anyone in this respect i.e. he cannot accept the word of another who knows, simply because he has said it. However, one who has faith in the true tenets of Islam, and manifests it by his deeds, is a Muslim and Mo'min, even if he is not very profound, and the laws related to a Muslim will hold good for him. In matters of religious laws, apart from the ones clearly defined, or ones which are indisputable, a person must:

- either be a Mujtahid (jurist)** himself, capable of inferring and deducing from the religious sources and evidence;
- or if he is not a Mujtahid himself, he should follow one, i.e. he should act according to the verdicts (Fatwa) of the Mujtahid;
- or if he is neither a Mujtahid nor a follower (Muqallid), he should act on such precaution which should assure him that he has fulfilled his religious obligation. For example, if some Mujtahids consider an act to be haraam, while others say that it is not, he should not perform that act. Similarly, if some Mujtahid consider an act to be obligatory (Wajib) while others consider it to be recommended (Mustahab), he should perform it. Therefore, it is obligatory upon those persons who are neither Mujtahids, nor able to act on precautionary measures (Ihtiyat), to follow a Mujtahid.P

** Mujtahid is a jurist competent enough to deduce precise inferences regarding the commandments from the holy Qur'an and the Sunnah of the holy Prophet by the process of Ijtihad. Ijtihad literally means striving and exerting. Technically as a term of jurisprudence it signifies the application by a jurist of all his faculties to the consideration of the authorities of law with a view to finding out what in all probability is the law. In other words Ijtihad means making deductions in matters of law, in the cases to which no express text is applicable. (See, Baqir Sadr, A Short History of 'Ilmul Usul, ISP, 1984).

Issue 2: Taqlid in religious laws means acting according to the verdict of a Mujtahid. It is necessary for the Mujtahid who is followed, to be male, Shi'ah Ithna Ash'ari, adult, sane, of legitimate birth, living and just ('Adil). A person is said to be just when he performs all those acts which are obligatory upon him,

and refrains from all those things which are forbidden to him. And the sign of being just is that one is apparently of a good character, so that if enquiries are made about him from the people of his locality, or from his neighbours, or from those persons with whom he lives, they would confirm his good conduct. And if one knows that the verdicts of the Mujtahids differ with regard to the problems which we face in everyday life, it is necessary that the Mujtahid who is followed be A'lam (the most learned), who is more capable of understanding the divine laws than any of the contemporary Mujtahids.

Issue 3: There are three ways of identifying a Mujtahid, and the A'lam:

- when a person is certain that a particular person is a Mujtahid, or the most learned one. For this, he should be a learned person himself, and should possess the capacity to identify a Mujtahid or an A'lam;
- when two persons, who are learned and just and possess the capacity to identify a Mujtahid or the A'lam, confirm that a person is a Mujtahid or an A'lam, provided that two other learned and just persons do not contradict them. In fact, being a Mujtahid or an A'lam can also be established by a statement of only one trusted and reliable person;
- when a number of learned persons who possess the capacity to identify a Mujtahid or an A'lam, certify that a particular person is a Mujtahid or an A'lam, provided that one is satisfied by their statement.

Issue 4: * If one generally knows that the verdicts of Mujtahids do vary in day to day matters, and also that some of the Mujtahids are more capable than the others, but is unable to identify the most learned one, then he should act on precaution based on their verdicts. And if he is unable to act on precaution, then he should follow a Mujtahid he supposes to be the most learned. And if he decides that they are all of equal stature, then he has a choice.

Issue 5: There are four ways of obtaining the verdicts of a Mujtahid:

- When a man hears from the Mujtahid himself.
- When the verdict of the Mujtahid is quoted by two just persons.
- When a man hears the verdict from a person whose statement satisfies him.
- By reading the Mujtahid's book of Masae'l, provided that, one is satisfied about the correctness of the book.

Issue 6: As long as a person is certain that the verdict of the Mujtahid has not changed, he can act according to what is written in the Mujtahid's book. And if he suspects that the verdict might have been changed, investigation in that matter is not necessary .

Issue 7: If an A'lam Mujtahid gives a fatwa on some matter, his follower cannot act in that matter on the fatwa of another Mujtahid. But if he does not give a fatwa, and expresses a precaution (Ihtiyat) that a

man should act in such and such a manner, for example if he says that as a precautionary measure, in the first and second Rak'at of the Salat he should read a complete Surah after the Surah of "Hamd", the follower may either act on this precaution, which is called obligatory precaution (Ihtiyat Wajib), or he may act on the fatwa of another Mujtahid who it is permissible to follow. Hence, if he (the second Mujtahid) rules that only "Surah Hamd" is enough, he (the person offering prayers) may drop the second Surah. The position will be the same if the A'lam Mujtahid expresses terms like Ta'mmul or Ishkal.

Issue 8: If the A'lam Mujtahid observes precaution after or before having given a fatwa, for example, if he says that if Najis vessel is washed once with Kurr water (about 388 litres), it becomes Clean (tahir/pak), although as precautionary measure, it should be washed three times, his followers can abandon acting according to this precaution. This precaution is called recommended precaution (Ihtiyat Mustahab).

Issue 9: * If a Mujtahid, who is followed by a person dies, his category will be the same as when he was alive. Based on this, if he is more learned than a living Mujtahid, the follower who has a general notion about the variation in the day to day Masae'l, must continue to remain in his taqlid. And if the living Mujtahid is more learned, then the follower must turn to him for taqlid. The term 'taqlid' used here implies only an intention to follow a particular Mujtahid, and does not include having acted according to his fatwa.

Issue 10: If a person acts according to the fatwa of a Mujtahid in certain matter, and after the death of that Mujtahid, he follows a living Mujtahid in that matter according to his obligation, he cannot act again according to the fatwa of the dead Mujtahid.

Issue 11: It is obligatory for a follower to learn the Masae'l which are of daily importance.

Issue 12: * If a person faces a problem whose rule is not known to him, it is necessary for him to exercise precaution, or to follow a Mujtahid according to the conditions mentioned above. But if he cannot obtain the ruling of an A'lam Mujtahid on that matter, he is allowed to follow a non-A'lam Mujtahid, even if he has a general notion about the difference between the verdicts.

Issue 13: * If a person relates the fatwa of a Mujtahid to someone, and then that fatwa is changed, it is not necessary for him to inform that person about the change. But if he realises after having related the fatwa that he had made an error, and the error would lead someone to contradicting the laws of Shariah, then as an obligatory precaution, he should do his best to rectify the error.

Issue 14: If a person performs his acts for some time without taqlid of a Mujtahid, and later follows a Mujtahid, his former actions will be valid if that Mujtahid declares them to be valid, otherwise they will be treated as void.

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