

TAQLID - FOLLOWING THE EXPERT

What is *Taqlid*?

Taqlid literally means "to follow (someone)". In Islamic legal terminology it means to follow a *Mujtahid* in religious laws and commandment as he has derived them. A *Mujtahid* is a person who is an expert of Islamic jurisprudence (*fiqh*); he is also called a *Faqih*.

How do the Shi'as follow the *shari'ah* (laws of Islam) during the time of the Major Occultation (*ghaybat-e kubra*)? During the time of the Major Occultation of the Imam al-Mahdi (a.s.), based on the training and guidance given to them by the Imams (a.s.), Shi'as developed the system of *ijtihad* and *taqlid*. Under this system, one group of the community studies the science of Islamic laws (*fiqh*) and specializes in that field. These experts of Islamic laws are known as *Mujtahids*. The Non-*Mujtahid* Shi'a people, who obviously form the majority, follow the opinions of the *Mujtahids* of their time in *shari'ah* matters.

Is *Taqlid* Reasonable in a time of widespread education?

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

- ❖ an ignorant person following another ignorant person;
- ❖ a learned person following an ignorant person;
- ❖ a more learned person following a less learned person;
- ❖ a less learned person following a more learned person.

It is quite clear that the first three forms of *taqlid* are unreasonable and can serve no purpose. However, the fourth kind of *taqlid* is obviously not only reasonable but also necessary and matter of common sense; in our everyday life we follow and imitate others in many things; we like to feel that we are taking 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 his builder and then submits to his advice as to how he should go about the actual construction; the invalid follows the treatment advised by his doctor; a litigant consults a lawyer when drawing up his case for presentation in court. The examples are abundant; in most cases the advice is taken

voluntarily, but sometimes the citizen in a country 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 in case of a legal dispute between two parties, where 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 *Taqlid* is an example of the same kind: the person who is not an expert in Islamic jurisprudence is required to follow the instructions of the expert, i.e., the *Mujtahid*. And in this case, the requirement is an obligation that must be observed, for it is an essential part of the divine law.

Once a person accepts Islam, it follows as a necessary consequence that he must adhere to the *Shari'ah*: either by following a *Mujtahid* (*taqlid*) who is *A'l-alam*. In a general sense this means 'the most learned', but in this specific context it means the *Faqih* who has the greatest expertise in deriving the rulings of the *Shari'ah* from the sources. Or by undertaking the acquisition of learning and piety to such a degree that he becomes a *Mujtahid* himself (*ijtihād*).

The question of who is an *A'l-alam* among the *Mujtahidin* is a very complex question. In order to understand this fully, let me start with the basics on issue of *Taqlid*.

FIRST:

In following the *Shari'a* laws, a Shi'a is required to do one of the three things:

1. either he should become a *Mujtahid* (became an expert in Islamic jurisprudence) and follow the conclusion of his own research;
2. or he should do *Taqlid* of a *Mujtahid* (i.e., follow an expert jurist);
3. or he should do *Ihtiyat*.
(*Ihtiyat* means precaution, and here it means studying the various opinions of *Mujtahids* and then following the most difficult one: for example, if one *Mujtahid* says 'smoking is *Makruh*' and the other says 'smoking is *Haram*', then in *Ihtiyat*, you will consider it as *Haram*.)

SECOND:

In *Taqlid*, the majority of *Mujtahidin* are of the opinion - as *Wājib* or *Ihtiyāt-e Wājib* - that one should follow 'the most learned' of all the *Mujtahidin* (*A'lam*). This is supported by common sense-now that you want to follow a *Mujtahid*, then why not follow the most learned of them?

THIRD:

The method of identifying a *Mujtahid* or an *A'lam* is as follows:

1. Personal knowledge for one who is knowledgeable enough in Islamic jurisprudence to distinguish who is a *Mujtahid* or an *A'lam*.
2. Testimony of two just scholars who confirm the *Ijtihād* or *A'lamiyat* of a certain person.
3. *Shiyā'*: popularity in the *Shi'a* community about *Ijtihād* and *A'lamiyat* of a person which creates conviction in your mind.

It should be observed that *Taqlid* pertains only to the realm of the *Shari'ah*; there can be no *Taqlid* in the matters of belief (*Usulu 'd-din*). A Muslim must hold his belief in the fundamentals of his religion after attaining conviction of their truth through examination and reflection.

The Example of *Salāt*

No Muslim would doubt that *Salāt* (*Namaz*) is one of the fundamental teachings of Islam. But if you study the entire Qur'ān, you will see that the Qur'ān has only ordered the Muslims to say the *Salat* but it has not explained the method of saying the *Salat*.

Now to expect each and every Muslim to go and study the vast *Hadith* literature, to gain expertise in the science of *Hadith* so that they can separate the authentic from the unauthentic narrations and then reach to a conclusion is an unrealistic expectation. This is where *Ijtihad* and *Taqlid* comes in the picture. The few who devote their lives in studying Islam and becoming experts in the *Sharī'ah* will provide guidance for those who are not

expert. In this regard, it is not different from referring to the lawyer in legal matters. It is not that the laws are only accessible to the lawyers, but they are trained and have comprehensive knowledge about the various aspects of laws much more than a lay person.

Allah is the Creator of man and the universe, and so only He can, or has the right, to make laws for us. The prophets and messengers are merely the teachers of Allah's laws and regulations; they cannot make laws themselves. The teachings of Shi'ah Islam say that the Imam is the successor of the Prophet and acts as the preserver and interpreter of Islam and its divine law, the *Shari'ah*. In the earliest period of Islamic history, the Prophet guided the Muslim community (*Ummah*) in every step it made, and was there to solve all its difficulties. From the time of the first Imam, 'Ali (a.s.), until the death of the eleventh, the Imam Hasan al-'Askari (a.s.), the Shi'ah received guidance directly from the Imams. Then, during the period of the Lesser Occultation (*Al-Ghaybatu 's-Sughra*) of the Twelfth Imam (a.s.), he himself successively appointed four representatives¹ who acted as the link between the Imam and his Shi'ahs. However, when the present Imam (a.s.) went into his Greater Occultation (*Al-Ghaybatu 'l-Kubra*) in 329/941 in obedience to Allah's command, the Shi'ah were obliged to observe taqlid in their religious affairs.

Why are there differences in certain issues among the *Mujtahids* in their religious opinions?

Some people wonder why it is that the *Mujtahids* differ in their certain religious opinions, or *Fatawa*, when the bases of their *Ijtihad* are the same. Firstly, it should be said that any differences in the *Fatawa* is hardly ever such as to be contradictory; it is almost impossible to find a case of one *Mujtahid* saying some action is *Wajib* and another saying it is *Haram*.

Take, for instance, the case of *Salatu 'l-Jum`ah*, the Friday prayer. All the Shi'ah '*Ulama*' are of the opinion that in the time of the presence of the Imam this *Salat* is obligatory on Fridays, because it is the Imam, or his representative, who has the right to call the people to Friday prayer; but they differ as to what is the correct course of action when the Imam is in Occultation. This difference of opinion does not, however, create any practical problem for the community. The late Ayatullah as-Sayyid Muhsin

al-Hakim (d. 1970) was one of the opinion that *Salatu 'l-Jum`ah* is not obligatory during the Occultation of the Imam, but it does not matter if someone performs it supposing that it is expected (of him), provided that he also prays the noon prayer (*Salatu 'z-Zuhr*). Ayatullah as-Sayyid Abu 'l-Qasim al-Khu'i said that "one can choose between performing *Salatu 'z-Zuhr* or *Salatu 'l-Jum`ah*, but once the latter is established with all its conditions (fulfilled), it is precautionarily obligatory to participate in it." Ayatullah as-Sayyid Ali al-Husaini As-Sistani Dama-Dhilluhuhu says that it is *Waji Takhyiri*, which means that we have an option to offer *Salatu 'l-Jum`ah*, if its necessary conditions are fulfilled, or to offer *Zuhr* prayers. Hence, if *Salatu 'l-Jum`ah* is offered then it is not necessary to offer *Zuhr* prayers

Although there are these differences in the opinions of these *Mujtahids*, there is no clash that would, for example, prevent the follower (*Muqallid*) of one of them participating in *Salatu 'l-Jum`ah* if it were established.

Secondly, it should be observed that the existence of differences in scientific opinions is not to be taken as a sign of a substantial defect in the quest for knowledge and a reason for abandoning it altogether; it is, rather, a sign that knowledge moves in progressive steps towards perfection. Differences of opinions are to be found in all sciences, not just in *Fiqh*. There may, for example, be more than one opinion about the therapy for a particular patient's disease, and all of these opinions may be superseded later on by the development of new methods of dealing with that disease. Thus these observations can be seen to be relevant not only to differences between the opinions of contemporary scientists but also to historical differences, and all these differences should be regarded as signs of the dynamism within a science and stages to be passed in its route to perfection.

It should be remembered that the *Mujtahid* formulates his opinions after pushing his research and study as far as he can; that is all that is expected of him, for he is neither inerrant nor an *'Alim bi 'l-Ghayb* (knower of the unseen). The *Muqallid* is enjoined to follow his opinions. So, even if the *Mujtahid's fatwa* is not actually in agreement with Allah's real command, neither he will be punished on the Day of Judgment for having issued the *Fatwa*, nor will his *Muqallid* for having acted according to it, for both will have done what was commanded of them and what was humanly possible for them to do.

You perform the *Taqlid* of a *Marja'* who is most learned (*A'lam*). This can be known from the *Ahl al-Khibra* (the experts in the field), or if one is learned enough to identify the most learned by himself or you may even follow the advice of one reliable person if he tells you of a *Mujtahid* being *A'lam* provided this statement is not contradicted by somebody else.

According to Ayatullah Seestani, if you believe that Ayatullah al-Khu'i was most learned (*a'lam*) whilst alive and that he was more learned than those *Maraji'* who are alive then you should revert to following the rulings of Ayatullah al-Khu'i unless new issues arise. In the new issues, you will follow the rulings of the most learned *marja'* alive.

THE WAYS TO OBTAIN THE *FATAWA* OF THE *MUTJAHID*

There are four ways of obtaining the verdicts of a *Mujtahid*.

- ❖ Hearing it from the *Mujtahid* himself.
- ❖ Hearing it from two *Adil* (just) people.
- ❖ Hearing it from even one person in whom one has certainty in his words.
- ❖ Seeing it in the *Risala* (Islamic Laws Book) of the *Mujtahid* provided one is satisfied about the correctness of the *Risala*.

THE DIFFERENCE BETWEEN *IHTIYAT WAJIB* AND *IHTIYAT MUSTAHAB*

IHTIYAT WAJIB does not accompany a *Fatwa* and a *Muqallid* must act according to that *Ihtiyat*. Its significance is the same as that of *Wajib* with the difference that in the rules where a *Mujtahid* says it is *Ihtiyat Wajib* (precautionary obligatory), you have the option of leaving his *Taqlid* (following) in that particular problem, and following the rulings of the second best *Mujtahid* in that problem provided he has issued a *Fatwa* on that particular ruling.

IHTIYAT MUSTAHAB always accompanies a *Fatwa*, meaning, in that ruling, along with the *Mujtahid* expressing his opinion, he also gives a precautionary measure, and in that ruling, a *Muqallid* can either act

according to the *Fatwa* or the *Ihtiyat*. He is not allowed to refer to another *Mujtahid*.

GENERAL MASAELS

- It is *Wajib* (obligatory) to learn the *Masaels* which are of daily importance (he will always be in need of).
- If a person cannot obtain the ruling of an *A'lam Mujtahid* on a certain issue, in spite of his efforts to do so, he is allowed to follow a non-*A'lam Mujtahid*.
- 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 his *Risala*. And if he suspects that the verdict might have changed, investigation in that matter is not necessary.
- If a person relates the *Fatwa* of a *Mujtahid* to someone, and that that *Fatwa* is changed, it is not necessary for him to inform that person about the change. But if he realizes after having related the *Fatwa* that he had made an error, and the error would lead someone to contradict the laws of *Shari'ah*, then as an obligatory precaution, he should do his best to rectify the error.

GLOSSARY - RELIGIOUS TERMS

WAJIB - obligatory, necessary, incumbent.

An act which must be performed. You will be rewarded for performing it and punished for neglecting it, e.g., the daily prayers, the fasting of Ramadhan.

IHTIYAT WAJIB - precautionary obligatory.

Its significance is the same as that of *wajib* with the difference that in the rules where a *Mujtahid* says it is "precautionary obligatory", you have the option of leaving his *taqlid* (following) in that particular problem, and following the rulings of the second best *Mujtahid* in that problem.

MUSTAHAB - *Sunnat*, recommendable, desirable, better.

The acts whose neglect is not punished, but whose performance is rewarded, e.g., the call of prayer (*adhan*).

IHTIYAT MUSTAHAB - precautionary recommended.

Its significance is the same as that of *Mustahab*. When a *Mujtahid* uses this term, he means that there is no solid proof for that particular act being *Mustahab*, but his standards of precaution demand that it be considered as *Mustahab*.

JA'IZ, HALAL, MUBAH - permitted, allowed, lawful, legal.

The act or the thing which is permitted and lawful. There is no reward for performing it and no punishment for neglecting it, e.g., drinking tea. *Mubah* is mostly used for lawful things, not for permitted actions.

MAKRUH - reprehensible, disliked.

The acts whose performance is not punished, but whose avoidance is rewarded, e.g., eating in the state of *Janabat*.

HARAM - forbidden, prohibited.

It is necessary to abstain from the acts which are *Haram*. If someone performs a *Haram* act, he will be punished, e.g., eating pork.