

*Module II:
The
Transmission of
Islam*



Learning Objectives

- 1] Establish that legitimate differences of opinion in Islamic law are a mercy.
- 2] Know the duty of the non-*Mujtahid* when it comes to Islamic law.
- 3] Learn the scriptural and rational basis for following qualified scholarship (*taqlid*).
- 4] Know the difference between *taqlid* in *Aqida* (“blind-conformism”) and *taqlid* in *Fiqh* (“following qualified scholarship”).
- 5] Address common objections and misunderstandings.
- 6] Know how to practically approach learning *Fiqh*.

Differences Are a Mercy

As we saw from the hadith of Banu Qurayza, differences of opinion in matters of law are a natural outcome of applying logic and language to law.

1] “The differences among the Companions of Muhammad (Allah bless him and give him peace) are a mercy for Allah's servants.” –Qasim b. Muhammad b. Abi Bakr al-Siddiq (al-Bayhaqi, *al-Madkhal*)

2] “The differences among the Companions are a mercy for Allah’s servants.” –Imam Malik (Ibn al-Subki, *Tabaqat al-Shafi'iyya*)

3] “It would not please me more if the Companions of Muhammad (Allah bless him and give him peace) did not differ among them, because had they not differed, there would be no leeway (for us).” –‘Umar b. ‘Abd al-‘Aziz (al-Bayhaqi, *al-Madkhal*)

4] “Difference of opinion in the Community is a token of divine mercy.” —Imam Abu Hanifa (*al-Fiqh al-Akbar*)

Is Every *Mujtahid* Correct?

In areas of disagreement, the truth with Allah is **only one**. That is, even in “legitimate” areas of disagreement amongst the jurists, the truth in the Shariah is only one and the intent of the Lawgiver is only one.

However, errors are excused in “legitimate” areas of disagreement, not because these errors were also intended by the Lawgiver, but because the person following the “erroneous view” applied his efforts to find the Lawgiver’s intent in matters that are not absolutely and categorically clear in the scriptural texts. Hence, the disagreements are due to differences in understanding (*ikhtilaf al-anzar*), not due to an intrinsic disagreement or discrepancy in the Shariah itself.



The Duty of the Non-*Mujtahid*

The duty of the non-*Mujtahid* is to ‘follow qualified scholarship’ (Arabic: *taqlid*). The non-specialist is **not** tasked with ‘re-creating the wheel’ and weighing and analyzing proofs. ‘Qualified scholarship’ is represented by scholars who have studied law in a proper organized, codified way, as preserved by **one of the four extant legal schools in Islam**.

الْمَذَاهِبُ الْفَقْهِيَّةُ الْأَرْبَعَةُ

الْحَنَفِيَّةُ - الْمَالِكِيَّةُ - الشَّافِعِيَّةُ - الْحَنَابِلِيَّةُ

Taqlid

Taqlid: “Accepting the view of someone without a proof.” –Imam al-Ghazali (*al-Mustasfa*)

Taqlid in ‘Aqida: Accepting the view of someone in matters of belief without proof. This is prohibited because in matters of belief there must be certainty.

Taqlid in Law: The non-*Mujtahid* accepting a legal ruling from a qualified scholar without questioning his textual proof or juristic reasoning.

The vast majority of *Fiqh* details **speculative matters** of Islamic law (*Zanni*) which fall below the level of certainty. In such matters, Ahl al-Sunna have agreed on the validity of four schools of law, all of which are valid, regardless of correctness or incorrectness of the *Mujtahids*’ personal analysis.

Types of Knowledge

- 1] General knowledge of the basics of Islamic belief. –**no taqlid**
- 2] General knowledge of ethics—the principles of good character, to do good and avoid evil, to cooperate with others in in good works, and so on. –**no taqlid**
- 3] Specific understanding of particular divine commands and prohibitions that make up the Shariah. Here, because of the both the **nature** and **sheer number** of Quran and hadith texts involved, people differ in their *scholarly capacity* to understand and deduce rulings from them. –**taqlid required for non-Mujtahids**

All of us have been commanded to apply the Shariah in our lives, in obedience to Allah, and so Muslims are broadly two types: (A) those who can deduce legal rulings from the Quran and hadith by themselves, and (B) those who cannot, and who ***must do so by means of others.***

The first type is called a **Mujtahid**. Everyone else besides the **Mujtahid** is a ‘**follower of qualified scholarship.**’

Following Qualified Scholarship

Allah commands us to ask them when we do not know the answer to a question, **'Ask the People of Knowledge if you do not know.'** (21:7)

The Imams mention scholarly consensus (*ijma'*) that the ordinary people in the times of the Companions and those after them—before dissenters arose from the Khawarij and Rawafid—would follow them: **"The learned among them would unhesitatingly answer their questions, without alluding to mention of evidence. No one censured them for doing this..."** (al-Amidi, *al-Ihkam*)



I only follow the Quran and Sunna!...

1] What were the four Imams and esteemed *Mujtahids* following, the Bible?

2] ‘Yes! Whoever reaches the level of *ijtihad*, and a number of scholars testify to it, *taqlid* is not allowed for him. Much like how a novice jurist, or a layman who has memorised the Qur’an or most of it, **is not permitted to attempt *ijtihad* at all**. How could he make *ijtihad*? What could he possibly say? On what can he base his opinion? How can he fly and he has yet to grow wings?’ –Imam al-Dhahabi (*Siyar A’lam al-Nubala*)

3] ‘*Taqlid* is to adopt a view without [detailed] knowledge of its evidence, and it is binding on the non-*Mujtahid*.’ –Imam al-Subki (*Jam‘ al-Jawami*)

4] ‘It is binding on the layperson and the one who does not have the qualification of *ijtihad* – even though he has acquired some sciences that are taken into consideration for *ijtihad* – to follow the view of the *Mujtahids* and to accept their fatwas...’ –al-Amidi (*al-Ihkam*)

Taqlid

‘We find proof of that [*taqlid*] in two ways: **First**, the consensus of the Companions who used to give fatwas to laymen without asking them to attain the level of *ijtihad*. This has been known by necessity and through multiple routes of transmission from scholars and laymen among them. Second, the consensus that the layperson is responsible for implementing [Allah’s] rulings, and demanding that he attain the level of *ijtihad* is impossible because it would lead to the ruin of crops, family, crafts, and livelihood, and lead to the destruction of the world, as everyone would be preoccupied with seeking knowledge [to the level of *ijtihad*]...’ –al-Ghazali (*al-Mustasfa*)

Taqlid

- There were a limited number of *Mujtahids* giving fatwa in the time of the Companions: The four Khulafa', Ibn Mas'ud, Abu Musa al-Ash'ari, Mu'adh b. Jabal, Ubay b. Ka'b, and Zayd b. Thabit.
- During the second generation, the circle of *Ijtihad* widened and the Mujtahids were represented by two legal trends: *Ahl al-Ra'y* and *Ahl al-Hadith*.
- Those of *Ahl al-Ra'y* in Iraq were: 'Alqama b. Qays, Masruq, Ibrahim al-Nakha'i, Sa'id b. Jubayr.
- Those of *Ahl al-Hadith* in the Hijaz were: Sa'id b. Musayyib, al-Makhzumi, 'Urwa b. al-Zubayr, Sulayman b. Yassar, and Nafi' the freed slave of Ibn 'Umar.
- There were many 'legal schools' with their particular legal methodologies that emerged after this age. Of those legal schools who endured, we have four: the schools of **Imam Abu Hanifa, Imam Malik, Imam al-Shafi'i, and Imam Ahmad b. Hanbal.**

Classical Scholars



"We've spent our entire lives researching Islam and traveling across the world just to have the honor of studying under the greatest scholars of our time, and we compiled our life-long dedication to knowledge into volumes of textbooks that will last for hundreds of years and will teach future students of *'ilm.*"

Sheikh ul Google



"I just spent 7 minutes googling some articles about that Islamic question you had- and here's my personal refutation of what some scholar dude said in the past. He was wrong, LOL."

‘If the hadith is sound, it is my *Madhab*.’ –Imam al-Shafi’i

‘What Imam al-Shafi’i said does not mean that everyone who sees a *Sahih* hadith should say “This is the *madhab* of al-Shafi’i,” applying the purely external or apparent meaning of his statement. What he said most certainly applies only to such a person as has the rank of *ijtihad* in the *madhab*. It is a condition for such a person that he be firmly convinced that either Imam al-Shafi’i was unaware of this hadith or he was unaware of its authenticity. And this is possible only after having researched all the books of al-Shafi’i and other similar books of the companions of al-Shafi’i, those who took knowledge from him and others similar to them. This is indeed a difficult condition to fulfill. Few are those who measure up to this standard in our times... –Imam al-Nawawi

The Four Legal Schools (*Madhabib*)

A *madhab* is not the isolated views of its founding Imam. Rather, it is the collective effort of thousands of scholars adhering to the founding Imam's legal methodology.

The four schools are:

- 1] The collective *ijtihād* traced back to the legal methodology of their founders, linked to the methodologies and rulings of the Mujtahids of the second generation who took directly from the Companions. (*Musnada*)
- 2] Based on refined legal principles that remove subjectivity from their rulings. (*Mu'assala*)
- 3] Based on refined legal maxims that give them objective 'rules of thumb' for applying to new issues. (*Muqa'ada*)
- 4] Repositories of internal scholarly weighing of proof texts—the advanced works in each school discuss the primary text proofs for their positions. (*Mudallala*)
- 5] Based on a sound legal methodology that eliminates or reduces subjectivity, emotions, and blind spots. (*Mumanhaja*)
- 6] Well-structured, holistic, internally consistent. (*Muttasaqa*)
- 7] Concerned with producing legal texts at the beginner, intermediate, and advanced level to enable one to learn Fiqh in an organized way (no re-creating the wheel). (*Mumarhala*)
- 8] Codified, presenting a sound structure for laymen, students, scholars, judges, and muftis. (*Munaqqaha*)

Must a Layman Follow a *Madhab*?

- A layman (non-*Mujtahid*) is required to follow qualified scholarship.
- A qualified scholar is one who has formal legal training, which can only be through one of the four *Madhabs*.
- Therefore, a layman who learns *fiqh* or asks a mufti, is receiving from one of the four schools.
- There is nothing legally binding for a non-*Mujtahid* to follow a particular legal school in every matter ('The *madhab* of the layman is the *madhab* of his mufti')
- However, for structure, ease, and consistency, it is best for a layman to learn their basic *fiqh* from a single school.
- A layman who aspires to become a scholar must learn from a single *madhab*. He or she will not become grounded in *fiqh* by abandoning the tried and tested methodology of learning from within a single legal school.

Next Week (Final Class for Module II)

- Can a non-*Mujtahid* layman mix between the *Madhabs*? If not, why? And if so, what are the parameters?
- What is the correct process for seeking answers to questions on Islamic law?
- What are the ranks of the *Mujtahids*?
- Summary of Module II

