

Ijtihad and Taqlid

(Following a Mujtahid)

Issue No.1- Taqlid (following) in Osule Deen (principles of religion) is not permissible and no Muslim can make taqlid in the fundamentals of religion. He shall believe in them through his own insight and understanding.

But in the Forue Deen (subordinates of religion), that are in the practical rulings and instructions, If he himself is a Mujtahid (jurist), that is capable of deducting from the sources of Islamic Jurisprudence, he should act upon his own views, but if he is not a Mujtahid, he should make taqlid from a Mujtahid, the same way as people who do not have the expertise and information in some affairs refer and consult the expertise in that field.

He who is not a Mujtahid can also act on such precaution that should assure him that he has fulfilled his religious obligations. For example, if some Mujtahid considers an act to be Haraam (forbidden), while others say that it is not, he should not perform that act. Similarly, if some Mujtahid considers an act to be Wajib (obligatory) while others consider it to be Mustahab (recommended), he should perform it.

Issue No.2- Taqlid in the religious laws means to undertake to act, in practice, upon the edicts (Fatawas) of a Mujtahid. That is to say, that one's actions should be in accordance with the Mujtahid's instructions.

Issue No.3- It is necessary for the Mujtahid who is followed to be mature, sane, Ithna Ashari Shia, of legitimate birth, living and just (Adil).

Issue No.4- In the issues that the Mujtahids have different views; one must follow the one who is A'lam (the most learned).

Issue No.5- There are three ways of identifying a Mujtahid and the A'lam:

- a) One is himself a learned person and is able to identify a Mujtahid or an A'lam;
- b) When two scholars, 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 scholars do not contradict them.

c) When a number of learned scholars 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 No. 6- When one is unable to identify the most learned one, he should follow a Mujtahid that he supposes to be the most learned and if he decides that several Mujtahids are all of equal stature; then he has a choice.

Issue No. 7- If one suspects that the edict of the Mujtahid might have been changed, he can act according to the previous one and investigation is not necessary.

Issue No.8- If the Mujtahid does not give a straightforward fatwa on an issue and expresses a precaution (Ihtiyat) that one should act in such and such a manner, this is called obligatory precaution (Ihtiyat Wajib) and the follower (Muqallid) may either act on that precaution or he may act on the fatwa of another Mujtahid. But if he has given a straightforward fatwa, for example if he says that Qunout is recommended (Mustahab) for prayer, then he says that it is Ihtiyat not to drop it; this is called recommended precaution (Ihtiyat Mustahab) and the follower may either act on it or he may not. In cases that the Mujtahid says: it is likely (Dhahir) like this or it is most likely (Aqwa) like this, these expressions are regarded as fatwa and the follower should act on it.

Issue No.9- It is not permissible to act on the fatwa of a dead Mujtahid initially.

Issue No.10- If a Mujtahid who is followed by a person, dies, one may still follow him, and if he is more learned (A'lam) than a living Mujtahid, it is obligatory (wajib) to continue to remain in his taqlid, provided that he has acted on his fatwa or at least has undertook to act, in practice, upon his edicts (Fatawas). But if the living Mujtahid is more learned than his dead Mujtahid; it is obligatory to follow the living Mujtahid.

Issue No.11- Every Muslim (Mukallaf) must learn the issues (Ahkam) which are of his daily importance; or know the way of acting on Ihtiyat.

Issue No.12- If a person performs his acts for some time without taqlid of a Mujtahid, and later follows a Mujtahid, if his former actions are in

accordance with the fatwa of that Mujtahid, then his performed actions are correct, otherwise, he must perform them again.

Issue No.13- It is not allowed to change taqlid from one Mujtahid to another, unless the second Mujtahid is A'lam (the most learned).

Issue No.14- If the fatwa of a Mujtahid changes, the Muqallid must follow the latest fatwa. However, the actions that had been performed according to the former fatwa are valid and correct and it is not necessary to be performed again. It is the same if one changes from one Mujtahid to another one, it is not necessary to perform again the previous actions.

Issue No.15- if two Mujtahids are equal in jurisprudence, one can make taqlid in some issues from one of them and in some other issues from the second one.
