

## The Different Levels Of Taqleed

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### The Different Levels of Taqleed

Taqleed at each level has different rules. Not differentiating between the various levels can lead to misconceptions. False ideas regarding Taqleed develop due to not differentiating between these levels or totally ignoring them. This issue will be discussed at length because there remains some misinformation regarding the different levels of Taqleed.

### The Taqleed of the lay person

In the context of Taqleed a "lay person" is defined as one who knows little regarding the Arabic language, and about Islam in general - even though they may be intelligent in other fields of knowledge. Proficiency to read Arabic titles concerning the Qur'an and Sunnah but devoid of any formal Islamic studies with a qualified instructor would also place a person within the ambit of laity. In addition, students who have taken formal courses in Islamic sciences but have failed to develop acumen would also fall within this classification. The above mentioned are under an obligation to practice Taqleed. They must follow a specific Imam and Mujtahid because they simply do not have the ability to refer to the Qur'an and Sunnah directly nor can they differentiate between what is apparently contradictory and give scholarly preference to one opinion over the other.

Shaykh Khatib of Baghdad wrote:

**"As for those who should apply Taqleed it is the lay person who does not know the methods of extracting Islamic rules. It is permissible for such a person to follow one specific Imam and act upon his Fatwas. This is so because he does not possess the tools for Ijtihad so his duty is to follow, just as a blind person must follow someone who is able to see for determining the direction of the Qiblah."** [94]

The Muqallid (follower) on this level cannot get caught up in discussions of proofs to see which Imam's view is stronger. His duty is merely to appoint one Mujtahid and follow his opinions in all matters. This is because he is not academically capable of making judgments of that kind. So much so that even if this person finds a Hadith which apparently contradicts the opinion of his appointed Imam, he should not resort to following the Hadith, but rather adhere to his Imam's opinion. He should assume that he has not understood the meaning or context of the Hadith appropriately or he should have no doubt that his Imam has a stronger proof than the Hadith in question, which he may not be aware of.

This might seem to be a ludicrous proposition, explaining away the Hadith and act upon the opinion of his Imam. The truth is that at this level of Taqleed no other alternative exists. Freedom to practice upon any Hadith one sees, completely regardless of the fact that Ahadith literature is spread over several hundred thousand Ahadith contained

in over more than three hundred compilations, would lead to a distortion of the Shari'ah and result in chaos and confusion, because understanding how to extract rules from the Qur'an and Sunnah is so vast an enterprise that even if one spent a lifetime endeavoring to achieve this, it would not be possible to claim expertise. Many times, an apparent meaning is understood from a certain Hadith but after careful examination of the principles of the Qur'an and Sunnah, and other equally authentic Ahadith a totally different meaning emerges. Acting upon the apparent meaning of a Hadith will give rise to as many differing interpretations of a Hadith as there are intellects. I myself have witnessed many people who have studied the Qur'an and Sunnah and (without the aid of a scholar or a school) have made outrageous conclusions which are far removed from the truth. A friend very keen to study books on Hadith believed adamantly that although he was a follower of Imam Abu Hanifa, he would not hesitate to leave his school of thought if he found any Hadith, which contradicted it. Based on this belief, he informed someone, in my presence, that a person's wudu or ablution is not broken unless one actually hears wind passing or smells it. I understood immediately from where this misconception arose.

It is true that such a Hadith exists in Tirmidhi. The full Hadith narrated by Imam Tirmidhi reads:

"Abu Hurairah RA narrated that the Prophet sallallahu alaihi wa sallam said: **"Wudu does not break unless there is a sound or smell."**

Imam Tirmidhi then narrated another Hadith, which is very similar to the one above:

**"If anyone of you is sitting in the mosque and feels air between his buttocks, he should not leave unless he hears a sound or smells something."**[95]

My friend assumed that wudu did not break, according to this narration, unless there was evidence of a sound or a smell. The truth is quite far from it. All the scholars unanimously agree that this Hadith concerns only those people who are habitually suspicious of their wudu breaking 'without a valid reason. The Prophet sallallahu alaihi wa sallam informed that they would need more than their suspicions to confirm the invalidity of their wudu.

This is elucidated in other narrations such as the one in Abu Dawood:

**"If anyone of you are in the mosque and feels some movement in his buttocks and then starts to doubt whether he has broken his wudu or not, should not leave unless he smells an odour or hears a sound."** [96]

Abu Dawood himself has further narrated from Abdullah ibn Zubair RA that the Prophet sallallahu alaihi wa sallam explained this to person who was continuously suspicious of his wudu. Only a person who is qualified and an expert in Hadith can reach this conclusion. Acting upon reading one Hadith from one book would only lead to misconceptions and errors such as the one committed by the person in question. What is alarming is that he had been acting upon the apparent meaning of the Hadith for a long time. He did not know how many prayers he had offered without wudu.

Likewise, if the concession to leave an Imam's opinion for the sake of a Hadith is granted, the following Hadith narrated in Tirmidhi would appear to go against the collective (Jumhoor) Fatawa of the Imams.

Ibn Abbas RA narrated that the Prophet sallallahu alaihi wa sallam **"combined the afternoon prayer (Zuhr) with the late afternoon prayer (Asr) and the evening prayer (Maghrib) with the night prayer ('Isha) in Madinah even though there was no rain or fear present."** Ibn Abbas RA was asked to explain this action and said that the Prophet sallallahu alaihi wa sallam **"did not wish any burden to fall on his community."** [97]

The initial impressions one gains from this Hadith is the permissibility to combine Zuhr with Asr and Maghrib with Isha even without being a traveler, in fear or excessive rain. All the scholars, including the people who claim to follow Hadith literally, see the Hadith as meaning an apparent combining of the prayers in question. The Prophet sallallahu alaihi wa sallam offered Zuhr when it was almost time for Asr and then Maghrib when it was almost time for 'Isha. This interpretation would be in line with all other principles and proofs from the Qur'an and Sunnah, whereas the first and apparent meaning would not.

These are two examples from many, where a person who is not qualified can very easily mislead himself and others into interpreting texts incorrectly. For this reason Scholars have declared that a non-scholar who is not capable of understanding Hadith should learn from a person who has expertise in the field. The Taqleed of an Imam or Mujtahid is made when there is an apparent contradiction in the Qur'an and Sunnah. If there is a difference of opinion between Imam Abu Hanifa and Imam Shaf'iee, proofs exist for both sides. In instances where there exist discordant proofs for two sides, the person who cannot judge which one of the two scholars, argument is stronger should follow a specific Imam and Mujtahid.

If one adopts Imam Abu Hanifa to be as one's Imam and finds a Hadith which apparently supports Imam Shaf'iee opinion, he should not leave Imam Abu Hanifa's opinion because there must be a stronger reason (according to the Hanafi view) for Imam Abu Hanifa (or Mujtahids within the Hanafi school) to leave the Hadith. None can conclude that the Hanafi view is against the Hadith. This is all the more apparent in a scenario where the follower does not have the academic qualifications to judge which proof is stronger, even if this follower finds a Hadith which contradicts his Imam, he should not forsake his Imam's opinion but rather assume that he has not understood the meaning of the Hadith in its appropriate context. The principle of this approach is very simple. A person who is in need of legal advice goes to a reputable lawyer and attorney. He does not resort to researching the books of law independently. If he approaches a legal expert whose reputation is flawless and about whom he knows that he would not mislead him - and finds that there is an apparent contradiction in the law and what he is advising, he should still listen to the attorney and act upon his advice. He should still give his attorney the benefit of the doubt and assume that the law may be interpreted in a way, which is different to his own understanding. This approach is necessary (and accepted) because everyone

knows that understanding the law requires tremendous expertise and acumen. This expertise is all the more necessary where the law is deduced from the Qur'an and the Sunnah and extrapolated to the full corpus of the Shari'ah, which covers the whole ambit of human existence. Scholars have indicated that the lay person should not resort to understanding the Quran and Sunnah directly, but rather consult scholars and jurists. This has been promoted to the extent that if a lay person is given a Fatwa which turns out to be wrong, the liability will be with the one who gave the Fatwa and not on the one who sought and applied it, but if a lay person decides to consult the texts himself and assumes an incorrect interpretation and acts upon it, he will not be freed from blame for his mistake since it was not his responsibility to search for an answer independently.

For example, cupping while fasting does not invalidate a person's fast. If a lay person asks a Mufti if cupping breaks his fast and the Mufti, for whatever reason, replies in the affirmative, then the burden of the lay person eating and drinking for the remainder of the day will fall on the Mufti and not on the lay person. The author of Al-Hidayah, a renowned book on Hanafi law, said that the lay person would have to make up the fast but there will be no additional penalty on him. The author of Hidayah explained this by saying that the Fatwa is a legal proof for the lay person, but if this same lay person read in Abu Dawood and Tirmidhi that the Prophet sallallahu alaihi wa sallam passed by a person who was cupping his blood while fasting and said:

**"Both the one cupping the one cupped have invalidated their fast."** [98]

He decided that his fast had broken and started to eat and drink, then according to Imam Abu Yusuf, he would have to make up the fast and be responsible for the penalty of fasting sixty days consecutively. Abu Yusuf explained: **"The lay person must follow the scholar and the jurist since he is not able to reach a correct conclusion by reading the Hadith."** [99]

To summarise, the first level of Taqleed is for the lay person who should follow the opinion of his Imam.

### **The Taqleed of an expert scholar**

An expert scholar although not a Mujtahid, has nonetheless developed mastery and command over Islamic sciences such as Tafseer, Hadith and Fiqh. Scholarship of this level demands the development of the capability to extract rules from the Quran and Sunnah. Shah Waliyyullah explained the term "Expert Scholar" in the following words from his "Chapter on the Expert Scholar on a school of Thought":

**"This scholar memorizes the works of his particular school. Prerequisites are that he should be of sound judgment and understanding; well-versed in Arabic and rhetoric; he should be aware of the different levels of preferences (in arguments) and he should understand the context of the scholars of his school of thought; he should be aware of the statements limited and restricted even though they may appear to be absolute."** [100]

This person is capable of being a Mufti within a school of thought. This classification of Taqleed differs from the Taqleed of a lay person in the following: **"This person is not only aware of the school of thought, but also of the reasoning behind the Fatwas of that school. As a Mufti, he is able to sift through the different opinions within his school and is qualified to issue Fatwas based on the needs of his age or to elucidate them accordingly. Hence, those issues, which are discussed in the books of the school of thought, which he adheres to, may be evaluated according to the premises of the school. In exceptional circumstances, he may leave his Imam and follow the opinion of another Imam. The rules and conditions for this practice are explained in the principles of jurisprudence and in the books of giving Fatwas."** [101]

A situation may arise where the Expert Scholar discovers a Hadith which totally contradicts the opinion of his Imam or an argument which is stronger than that of his Imam. In such a scenario, wrote Shah Waliyyullah: **"Should this scholar practice the Hadith and forsake his school? There is a difference of opinion in this issue. The author of Khazanatur Riwayaat has discussed this at length and quoted from the book entitled: "Dastoor ul Salikeen". We shall narrate his words verbatim...."** [102] Shah Waliyyullah continues to quote the text. The summary is that some scholars believe that this scholar does not have the prerogative to leave the opinion of his Imam and act on the Hadith because it might be that his Imam had a perspective, which he does not.

However, the majority of scholars believe that if this expert scholar has evaluated all arguments from all angles, then he does have the prerogative to act upon the Hadith if he meets the following requirements:

1. He is actually an expert scholar of the caliber mentioned above.
2. He has adequately established that the Hadith in question is indeed a sound Hadith. Occasionally, the Mujtahid will relinquish acting upon a certain Hadith because it was not deemed sound, if that is the case, then the non-Mujtahid does not have the prerogative to leave his school.
3. No verse of the Quran or Hadith apparently contradicts the Hadith in question.
4. The meaning of the Hadith is clear and does not carry the possibility of another interpretation. A certain Mujtahid may assume a meaning of a text, which is against its apparent meaning. If that is the case, then the non-Mujtahid may not assume otherwise, since his Imam has fixed its meaning according to his intellectual prowess which the follower does not have. Taqleed requires that a non-Mujtahid follow a Mujtahid in areas where there is several possible interpretation of a text. [103]
5. It is also necessary that the opinion of the expert scholar does not go against the consensus of the four Imams, the dangers and harms of going against the

consensus of the four Imams have been outlined earlier. [104]

With these conditions fulfilled, an expert scholar may leave his Imam's opinion. The following excerpts from prominent scholars verify this.

Imam Nawawi writes:

**"Sheikh Abu Amr (Ibn Salaah) said that any scholar of the Shaf'iee school of thought who finds a Hadith which contradicts his school, then if he has perfected the tools of Ijtihad within himself, or if he has acquired command over the chapter of jurisprudence under discussion, or if he has acquired command over the issue under discussion he may follow that particular Hadith independently. If he has not reached perfection, or if he has not acquired command but still feels very uncomfortable in opposing the Hadith and does not find a reasonable explanation for his Imam's opinion, then again he may follow the Hadith if a Mujtahid other than Imam Shaf'iee has practiced the Hadith in question [Imam Nawawi was a Shaf'iee in Fiqh]. This [that another Mujtahid has applied the Hadith] is reason enough for him to go against his Imam. This is what Sheikh Abu Amr has said and is good and a standard." [105]**

Shah Waliyullah concurs with Nawawi:

**"The preferred opinion is the third which is what Ibn Salaah has said and with which Nawawi agreed and deemed correct..." [106]**

There has always been a debate in the principles of jurisprudence whether Ijtihad can be partialized or not. Can a scholar who is not an absolute Mujtahid in the whole legal corpus of Islam be a Mujtahid in a particular field of Islam or in a particular issue in Islam? Some scholars reject the possibility because Ijtihad and its acumen is only developed when a scholar has reached a stage where he has prowess in the whole legal corpus of Islam and Islamic law. This is only a privilege of the absolute Mujtahid.

However, a very large group of scholars maintain that a scholar may indeed be a Mujtahid in a certain chapter or issue of Islamic law even if he has not reached the level of an absolute Mujtahid. Shaykh Tajuddin Subki and Shaykh Mahalli both hold this view: **"The correct opinion is that Ijtihad can be partialized such that certain scholars develop acumen in certain chapters like inheritance for instance. This would be acquired by gathering all the proofs and arguments in that chapter themselves or by studying the school of a certain Mujtahid and then being able to analyse the positions with judicial expertise."**

Shaykh Banani wrote in his commentary on Jam'ul Jawami':

**"Ijtihad of a school of thought can be partial. This stage may be acquired by a person who is not an absolute Mujtahid." [107]**

Shaykh Abdul Aziz Bukhari wrote in the commentary of the Principles of Fakhru'l Islam Bazdawi: **"In general, scholars hold that Ijtihad can be partial. It is quite possible for a scholar to become a Mujtahid in some rules and law instead of others." [108]**

Imam Ghazali wrote:

**"I do not believe that Ijtihad cannot be partialized. It is possible for a scholar to be a Mujtahid in one area and not in others." [109]**

Shaykh Taftazani wrote:

**"Also, you must remember that these conditions are for an absolute Mujtahid who gives Fatwas in all areas and issues, for a Mujtahid in one area and not in others, he must know everything related to his area and its rules." [110]**

Maulana Amir Ali wrote a footnote to what Shaykh Taftazani said:

**"The statement: 'As for the Mujtahid of a certain topic..'. he should know the principles of his Imam since every extraction and extrapolation will be according to those principles. A new rule is known as Ijtihad in the rule; and a new proof for an existing narrated rule is known as extraction (Takhreej)." [111]**

Shaykh ibn Hamam has also agreed that Ijtihad may be partial. He has added further that a scholar who is not an absolute Mujtahid need only follow his Imam in issues where he has not reached the level of Ijtihad himself. [112]

Shaykh Zainuddin Ibn Nujaim has also quoted the exact text. [113]

However, Shaykh Ibn Amir al-Hajj has quoted Shaykh Zumulkani's decisive statement: **"The Ijtihad acumen is of an indivisible nature in that a scholar must be able to extract and extrapolate rules; understand the context of text and proofs of premises and what contradicts them. His knowledge must be comprehensive in this sense and hence, this acumen is not divisible and is required even for partial Ijtihad. However, if a scholar possess comprehensive knowledge of a certain chapter or a certain issue, then he must use this acumen for that particular chapter or issue." [114]**

In summary, if an expert scholar finds that his Imam's opinion in a certain issue contradicts a Hadith which has proven to be sound and conclusive, then based on the above mentioned opinions of scholars, he may leave his Imam's opinion and practice the Hadith - even though the expert scholar may not have reached the level of absolute Ijtihad himself. Maulana Rasheed Ahmed Ghanghoji, the jurist of our times - wrote: **'After due diligence, if this opinion of his Imam is against the Qur'an and Sunnah, then every believer must leave the Imam's opinion. Nobody will deny this if the case is proven. The question is, how can a lay person determine this?'** [115]

The final word in this issue has been carved by Maulana Ashraf Ali Thanvi whose long quotation we will narrate here without any apprehension :

**"If a well-versed, intelligent and unbiased scholar finds - through his investigation - or if a lay person sincerely discovers through a God-fearing scholar that the preference in a certain issue is for the opposing judgment, then it should be observed**

whether the less preferred opinion has any legal leeway or outlet for implementation, there are legal grounds [under Islamic law] for the implementation of the less preferred opinion and if forsaking that less preferred opinion would lead to commotion, disunity or turmoil within the Muslim community, then that less preferred (or weaker) opinion should still be followed. The following Hadith is adequate proof for this approach:

Ayesha RA said that the Prophet sallallahu alaihi wa sallam addressed her and said: "Did you know that your people - the Quraish - had reduced the foundations of the Ka'bah from the foundations laid by Ibrahim AS." Ayesha RA asked the Prophet sallallahu alaihi wa sallam: "If this is the case, then you should have the Ka'bah rebuilt according to the original foundations." The Prophet sallallahu alaihi wa sallam said: "If the Quraish had not been so new in Islam, [and so close to the days of Kufr] I would have done exactly that." There was a fear that people would disagree about the Ka'bah being uprooted which might have resulted in consternation. Though the preferred opinion was to rebuild the Ka'bah according to its original foundations, the Prophet sallallahu alaihi wa sallam did not sanction rebuilding the Ka'bah because the less preferred opinion of leaving the Ka'bah incomplete was also legally permissible, the less preferred opinion was given preference. If the less preferred opinion offers no legitimate leeway and instead actually leads to an illegal act or if it leads to forsaking a mandatory act - and does not have any evidence besides analogy and if the preferred opinion has a sound Hadith in its favour, then the Hadith must be practiced without any hesitation. No Taqleed would be permissible in this case. This is because the real issue is to follow the Qur'an and Hadith and that is what is intended by practicing Taqleed (that following the Quran and Hadith is facilitated). So when following the Qur'an and Hadith does not agree with Taqleed, the former must be adopted. Sticking to Taqleed under these circumstances is what has been condemned by the Qur'an, Sunnah and scholars.

If these circumstances do arise, condemning or keeping enmity against any of the scholars and Mujtahids is not permissible. This is because there is a possibility that the scholar in question did not know of this Hadith, or if he did, he found it to be weak or explained by another principal of Islamic law. The scholar and Mujtahid would be excused for this oversight. Similarly, the issue that the Hadith in question did not reach this particular scholar does not undermine his academic acumen. There are several instances where the great scholars from among the Companions did not hear of a certain Hadith until very late in their lives, but their academic acumen or expertise was never questioned or in doubt. Likewise, a person who practices Taqleed does not have the prerogative to denounce or criticize one who has not made Taqleed in an issue if the criterion of the mentioned above are fulfilled (where following the Hadith should be adopted). This kind of difference has been in vogue since the time of our predecessors. Scholars have generally acted upon the maxim (Qawa'id) my school is assumed to be correct with the possibility of error and the other schools are assumed to be incorrect with the possibility of being correct. This dictum enables following a particular school while also accepting other schools as equally valid. However, differing in the basic theological precepts and concepts of the predecessors, or condemning the predecessors, place the perpetrator outside the Ahle Sunnah wal Jama'ah. This is because the Ahle Sunnah wal Jama'ah is the main body of the Muslim community whose opinions were

**believed and followed by the Companions of the Prophet sallallahu alaihi wa sallam. This action of condemnation is totally against the actions of the Companions and therefore such a person would be outside the parameters of the Ahle Sunnah. Similarly, a person who adopts an extreme position with regards to Taqleed such that he rejects the Qur'an and Sunnah should also be avoided, in fact, one should try and avoid arguing or exchanging views with such people." [116]**

The moderate prescription offered in this statement by Maulana Thanvi would save the Muslim community from many internal disputes. With the above conditions fulfilled, an expert

scholar may leave the opinion of his Imam and follow a Hadith instead, but despite this very partial difference with his Imam, he would still be considered a follower (Muqallid) of his Imam. Hence, many Hanafi scholars have diverged from Imam Abu Hanifa's opinion on certain issues. For example, drinking a very small amount of intoxicating drink - from a non-wine substance - in order to gain some strength was allowed by Imam Abu Hanifa but not any other scholar. The Hanafi scholars left the opinion of their Imam and followed the opinion of the majority. Also, Imam Abu Hanifa did not allow the practice of temporary share cropping contract. Again, the Hanafi scholars did allow this practice under very strict conditions and with defined shares. These are two examples where the later scholars agreed to disagree with Imam Abu Hanifa. Otherwise, there are several examples where specific individual Hanafi scholars have diverged from the Imam's position on account of a Hadith. The issue is indeed very sensitive and to assume that the scholarly credentials which are indispensable for this kind of academic activity is achieved without great exertion, would be atrocious to say the least. Disregarding the layman, not even capable scholars have ventured out of the agreed position within the Madhab to which they adhere.

### **The Taqleed of a scholar who is a Mujtahid in his school**

A scholar who is a Mujtahid in his school follows and adopts an absolute Mujtahid's principles of extracting and deriving rules [usool] but possesses the ability to extract laws directly from the Quran and Sunnah. Such a Mujtahid may differ with his Imam on certain details and rules but follows the majority of the rulings within the school. Imam Abu Yusuf and Imam Muhammed from the Hanafi school; Imam Muzni and Imam Abu Thaur from the Shaf'iee school; Imam Sahnoun and Imam Ibn Qasim from the Maliki school and Imam Ibrahim al-Harbi and Imam Abu Bakr al-Athram from the Hanbali school are all examples of Mujtahids within their respective schools who differed with the founders of their schools, Shaykh Ibn Abi Deen introducing these scholars writes:

**"The second level [of Mujtahids] are those who are Mujtahids in their school of thought like Abu Yusuf and Muhammed and all other Hanafi scholars who are capable of deriving rules from the above mentioned proofs based on the principles of their teacher (Imam). These scholars, although differing with their teacher in certain details, follow him in the bases of his principles."**

This is the reason why Imam Abu Yusuf and Imam Muhammed are considered to

be Hanafi scholars even though they differed with Imam Abu Hanifa in many details.

### **The Taqleed of an absolute Mujtahid**

An absolute Mujtahid is a scholar who fulfills all the necessary requirements of Ijtihad. He is able to formulate principles of derivation and extraction from the Quran and Sunnah, and deduce and formulate Islamic laws from the primary sources. Imam Abu Hanifa, Imam Malik, Imam Shaf'iee and Imam Ahmed ibn Hanbal are examples of such scholars. However, as much as these scholars are absolute in their Ijtihad, they too are not immune to following [making a degree of Taqleed]. These scholars would resort to following a Companion or a follower of a Companion in issues where the Qur'an and Sunnah were silent.

They would give preference to their opinions over their own analogies and Ijtihad. The following are some examples from the first generation of Muslim scholars.

Omar RA sent a letter to Qadi (judge) Shuraih which formed the basis of this practice. Imam Sha'bi said:

**"Shuraih reported that Omar wrote to him and said: "If you are in a dispute or in a case where a rule from the Quran is evident, then judge accordingly. If there is nothing in the Qur'an, then look into the Sunnah of the Messenger of Allah and judge accordingly. If there is nothing in the Sunnah, then see what people (scholars) have agreed upon and judge accordingly. And if there is nothing in the above-mentioned sources, then you have a choice. You may either exert or exercise your own opinion and enforce it, or you may reserve judgement. I believe that reserving your opinion can be nothing except good for you." [118]**

We should observe that Shuraih was an absolute Mujtahid. Omar RA advised him to exercise Ijtihad only if he did not find another's opinion. Abdullah ibn Mas'ood RA also made a similar statement as mentioned earlier under the discussion concerning absolute Taqleed. Darimi has narrated in his Sunnan that Ibn Abbas RA would answer from the Qur'an when he was asked about an issue. If he did not find it in the Qur'an, he would answer from the Prophet sallallahu alaihi wa sallam . If he did not find an answer there either, he would answer from Abu Bakr and Omar. If there were no answer there, he would then resort to his own opinion. [119] Here again we see that Ibn Abbas RA who was a competent Mujtahid himself only resorted to his own opinion if he did not find a solution from Abu Bakr and Omar. Sha'bi said that a person came to him and asked him a question. He (Sha'bi) said that Ibn Mas'ood RA made the following comment on the same issue. The person insisted that Sha'bi gives him his opinion. Sha'bi exclaimed:

**"Look at this man! I informed him of what Ibn Mas'ood said and he is asking me for my own opinion. My faith is much dearer to me than that [I should honour his request]." [120]**

Here, Imam Sha'bi (who was one of Imam Abu Hanifa's teachers) preferred to rely on the opinion of Ibn Mas'ood RA. Imam Bukhari has narrated (with a suspended chain) Mujahid's statement regarding the commentary of the verse:

**"And make us leaders for those who are God-conscious, make us Imams (leaders) who follow those who came before us and allow those who come after us to follow us".**

Hafiz Ibn Hajar said that Mujahid's statement has been narrated with a sound chain by Ibn Jarir and Faryabi. Ibn Hajar went on to collaborate this statement with similar quotations from several other commentaries. He concluded with Suddi's quote from Ibn Abu Hatim:

**"The purpose is not to become Imam (in salaah). These scholars are supplicating: O Allah! Make us leaders in matters which are halal and haram so others can follow accordingly." [121]**

Ibn Abu Hatim has also narrated from Ja'far ibn Muhammed:

**"The meaning is: O Allah! Give me acceptance among people such that if I say something, they approve of it and accept it from me." [122]**

**Mujahid, who was an absolute Mujtahid, realised the importance of following his predecessors, a principle which unfortunately seems to be much maligned in the present era.**

Notes:

94 Al-Faqih wal Mutaffaqih, by Khatib of Baghdad, page 68 - printed by darul Iftaa, Riyadh, 1389.

95 Jami' Tirmidhi: vol. 3, page 31

96 Sunan Abu Dawood : vol. 1, page 24

97 Tirmidhi: vol. 1 page 46

98 This Hadith is sound as far as its chain of narrators go. Imam Bukhari has narrated that the Prophet

sallahu alaihi wasallam himself cupped blood while fasting and Nisaai has narrated from Abu Sa'eed Khudri RA that the Prophet sallahu alaihi wasallam gave him permission to have his blood cupped while

fasting. Based on these two narrations, all four schools of thought and all other scholars unanimously

agree that the Hadith mentioned in the text (from Abu Dawood and Tirmidhi) is either abrogated or has

another context. There are various other interpretations of this Hadith. Refer to Tahfaul Ahwadh: vol. 2,

page 64 and 65

99 Hidayah: vol. 1, page 226

100 'Iqdul Jeed: page 51

101 There are detailed accounts of these conditions in the book of Ibn Abi Deen like 'Uqood rasmul Mufti

102 'Iqdul Jeed.....

103 These four conditions were stipulated in Maulana Ashraf Thanfi's book: al-Iqtisad fil wal Taqleed Ijtihad: page 34 - 36

104 This condition is found in 'Iqdul Jeed: 58

- 105 Al-Majmoo' the commentary of Al-Muhaddhab: vol: 1, page 105
- 106 'Iqdul Jeed
- 107 Both of the above quotation can be found in Shaykh Banani's commentary on Jam'ul Jawami' (in the footnotes): vol. 2, page 403-4, printed by Tijariyah al-Kubar of Egypt
- 108 Kashful Asraar by Abdul Aziz Bukhari: vol. 3 page 137
- 109 Al-Mustaf, by Ghazali: vol. 2, page 103
- 110 Al-Talweeh ma'a Al-Tawdeeh: vol. 2, page 118 (printed in Egypt)
- 111 Al-Tawshee ala al-Talweeh: page 604
- 112 Translator's note: I have left out the verbatim translation of the intricate Arabic text quoted by the author so as not to confuse the English render. The quote is from Amir Ali Shah Bukhari in his work "Tayseerul Tahreer": vol. 4. page 246 (Printed by Mustafa al-Babi)
- 113 Fathul Ghaffar. The commentary of Al-Manar by Ibn Nujaim: vol. 3, page 37 (Printed by Mustafa al-Babi. Egypt 1355)
- 114 Al-Taqreer wal Tajeer, by Ibn Amir al-Hajj; vol. 3, page 294
- 115 Sabeelur Rashad: by Maulana Gangohi: page 30-31 (printed by Matbou'a of Delhi 1352)
- 116 Al-Iqtisaad fil Taqleed wal Ijtihad, by Moulana Thanvi: page 42-45
- 117 Sharhu 'Uqood Rusmul Mufti, by Ibn Abi Deen: page 4, printed by Darul Isha'aat, Karachi 1378
- 118 Suanan of Darami: vol 1, page 55, printed by Madinah Matbu'ah, 1386
- 119 Ibid
- 120 Ibid vol. 1 page 45
- 121 Translator's note: In other words: O Allah! Make us so God-fearing: that we enjoy what is halal and abstain from what is haram and then allow others to follow us.
- 122 Fathul Bari: vol. 13 page 210