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Ijtihad and Taqlid

Lexical Meaning of Ijtihad

Lexically, Ijtihad means effort for getting something. Ibn Al-Athir writes, in *Al-Bidayah wa'l-Nihayah*, “Ijtihad means making effort in search of something. This word is in the same conjugation with the keyword *jahd*,¹ meaning strength and ability.

The term *Ijtihad* was used in the same meaning in the Prophet’s age and his Companions’, until the end of the first century after the Prophet’s Hijra. There are numerous traditions quoted from the Holy Prophet (a.s) testifying to this usage, three of which are mentioned here:

وَأَمَّا السُّجُودُ، فَاجْتَهِدُوا بِالدَّعَاءِ فَضَمِنَ أَنْ يُسْتَجَابَ لَكُمْ.

When praying, in the state of prostration, make effort; your prayer will be accepted hopefully.²

صَلُّوا عَلَيَّ وَاجْتَهِدُوا فِي الدَّعَاءِ.

Pay tribute to me and make effort when praying.³

فَضْلُ الْعَالِمِ عَلَى الْمُجْتَهِدِ مِائَةٌ دَرَجَةٍ.

A scientist is a hundred times more excellent than one who only makes effort in worship^{4.5}

Apart from what was mentioned from the Holy Prophet, here are just two examples from the various

statements available in this regard:

كَانَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَجْتَهِدُ فِي الْعَشْرِ الْأَوَاخِرِ مَا لَا يَجْتَهِدُ فِي غَيْرِهِ.

The messenger of Allah (a.s) made such an effort in worshipping in the last ten days of Ramadan that he did not make in other times.⁶

Ummah Harithah, a female Companion of the Prophet, when speaking with the Prophet about her martyred son says:⁷

إِنْ كَانَ فِي الْجَنَّةِ صَبَرْتُ وَإِنْ كَانَ غَيْرَ ذَلِكَ اجْتَهَدْتُ عَلَيْهِ فِي الْبُكَاءِ.

If my child is in Paradise, I will be patient otherwise I will make effort in crying.⁸

As a result, the lexical meaning of Ijtihad, during the Prophet's age and a while after him, was to attempt or make effort. The only exception to this usage is the tradition of Mu'adh reading:

أَجْتَهِدُ رَأْيِي وَلَا أَلُو.

I will practice according to my opinion and do not fear.⁹

This will be discussed in details later on.

Idiomatic Meanings of Ijtihad

Islamic scholars have used the term Ijtihad¹⁰ with different meanings. In general, Ijtihad is used to refer to two meanings—general and specific. Of course, this term was mostly used in its specific meaning for quite a while at first.

Ijtihad in its general meaning

There are various definitions for Ijtihad in its general meaning, some of which follow:

A) "Ijtihad is the jurisprudent's best attempt to reach understanding (and certainty) about Islamic rules."¹¹

B) "Ijtihad is making effort in recognizing conjectural religious rules¹² to such an extent that no greater effort is possible."¹³

C) "Ijtihad is obtaining religious rules from explanatory reasons."¹⁴

D) "Making every effort in reaching a conjecture to religious rules, in such a way that reaching beyond it would be impossible."¹⁵

E) "Ijtihad is the disposition (*malakah*)¹⁶ to obtain the proof of religious rules or practical duties, either a religious or a logical proof."¹⁷

These are general definitions for Ijtihad found in the scholars' books. Each of them is subject to some criticisms and there is controversy about their scope of inclusion. But they all seem to have a common point and that is the concept of "attempting to obtain religious rules via some reasons." There is controversy on whether some reasons such as *Qiyas* (analogy), *Istihsan* (approbation), *masalih mursalah* and *khbar wahid* (one tradition)... etc, are really proof; and that if they are reasons, what their requirements are. That is why Muhaqqiq Hilli, when defining Ijtihad from the viewpoint of jurists, begins like this: "Making effort in obtaining religious rules."¹⁸ Then he adds: "Accordingly, obtaining rules from religious reasons is Ijtihad, since this requires exerting views and cannot be done with regard to manifestations of the religion."¹⁹ He continues: "That reason may be *Qiyas* (analogy) or something else. Hence, *Qiyas* can be a kind of Ijtihad."²⁰

Here, Muhaqqiq Hilli poses a problem and the answer to it: "If one says: 'So, Imamiyyah (Twelver Shi'a) accepts Ijtihad.' I reply: Yes, it is so, but there is a paradox here, because *Qiyas* is considered as a means for Ijtihad. But if *Qiyas* is excluded, we accept Ijtihad as obtaining rules through theoretical ways (means) other than *Qiyas*."²¹

Some may think this definition of Muhaqqiq Hilli is about the special meaning of Ijtihad. But it is not true, since he considers as Ijtihad issues such as concluding from traditions either substituting full with conditional, or general with specific, and other conclusions and also opposition of traditions with each other, preference or option of them; whereas Ijtihad in its special meaning does not include these issues. Since as will follow, the special meaning of Ijtihad belongs to issues in which there is no tradition.

Ijtihad in its Special Meaning

There are some definitions for the special meaning of Ijtihad, too. Some have defined it as *Qiyas*, as Imam Shafi'i who equals between Ijtihad and *Qiyas* and says, "These two are used to name the same concept."²² Others equal it with *Ra'y* (opinion).

Ijtihad is defined as: "Making effort in obtaining a rule, when there is no (reported) tradition, by pondering and using ways shown by religion in order to inference."²³ Still others have equaled Ijtihad with *Ra'y* (opinion), *Qiyas* (analogy) and *Istihsan* (approbation). The late Sayyid Murtaza Alam al-Huda has a

different view. To him, Ijtihad and *Qiyas* are different and their relationship is general and specific. This great scholar writes: “Among jurists, some differentiate between *Qiyas* and Ijtihad saying, ‘In *Qiyas*, the analogy is made based on a definite principle, but in Ijtihad there is no principle for analogy, such as Ijtihad in finding Qiblah, defining the value of the damaged things and difference of healthy and injured (*arsh*).’²⁴ Some others consider *Qiyas* as a kind of Ijtihad. So when speaking of those who accept Ijtihad, we mean those who use conjectures and reasons to reach religious rules, not those who only trust reasons.²⁵

Ijtihad in its specific usage, meaning either *Ra’y* (opinion), *Qiyas* (analogy), or *Qiyas, Istihsan* and *Masalih Mursalah*, if proved only through conjecture, is not valid to Imamiyyah jurists, and hence cannot prove religious rules.²⁶ Since it includes reasons prohibiting from following conjectures.²⁷ It should be kept in mind that since Ijtihad was used by jurists as conjectural Ijtihad at a point in time, the early Shi’a scholars have written explicitly or implicitly on rejection of Ijtihad (conjectural Ijtihad). As an example Shaykh Mufid, the great Shi’a scholar of the third century, has written a book under the title *Al-Naqz Ala Ibn Al-Junayd fi Al-Ra’y* (rejection of Ibn Junayd in Ijtihad according to the opinion). As a result, when dealing with the term Ijtihad in the books, or when using it, we should pay attention to its two senses.

Sources of Ijtihad

Having defined Ijtihad, we now turn to the sources of Ijtihad (in its general sense). All that is included in *Usul* (the science of principles of obtaining religious rules) books as sources of Ijtihad are:

- (1) Allah’s Book—the Holy Qur’an,
- (2) The Holy Prophet’s Sunnah (tradition) and the tradition of the Ahl al-Bayt and the Companions,
- (3) *Ijma’* (consensus),
- (4) *Aql* (wisdom),
- (5) *Qiyas* (analogy),
- (6) *Istihsan* (approbation) and
- (7) *Masalih Mursalah*.

In the following discussion, we review the above sources and their proof²⁸ briefly to see which of them can be used as the religious reasons to obtain the rules.

Examining the proof of the Holy Qur’an

Among the mentioned sources, all Muslims agree upon the proof of the Holy Qur’an. Of course, some

Sunni books like *Sahih Al-Bukhari*²⁹ and *Sahih Muslim*³⁰ and some Shi'a ones such as *Al-Kafi*³¹ include traditions stating that some Qur'anic Verses have not survived to be available to us. But none of the Sunni or Shi'a researchers have attended to these traditions. So, all Muslims consider the Holy Qur'an (in its present manifestation) as proof and the first source of Islamic attitudes and rules. Of course, it is clear that inference from the Holy Qur'an requires knowing some principles to make true understanding of the verses possible, help recognize absolute from conditional, abrogating from abrogated and indisputable from analogous verses.

Examining the proof of the tradition

Tradition is based on one of these three:

- a) The Prophet's speech,
- b) The Prophet's behavior,
- c) The Prophet's confirmation or keeping quiet.

The proof of Prophet's tradition, like the proof of Allah's Book, is clear and no one can deny it. It is completely mistaken to say, "Allah's Book is sufficient and there is no need to other things," since Qur'an has denied this, stating:

وَأَنْزَلْنَا إِلَيْكَ الذِّكْرَ لِتُبَيِّنَ لِلنَّاسِ مَا نُزِّلَ إِلَيْهِمْ وَلَعَلَّهُمْ يَتَفَكَّرُونَ.

And We have revealed to you the Reminder that you may make clear to men what has been revealed to them, and that haply they may reflect. (16:44).

وَمَا آتَاكُمُ الرَّسُولُ فَخُذُوهُ وَمَا نَهَاكُمْ عَنْهُ فَانْتَهُوا.

And whatever the Messenger gives you, accept it, and from whatever he forbids you, keep back. (59:7).

يَا أَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ.

O you who believe! Obey Allah and obey the Messenger. (4:59).

There are also other Verses and traditions stipulating this issue. Imam Shafi'i says in this regard: "If we reject the traditions altogether, we face an unsolvable problem and that is if someone performs the least of what is called prayers or Zakat (statutory Islamic levy), he does his duty. For example, one may perform two units (*rak'ah*) of prayers, saying what is not in Allah's Book is not obligatory (i.e. in Qur'an, there is only prayer in itself and that can be accomplished with two units.) Meanwhile, tradition has determined the number of units in a day and their quality for us. This is also the case about Zakat, its different kinds, quantities and the specific properties to which it belongs.³²

Of course, like Allah's Book, for understanding tradition one should acquire its principles, varieties and proofs and works, and the traditions adducing them to distinguish the true traditions, which proof the rules.

The Ahl al-Bayt's Tradition

Reference to the Prophet's tradition, successively narrated in Sunni books, makes it clear that the excellent and unique status of the Prophet's Household (Ahl al-Bayt) is among the principles of Islam. Affection to the Holy Prophet's Household and following them is necessary. Though there is no doubt about the proof of the Ahl al-Bayt's tradition, for discarding any possible temptation in this issue, just two of the most famous reasons for it, i.e. "Purification Verse" and "Thaqalayn tradition" will follow:

The first reason for proof of the Ahl al-Bayt's tradition

The Holy Qur'an states:

إِنَّمَا يُرِيدُ اللَّهُ لِيُذْهِبَ عَنْكُمُ الرِّجْسَ أَهْلَ الْبَيْتِ وَيُطَهِّرَكُمْ تَطْهِيرًا.

Allah only desires to keep away the uncleanness from you, O people of the House, and to purify you a (thorough) purifying. (33:33).

For more explanation about this honorable verse known as Purification (*Tat'hir*) Verse, it should be said that according to this verse God wants to take any wickedness away from the Ahl al-Bayt, and since any sin is wickedness, they are away from any sin and hence infallible, by God's will

As is evident from the word "إِنَّمَا" which is used for exclusion in Arabic, this is God's certain inclination to specialize the Ahl al-Bayt in purification, while the Almighty has invited anyone to be pure and avoid committing sins. What remains is to see who are the Ahl al-Bayt. To find the answer to this question, we should attend to traditions on the cause of the revelation of this verse. Some such traditions from the most trusted Sunni books are mentioned hereinafter:³³

عَنْ عَائِشَةَ قَالَتْ: خَرَجَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ غَدَاةً وَعَلَيْهِ مِرْطٌ مَرْجَلٌ مِنْ شَعْرٍ أَسْوَدَ، فَجَاءَ الْحَسَنُ بْنُ عَلِيٍّ فَأَدْخَلَهُ ثُمَّ جَاءَ الْحُسَيْنُ فَدَخَلَ مَعَهُ ثُمَّ جَاءَتْ فَاطِمَةُ فَأَدْخَلَهَا ثُمَّ جَاءَ عَلِيٌُّّ فَأَدْخَلَهُ، ثُمَّ قَالَ: ﴿إِنَّمَا يُرِيدُ اللَّهُ لِيُذْهِبَ عَنْكُمُ الرِّجْسَ أَهْلَ الْبَيْتِ وَيُطَهِّرَكُمْ تَطْهِيرًا﴾.

Aishah says: One morning, the Holy Prophet (a.s) came out of his house wearing a cloak made of black hair. Hasan (a.s) came in and the Prophet (a.s) placed him under the cloak. Then Husayn (a.s) came and went in there. Then came Fatimah (a.s) who was placed there by the Prophet (a.s). Next Ali (a.s) came and the Prophet took him under his cloak and recited, **“Allah only desires to keep away the uncleanness from you, O people of the House (Ahl al-Bayt), and to purify you a thorough purifying. (33:33).”**³⁴

...لَمَّا نَزَلَتْ هَذِهِ الْآيَةُ عَلَى النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ : ﴿إِنَّمَا يُرِيدُ اللَّهُ لِيُذْهِبَ عَنْكُمُ الرِّجْسَ أَهْلَ الْبَيْتِ وَيُطَهِّرَكُمْ تَطْهِيرًا﴾. ﴿ فِي بَيْتِ أُمِّ سَلَمَةَ دَعَا النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَاطِمَةَ وَحَسَنًا وَحُسَيْنًا وَعَلِيًّا خَلْفَ ظَهْرِهِ فَجَلَّلَهُمْ بِكِسَاءٍ، ثُمَّ قَالَ: اللَّهُمَّ هَؤُلَاءِ أَهْلُ بَيْتِي فَأَذْهِبْ عَنْهُمْ الرِّجْسَ وَطَهِّرْهُمْ تَطْهِيرًا. قَالَتْ أُمُّ سَلَمَةَ: وَأَنَا مَعَهُمْ يَا نَبِيَّ اللَّهِ؟ قَالَ: أَنْتِ عَلَى مَكَانِكَ وَأَنْتِ إِلَى خَيْرٍ.﴾

Umar Ibn Salamah, the Holy Prophet’s stepchild, says: The honorable verse of “Purification” was revealed in the house of Ummu-Salamah, the Holy Prophet’s wife. The Holy Prophet (a.s) called Fatimah, Hasan and Husayn (a.s), and Ali (a.s) was behind him. Then he covered them with a cloak (*kisa*) and stated: “O Allah! These are my Household, so banish wickedness from them and make them pure!” At this moment, Ummu-Salamah asked: “O Prophet of God! Am I among them?” He answered, “You are in your own place and you are into goodness, too.”³⁵

The same is narrated by Tirmidhi with a little difference in words and he comments under it, “This tradition is fine and true.”³⁶

Dear readers: certainly pay attention that the Prophet (a.s) excluded his wife, Ummu-Salamah, from the Ahl al-Bayt. With so many traditions on this issue, how can one trust few traditions, which consider the Prophet’s wives among the Ahl al-Bayt? Moreover, as history and the reference books of traditions, like *Sahih Muslim* state, the Umayyad and the Abbasid rulers tried to put out the light of the Ahl al-Bayt, and scholars in *Rijal* and biographies have stipulated that some of the narrators of these few traditions like Ikramah and Muqatil were liars and fabricators. Furthermore, in these traditions only the Prophet’s wives are considered as the Ahl al-Bayt, while so many traditions exclude exactly the Prophet’s wives from the

Ahl al-Bayt (a.s). Therefore, even if the documents of these traditions are true, since they are in contrast with a great many of other traditions excluding the Prophet's wives from the Ahl al-Bayt, these latter traditions are preferable with regard to their number and documentation.

Another issue posed about the Purification Verse is that its preceding and following verses are:

وَقَرْنَ فِي بُيُوتِكُنَّ وَلَا تَبَرَّجْنَ تَبَرُّجَ الْجَاهِلِيَّةِ الْأُولَىٰ وَأَقِمْنَ الصَّلَاةَ وَآتِينَ الزَّكَاةَ
وَأَطِعْنَ اللَّهَ وَرَسُولَهُ إِنَّمَا يُرِيدُ اللَّهُ لِيُذْهِبَ عَنْكُمُ الرِّجْسَ أَهْلَ الْبَيْتِ وَيُطَهِّرَكُمْ
تَطْهِيرًا. وَاذْكُرْنَ مَا يُتْلَىٰ فِي بُيُوتِكُنَّ مِنْ آيَاتِ اللَّهِ وَالْحِكْمَةِ إِنَّ اللَّهَ كَانَ لَطِيفًا
خَبِيرًا.

And stay in your houses and do not display your finery like the displaying of the ignorance of yore; and keep up prayer, and pay the poor-rate, and obey Allah and His Messenger. Allah only desires to keep away the uncleanness from you, O people of the House, and to purify you a (thorough) purifying. And keep in mind what is recited in your houses of the communications of Allah and the wisdom; surely Allah is Knower of subtleties, Aware.

A doubtful question may be posed here as to why this honorable verse accompanies verses about the Prophet's wives. The answer would be, first, as is evident from various traditions, the latter part of the honorable verse has been revealed independently and then arranged in the present order later on. Second, the change in address form from feminine plural³⁷ to masculine plural³⁸ is a clear reason for the multiplicity of addresses, especially since it shifts to feminine plural³⁹ again. It may be stated that: the change in pronouns is to include people other than the Prophet's wives. The answer would be that if it is so, the same should be continued to the end, while this is not the case. So, the honorable verse mentions characteristics for a certain group determined in traditions and the Holy Prophet's Sunnah.

Also, with regard to this change in style and the usage of "إنما" for exclusion, it becomes clear that here God's will is of genesis kind and hence unobjectionable, just like the true meaning of will. Moreover, if there were a religious will stressed by the Prophet, it were not only unnatural but stylistically obscene to address the Ahl al-Bayt with masculine words. Because the Prophet's wives are included in the religious will and besides they have been addressed in the beginning of this honorable verse. Furthermore, the traditions including Thaqalayn traditions which will follow, proves that God's will has been since the genesis. And consequently the Ahl al-Bayt's infallibility and the proof of their tradition are proved.

The second reason for the proof of the Ahl al-Bayt's tradition

The second reason for the proof of the Ahl al-Bayt's tradition is Thaqalayn tradition. These traditions have been narrated in many Sunni books in different senses. Some of these sources are *Sahih Muslim*,

Sunan Al-Darimi, Khasa'is Al-Nisa'i, Sunan Abi Dawud, Sunan Ibn Majah, Musnad Ahmad and Mustadrak Hakim.

According to Qaysarani, Thaqalayn tradition has twenty seven Sunni narrator chains, as counted by some researchers. Some others believe they are thirty nine. These are narrated by eighty two Shi'a chains of narrators. Here, we quote this honorable tradition from *Sahih Muslim* and *Sunan Al-Tirmidhi*:

Ibn Hayyan says:40 Husayn, Umar Ibn Muslim and I went to Zayd Ibn Arqam. Husayn told him: "O Zayd! You have surely gained great goodness, you have seen the Prophet (a.s), heard his speech, accompanied him in battles and prayed behind him. Tell us something of what you have heard from the Holy Prophet (a.s)." Zayd said: "O son of my brother! By God that I have lived my age and reached an old age, thus forgetting some of the Prophet's statements I have heard. So, accept what I tell you and do not take me into trouble more than that." Then he continued: "One day, the Holy Prophet (a.s) delivered a sermon to us beside a pond named Khumm, somewhere between Mecca and Medina. After eulogy to God he said:

أَلَا أَيُّهَا النَّاسُ، فَإِنَّمَا أَنَا بَشَرٌ يُوْشِكُ أَنْ يَأْتِيَنِي رَسُولُ رَبِّي فَأُجِيبُ، وَأَنَا تَارِكٌ
فِيكُمْ ثَقَلَيْنِ: أَوَّلُهُمَا كِتَابُ اللَّهِ فِيهِ الْهُدَى وَالنُّورُ؛ فَخُذُوا بِكِتَابِ اللَّهِ وَاسْتَمْسِكُوا
بِهِ... وَأَهْلُ بَيْتِي؛ أَذَكِّرُكُمْ اللَّهَ فِي أَهْلِ بَيْتِي، أَذَكِّرُكُمْ اللَّهَ فِي أَهْلِ بَيْتِي، أَذَكِّرُكُمْ
اللَّهَ فِي أَهْلِ بَيْتِي.

"O people! I am a human being. God's angel will soon come to take my soul and I will accept him. I will leave two valuable things among you; first Allah's Book in which there is light and guidance, so hold fast to it and follow it. The second is my Household (the Ahl al-Bayt). I remind you of God about my Ahl al-Bayt. I remind you of God about my Ahl al-Bayt. I remind you of God about my Ahl al-Bayt."

In *Sunan Al-Tirmidhi*, Zayd Ibn Arqam has quoted the Holy Prophet (a.s) as saying:

إِنِّي تَارِكٌ فِيكُمْ الثَّقَلَيْنِ مَا إِنْ تَمَسَّكْتُمْ بِهِمَا لَنْ تَضِلُّوا بَعْدِي؛ أَحَدُهُمَا أَعْظَمُ مِنَ
الْآخَرِ؛ كِتَابُ اللَّهِ حَبْلٌ مَمْدُودٌ مِنَ السَّمَاءِ إِلَى الْأَرْضِ وَعِثْرَتِي أَهْلُ بَيْتِي، وَلَنْ
يَتَفَرَّقَا حَتَّى يَرِدَا عَلَيَّ الْحَوْضَ فَاَنْظُرُوا كَيْفَ تَخْلِفُونِي فِيهِمَا.

"I leave two invaluable things. If you follow them, you will never go astray after me. They are both great: Allah's Book that is taken from the Heavens to the earth like a rope, and my family; my Household. These two will not separate each other until they come to me in the River in Paradise. So be careful of

how you will do after me!”⁴¹

As to the stipulation of this tradition, the Ahl al-Bayt has an equal status as to the Holy Qur’an and following it is like following Qur’an in that it saves from going astray. And there would never be a separation between them. Therefore as Qur’an is away from deviation, the Ahl al-Bayt is away from misguidance too. Otherwise, it cannot be equal with and inseparable from Qur’an forever. Anyhow, it is quite obvious from the above-mentioned tradition that Ali, Fatimah Al-Zahra, Hasan and Husayn (a.s) are the Ahl al-Bayt. So, at the time of the revelation of this verse, these honorable persons are the Ahl al-Bayt and as the successive tradition, “Imams will be twelve in number,” and other traditions certify, after them nine Imams from Husayn’s progeny are from the Ahl al-Bayt.⁴² Here, we just mention two traditions about this issue from the Holy Prophet (a.s):

Muhammad Ibn Muthana, with a few persons in between, narrates Jabir Ibn Samarah who quotes the Prophet (a.s) as saying:

يَكُونُ اثْنَا عَشَرَ أَمِيرًا... كُلُّهُمْ مِنْ قُرَيْشٍ.

“There would be twelve leaders all from Quraysh.”⁴³

Ziyad Ibn Mutarrif says: “I heard the Prophet (a.s) as saying:

مِنْ أَحَبِّ أَنْ يَحْيَا حَيَاتِي وَيَمُوتَ مِيتَتِي فَلْيَتَوَلَّ عَلِيًّا وَذُرِّيَّتَهُ مِنْ بَعْدِهِ.

“Everyone who would like to live and die like I do should set Ali as his leader and Ali’s progeny after him.”⁴⁴

With such an excellent position for the Ahl al-Bayt, being Qur’an’s equals, away from any wickedness, and people’s guidance and safety from going astray, it is obvious that their speech and Sunnah, which implies the Prophet’s Sunnah, are proof. Of course, the recognition of the Ahl al-Bayt’s Sunnah needs some requirements and to gain it, the criteria mentioned earlier should be considered.

The Proof of the Companion’s Sunnah

There is no proof for the tradition (Sunnah) of the Prophet’s Companions (Sahabah), as long as it belongs to them themselves, not to the Prophet, and there is no consensus about it. What some people have regarded as the proof for the Companions’ Sunnah are two verses of the Holy Qur’an:

كُنْتُمْ خَيْرَ أُمَّةٍ أُخْرِجَتْ لِلنَّاسِ تَأْمُرُونَ بِالْمَعْرُوفِ وَتَنْهَوْنَ عَنِ الْمُنْكَرِ وَتُؤْمِنُونَ
بِاللَّهِ.

You are the best of the nations raised up for (the benefit of) men; you enjoin what is right and forbid the wrong and believe in Allah. (3: 110).

وَكَذَلِكَ جَعَلْنَاكُمْ أُمَّةً وَسَطًا لِتَكُونُوا شُهَدَاءَ عَلَى النَّاسِ وَيَكُونَ الرَّسُولُ عَلَيْكُمْ
شَهِيدًا.

And thus We have made you a medium (just) nation that you may be the bearers of witness to the people and (that) the Messenger may be a bearer of witness to you. (2: 143).

But it should be pointed out that these two honorable verses are probably not the proof of the Companions' Sunnah, since the first verse states, "You are the best nation for enjoining right and forbidding the wrong." This is not to say that if a few Companions said something, their statement is proof per se. The second verse also says, "You are a medium nation." It is not about the Companions individually, rather it implies the characteristics of the Islamic nation as a whole. Furthermore, though being a Companion of the Prophet is a great virtue, as history goes, some Companions did not recognize this value and were criticized in the Holy Qur'an and the Prophet's traditions because of their wrongdoing.

The establishers of Zihar Mosque⁴⁵, the abandoners of Jihad (the holy war)⁴⁶, Walid Ibn Uqbah Ibn Abi Mu'it⁴⁷, Samarah Ibn Jundab⁴⁸, and some others are all examples of this bitter truth.

The Holy Qur'an is the best witness to ingratitude and hypocrisy of some of the Companions, when it states:

وَمِمَّنْ حَوْلَكُم مِّنَ الْأَعْرَابِ مُنَافِقُونَ وَمِنْ أَهْلِ الْمَدِينَةِ مَرَدُوا عَلَى النِّفَاقِ لَا
تَعْلَمُهُمْ نَحْنُ نَعْلَمُهُمْ سَنُعَذِّبُهُمْ مَّرَّتَيْنِ ثُمَّ يَرَدُّونَ إِلَىٰ عَذَابٍ عَظِيمٍ.

And from among those who are round about you of the dwellers of the desert there are hypocrites, and from among the people of Medina (also); they are stubborn in hypocrisy; you do not know them; We know them; We will chastise them twice then shall they be turned back to a grievous chastisement. (9: 110).

It is worth mentioning that some traditions stipulate to the injustice of some Companions to make it clear that according to the Prophet's tradition, the Companions' traditions cannot be totally the proof. The honorable Prophet (a.s) said:

أَلَا وَإِنَّهُ سَيُجَاءُ بِرِجَالٍ مِنْ أُمَّتِي فَيُؤْخَذُ بِهِمْ ذَاتَ الشِّمَالِ فَأَقُولُ: يَا رَبِّ أَصْحَابِي! فَيُقَالُ: إِنَّكَ لَا تَدْرِي مَا أَحَدَثُوا بَعْدَكَ. فَأَقُولُ كَمَا قَالَ الْعَبْدُ الصَّالِحُ: "مَا قُلْتُ لَهُمْ إِلَّا مَا أَمَرْتَنِي بِهِ أَنْ أَعْبُدُوا اللَّهَ رَبِّي وَرَبَّكُمْ وَكُنْتُ عَلَيْهِمْ شَهِيدًا مَا دُمْتُ فِيهِمْ فَلَمَّا تَوَفَّيْتَنِي كُنْتَ أَنْتَ الرَّقِيبَ عَلَيْهِمْ وَأَنْتَ عَلَى كُلِّ شَيْءٍ شَهِيدٌ. إِنْ تُعَذِّبُهُمْ فَإِنَّهُمْ عَبَادُكَ وَإِنْ تَغْفِرَ لَهُمْ فَإِنَّكَ أَنْتَ الْعَزِيزُ الْحَكِيمُ." (قال) فَيُقَالُ لِي: إِنَّهُمْ لَمْ يَزَالُوا مُرْتَدِّينَ عَلَى أَعْقَابِهِمْ مُنْذُ فَارَقْتَهُمْ.

"Be aware that soon people from my nation will come and be placed in Hell. So, I will say to God: "O Almighty God! Save my Companions!" The answer comes: "You do not know what they have done after you." So I will say the same thing as God's pious servant (Jesus Christ) said, 'And I was a witness of them so long as I was among them, but when Thou didst cause me to die, Thou wert the watcher over them, and Thou art witness of all things. If Thou shouldst chastise them, then surely they are Thy servants; and if Thou shouldst forgive them, then surely Thou art the Mighty, the Wise.' Then I will be told: "When you left them, they retrograded and became apostates."49

In *Sahih Muslim*, Hudhayfah is quoted as saying:

قال النبي صلى الله عليه وسلم: في أصحابي اثنا عشر مُنافِقاً فيهم ثمانية لا يدخلون الجنة حتى يلج الجمل في سم الخياط.

The Messenger of Allah said: "Among my Companions, there are twelve hypocrites eight of whom will not enter the Garden (Paradise) until a camel passes through the eye of a needle."50

A similar tradition is narrated in *Musnad Ahmad*, too.51 It is interesting that some narrators who found this tradition in accord with their opinion, changed "among my Companions" into "among my nation."52 Also, Nawawi in his exposition on *Sahih Muslim*, regards "Companions" as those who have ever talked to the Prophet (a.s), not really his followers.53 The judgement is here left to the readers to say if these constitutions in the traditions are true.

The following is recorded in *Sahih Al-Bukhari*:

عَنْ الْعَلَاءِ بْنِ الْمُسَيَّبِ عَنْ أَبِيهِ قَالَ: لَقِيتُ الْبَرَاءَ بْنَ عَازِبٍ رَضِيَ عَنْهُمَا فَقُلْتُ: طُوبَى لَكَ! صَحِبْتَ النَّبِيَّ... فَقَالَ: يَا بَنَ أَخِي! إِنَّكَ لَا تَدْرِي مَا أَحَدْتُنَا بَعْدَهُ.

It is quoted from Al-Ala' Ibn Musayyib who quoted his father as saying: I saw Bara' Ibn 'Azib and told him: "Good for you! You were with the Prophet (a.s)..." So, he said: "O son of my brother! You do not know what we did after him."⁵⁴

Therefore, when it is possible for a Companion to become an apostate, as stated in the Prophet's tradition, it is of more likelihood for him to become unjust, too. How can we accept the traditions of all the Companions as proof then? So it is not true that the Companions' tradition is completely proof.

The Proof of Consensus

Another source of Ijtihad is consensus, that is to say that if all Muslims unanimously agree upon a statement, it will be the proof. It should be said that if such unanimity and consensus exists about a rule, that is the proof for sure, at least because the Infallibles are among them, too. But if only some Muslims have consensus on it, regardless of who they are, that rule would not be proof.

The Proof of wisdom (Common Sense)

There is controversy over the proof of wisdom in jurisprudential rules. Some people know wisdom as the source of religious rules saying: If wisdom got the goodness or wickedness of something, we understand that the religion is in accord with that, too. For example, if wisdom considers oppression as wickedness, we realize that the religion rejects it too, or if wisdom regards justice as goodness, we get the religion's confirmation of it. This is a brief discussion of the proof of wisdom, but detailed discussion about it needs a complete book.⁵⁵

The Proof of Qiyas, Istihsan and Masalih Mursalah

We first deal with the definitions and then a brief discussion on the proofs of *Qiyas*, *Istihsan* and *Masalih Mursalah*.

Qiyas (analogy)

Various definitions have been proposed for *Qiyas*, some of which are as follow:

First definition: "To generalize from principle to consequence, based on a common point between them."

Second definition: "To prove a definite rule for another definite rule, via something common between them."

Istihsan (approbation)

Different definitions have been also given for *Istihsan*, three of which follow:

First definition: “Issuing a verdict by jurisprudent only because it seems fine to him.”

Second definition: “An argument in the jurisprudent’s mind which he cannot express it in words.

Third definition: “Substituting any arguments for the accepted facts for the benefit of the people.”⁵⁶

Masalih Mursalah

In order to define this term, first we should make the meaning of *masalih* and *mursalah* clear. *Maslahah* (singular form of *masalih*) is by definition the religious consideration of issues. Also, *masalih* here is a cause leading to religious consequences, either it be worship or habitual issues. Worship is what religion wants as its own right. Habit is what the religion wants for the benefit of the people and the order of their lives. But there is some controversy over the concept of *mursalah*. Some interpret it as using no tradition, saying: “Discovery of some issues is left to wisdom.” Some others define it as using general traditions but not special ones.⁵⁷

So far, the definitions of *Qiyas* (analogy), *Istihsan* (approbation) and *Masalih Mursalah* were mentioned. Regarding their proof, however, it should be said that all arguments for the pure authenticity of them are invalid. Some Sunni scholars and researchers have not accepted their proof either, since all these three concepts have one common point and that is “following without knowledge” which is prohibited in the Holy Qur’an, even if it is following conjecture. The following verses are the best proofs for rejecting “following without knowledge.”

وَلَا تَقْفُ مَا لَيْسَ لَكَ بِهِ عِلْمٌ.

And follow not that of which you have not the knowledge. (18:36).

إِنْ يَتَّبِعُونَ إِلَّا الظَّنَّ وَإِنَّ الظَّنَّ لَا يُغْنِي مِنَ الْحَقِّ شَيْئًا.

They do not follow anything but conjecture, and surely conjecture does not avail against the truth at all. (53:28).

Qiyas (analogy) which is followed by most of the Sunnis and especially the Hanafite, *Istihsan* (approbation) especially accepted by the Hanbalite (followers of Ahmad Ibn Hanbal’s school of Islamic law) and the Hanafite (followers of Abu Hanifah’s school of Islamic law), and *Masalih Mursalah* used by

the Malikite (followers of Malik Ibn Anas's school of Islamic law) and the Hanbalite are all instances of following without knowledge and thus invalid, since based on the above verses, following conjecture is not permitted. There is also no argument for excluding *Qiyas*, *Istihsan* and *Masalih Mursalah* from the Qur'an's general principle. Of course, some cases like analogy to a reason included in the traditions, preferring the most important to the important when being in contrast to each other, and applying the leader's opinion as that of ruler—not attributed to Islam—are acceptable. So, two points should be borne in mind about *Qiyas*:

First, what is being criticized here as *Qiyas* is that whose reason is obtained by conjecture and inference. But if the reason is emphasized in the tradition as mentioned above, the case would not be an analogy, rather deducing a valid general rule.⁵⁸

Second, the term *Qiyas* as used here is different from the one in Logic, since that is called analogy.

In short, it can be concluded that what is known as *Ra'y* "opinion" is not valid, since most of what has been stated in support of opinion—whether *Qiyas*, *Istihsan* or *Masalih Mursalah*—is based on Mu'adh's tradition, as will be followed, and adducing it is not authentic. Moreover Ibn Majah has recorded another tradition from Mu'adh which rejects this claim. This issue is dealt with next.

Adducing Mu'adh's tradition

The most important reason for the proof of 'opinion' in Ijtihad is Mu'adh's tradition. When sending his young and competent Companion, Mu'adh Ibn Jabal, to Yemen, the Messenger of Allah (a.s) had a conversation about judgment with him, which is narrated in *Sunan Al-Darimi* like this:

عَنْ مُعَاذٍ أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَمَّا بَعَثَهُ إِلَى الْيَمَنِ قَالَ: أَرَأَيْتَ إِنْ
عَرَضَ لَكَ قَضَاءٌ، كَيْفَ تَقْضِي؟ قَالَ: أَقْضِي بِكِتَابِ اللَّهِ. قَالَ: فَإِنْ لَمْ يَكُنْ فِي
كِتَابِ اللَّهِ؟ قَالَ: فَبِسُنَّةِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ. قَالَ: فَإِنْ لَمْ يَكُنْ فِي
سُنَّةِ رَسُولِ اللَّهِ؟ قَالَ: أَجْتَهُدُ رَأْيِي وَلَا أَلُو. قَالَ فَضْرَبَ صَدْرَهُ ثُمَّ قَالَ: الْحَمْدُ لِلَّهِ
الَّذِي وَفَّقَ رَسُولَ رَسُولِ اللَّهِ لَمَّا يُرْضِي رَسُولَ اللَّهِ.

It is narrated from Mu'adh that when the Prophet (a.s) was sending him to Yemen, he asked, "What would you do if you face a judgment case?" He said, "I will judge according to Allah's Book." The Prophet (a.s) asked, "What if you do not find it in the Book?" Mu'adh replied, "I will judge as to the tradition of the Messenger of Allah (a.s)." The Prophet (a.s) asked again, "How about if there was nothing in the Prophet's traditions about it?" Mu'adh answered, "I will judge based on my own opinion and will not fear." Mu'adh narrates that the Prophet (a.s) beat himself on the chest and stated, "Praise be to God Who led the Prophet's envoy to what satisfies the Messenger of Allah."⁵⁹

Ibn Hazm, about concluding the authenticity of opinion in Ijtihad from this tradition, says: “Adducing this tradition is not true, because it is only narrated by Harith Ibn ‘Amr who is an unidentified person.” Bukhari in *Tarikh Al-Awsat* says: “The narrator of this tradition, Harith, is not known except with this tradition. He himself narrates the tradition from people of Hams (a city in Syria) who are not known. Also this tradition was not narrated in the Companions’ age nor in their follower’s until the time Abu Awn narrated it from an indefinite source and when the Companions heard the tradition from Shu’bah, they spread it everywhere.”

Ibn Hazm also says: “The reason for the quotation of this tradition and then its rejection is that it is very rare for the Prophet to say: “If you do not find anything in Allah’s Book or the Prophet’s tradition,” while he knows God’s statement that,

‘Follow what has been revealed to you from your Lord. (7:3),’

‘This day have I perfected for you your religion. (5:3),’

‘And whoever goes beyond the limits of Allah, he indeed does injustice to his own soul. (65: 1)’

Furthermore, in case the tradition is true, Mu’adh’s saying ‘I will judge based on my own opinion,’ will mean, ‘I will do my best to find the truth in the Qur’an and Sunnah.’”⁶⁰

Besides, the above-mentioned tradition is mentioned in Chapter Qadha’ (the Judgments), where there is a necessity to solve the problem of the two parties in some way, as Tirmidhi has included this tradition in Chapter *Al-Aqdhiyah* (the Judgments).⁶¹ So, applying it in Section *Ifta’* (Issuing Verdicts) requires strong reason. Apart from this, there is another tradition quoted by Mu’adh in *Sunan Ibn Majah* which is in contrast with the one under discussion:

● *Sunan Ibn Majah*, Kitab Al-Muqaddamah (introduction)

حَدَّثَنَا مُعَاذُ بْنُ جَبَلٍ قَالَ: لَمَّا بَعَثَنِي رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِلَى الْيَمَنِ
قَالَ: لَا تَقْضِينَ وَلَا تَفْصِلَنَّ إِلَّا بِمَا تَعْلَمُ، فَإِنْ أَشْكَلَ عَلَيْكَ أَمْرٌ فَقِفْ حَتَّى تُبَيِّنَهُ أَوْ
تَكْتُبَ إِلَيَّ فِيهِ.

Mu’adh narrates: When the Prophet (a.s) sent me to Yemen, he said: “Do not judge and solve arguments except when you are completely sure. So, if you encounter something sophisticated, stop issuing verdicts until it becomes clear for you, or you write a letter about it to me.”⁶²

There are also other traditions rejecting the practice according to one’s opinion. The honorable Prophet (a.s) said:

فَيَبْقَى نَاسٌ جُهَالٌ يُسْتَفْتُونَ فَيُفْتُونَ بِرَأْيِهِمْ فَيُضِلُّونَ وَيَضِلُّونَ.

Those people remain in foulness who are asked questions and they answer according to their own opinion, leading others astray and going astray themselves.⁶³

لَمْ يَزَلْ أَمْرُ بَنِي إِسْرَائِيلَ مُعْتَدِلًا حَتَّى نَشَأَ فِيهِمُ الْمُؤَلَّدُونَ أَبْنَاءُ سَبَايَا الْأُمَمِ، فَقَالُوا
بِالرَّأْيِ فَضَلُّوا وَأَضَلُّوا.

The Israelites were moderate until people emerged among them who were the children of the captives. They issued verdicts based on their own opinions, going astray and leading astray, too.”⁶⁴

In his *Sahih*, Bukhari says, “The Prophet (a.s) never talked according to personal opinion or analogy, because of the Exalted God’s statement: Surely we have revealed the Book to you with the truth that you may judge between people by means of that which Allah has taught you. 4: 105”

The Abandonment or Allowance of Practicing Ijtihad

The last topic to be discussed in this chapter is whether the issue of Ijtihad is still open to practice or not. In our time, most of the Sunni, except some of their scholars, believe that practicing Ijtihad is not allowed anymore. Shaykh Ahmad Abdul Rahim, a Sunni scholars, divides jurisprudents into three different groups, the third of which he calls ‘attributed jurisprudents’ and considers following their verdicts as the duty of all Muslims.

As stated in his words, ‘attributed jurisprudent’ is one who is attributed to one of the four Islamic schools (the Shafiite, the Hanbalite, the Malikite and the Hanafite), not issuing any verdicts against them. He says, “The third group are those Muslims who emerged from the fourth century. It is a must for the public to follow the jurisprudents attributed to one of the four Islamic schools, since an independent jurisprudent is rare to this day.”⁶⁵

His most important argument for his claim is that: “The Islamic nation has reached consensus to trust the predecessors for recognizing the religion. We should refer to them too, and this is only possible through fine–documented traditions narrated in famous books and reached upon by stating the most preferred traditions, selecting the most general ones and concluding from them. These features are not found but in the four Islamic schools. No other Islamic sect or school lacks these features save Imamiyyah (the Twelver Shi’a) and Zaydiyyah, whose followers are heretics.”⁶⁶

Our question here is that: If one knows what is narrated from these four Sunni Imams and finds all or some of them mistaking in the inference of some issues, should he still follow them? If a rule with the

same strength is narrated from someone else like professors, contemporaries or the scholars of the four Islamic schools, are these four Imams the only ones to be followed? Furthermore what is wrong with discrimination in following?

When we see the verdict issued by one of these four Imams or others is more convincing and logically more acceptable, why should we ignore it and just stick to a specific Islamic school? Is it not heresy to confine the recognition of Islamic rules in only four people?

The Holy Qur'an and honorable traditions invite us to ponder over the religion. Following predecessors is true in case of traditions, not in inference, especially if it is opposed to our own inference. What do those who confine jurisprudence to these four people, say about the Prophet's (a.s) statement that:

نَضَّرَ اللَّهُ عَبْدًا - أَوْ رَحِمَ اللَّهُ مَنْ - سَمِعَ مَقَالَتي فَوَعَاها ثُمَّ أَدَّاهَا إِلَى مَنْ لَمْ
يَسْمَعُها، فَرُبَّ حَامِلٍ فِقْهٍ لَا فِقْهَ لَهُ وَرُبَّ حَامِلٍ فِقْهٍ إِلَى مَنْ هُوَ أَفْقَهُ مِنْهُ.

“May God promote the rank of that servant of Him who hears my speech, keeps it in mind and narrates to those who have not heard it. Too many are the narrators who do not understand the traditions they narrate, and too many are the narrators who narrate the tradition for someone who understand it more than they do.”⁶⁷

Moreover, this is in contrast with the consensus of Muslims in the first century and their followers.

Mawlawi Shah Waliyullah Dahlawi in his *Al-Insaf* says: “Muslims in the first and second centuries did not have consensus on following single Islamic schools. The ordinary people got the rules from their fathers or the scholars in their cities who were capable of total or partial inference from the Holy Qur'an or the traditions.”⁶⁸

Is it not heresy to ignore the method of the Companions and their followers and limit our understanding of God's religion to four persons? Also, what does it mean that Imamiyyah are heretics? Is following the Ahl al-Bayt heresy, while the leaders of the four Sunni schools had directly or indirectly benefited from Imam Sadiq's knowledge? As this fact is implicitly acknowledged in the book entitled *Al-Tuhfah Al-Ithna 'Ashariyyah*, written to reject the Shi'a,⁶⁹ a part of which reads:

“And this is Abu Hanifah—May God be satisfied with him—with his high rank before the Sunni, who is proud to say eloquently, ‘If Nu'man (Abu Hanifah) had not passed those two years, he was perished.’ Abu Hanifah means the same two years he accompanied Imam Sadiq—May God be satisfied with him—for obtaining knowledge.”⁷⁰

Malik says:⁷¹

“I went to see Ja'far Ibn Muhammad (Imam Sadiq (a.s)) for a while. I did not see him but in one of three

states: either praying or fasting or reciting the Qur'an. I did not see him quoting traditions from the Messenger of Allah (a.s) except that he was pure. He never said nonsense and was among scholars, worshipers, ascetics and those who fear God.

When Abu Hanifah was asked, "Who was the best jurisprudent you have ever seen?" He replied:

"I have seen no one better than Ja'far Ibn Muhammad. When calling him to Al-Hirah, Mansur (The Abbasid caliph) sent someone to me saying, 'O Abu Hanifah! People are fascinated by Ja'far Ibn Muhammad (and I cannot help arresting him), so prepare your sophisticated questions for him.' I made forty difficult questions for him. Then I went to Abu Ja'far (Imam Baqir) and found Ja'far (Imam Sadiq) sitting on his right side. Seeing those two, Ja'far's dignity attracted me more than his father's did. So, I greeted them and was allowed to sit. Ja'far attended to me and asked his father, 'O Abu Ja'far! Do you know this man?'

He answered, 'Yes, he is Abu Hanifah, he has come to us.' And then Abu Abdullah (Imam Sadiq) continued, 'O Abu Hanifah! Bring your questions to ask Abu Abdullah.' Then I began questioning and in each case he said, 'Your opinion about this issue is so-and-so while people of Medina say so-and-so and I say so-and-so.' He sometimes accepted our ideas and sometimes theirs and sometimes rejected both ideas, until we covered all the forty questions. Then Abu Hanifah said, 'Is it not that the most knowledgeable of the people is one who is aware of different ideas?'

The Dangers of Ignorant Prejudices

Unfortunately, ignorant biases have hurt the Islamic nation seriously throughout history. So many calamities have harmed the Muslims under the title of Islam and have blackened the pages of history! The writer of *Majma' Al-Buldan* writes about Isfahan:

"Recently and previously, there has been much damage in Isfahan due to the biases of the Shafiite and the Hanbalite and many quarrels between them. Whenever one group wins, it ravages, dismantles and sets on fire the other group's districts. No contract prevents them from so doing."⁷²

The same is quoted from *Mir'at Al-Jinan*.⁷³ In Nayshapur too, there was a big quarrel between the Hanafite and the Shafiite in which schools and marts were burnt and many Shafiites were killed. Then they won over the Hanafites but overdid in revenge. All these occurred in AH 554. Such also happened between the Shafiite and the Hanbalite in 716.⁷⁴ The same events happened in Baghdad in 323.⁷⁵

Many similar happenings have taken place, some of which are mentioned in the worthy book *Al-Imam Al-Sadiq wal Madhahib Al-Arba'a*.⁷⁶ You may suppose that these disputes only involved the public and that the scholars of the four Islamic schools did not have any role in them. But unfortunately the fact is that the leaders of all these disputes or most of them were the scholars who stimulated the public by their verdicts.

As an example, Shaykh Ibn Hatam Hanbali claimed that one who is not Hanbalite is not Muslim.⁷⁷ Meanwhile Shaykh Abu Bakr Muqri Wa'iz believed in the blasphemy of all the Hanbalite.⁷⁸ Also Muhammad Ibn Musa Hanafi, the judge of Damascus died in 506, is quoted as saying, "If affairs were governed by me, I would take Jizyah⁷⁹ from the Shafiite." In the same vein, Abu Hamid Tusi, died in 567, have said, "If I was in control, I would take Jizyah from the Hanbalite."⁸⁰

These ignorant biases worsened to such an extent that they reached books of biography (*Rijal*) and some people were described as 'doubtful' and 'liar' only because of their belief. Sabuki says: "Ignorance and bias are more than alteration and adaptation in historians, and I have seen few history books lacking these. The history of our teacher, Dhahabi—May God forgive him—with all his comprehensiveness is replete with prejudice. He has taunted Muslims, who are selected servants of God, very much. He has gone too far, deviated from the truth and insulted Shafiite and Hanbalite Imams, but he has praised the Anthropomorphists excessively.

Hafiz Salah says: "Hafiz Shams Al-Din Dhahabi, there is no doubt in whose piety, has been overcome by argumentation, aversion of interpretations and unawareness of purifying to such an extent that have deviated his nature badly."⁸¹

Furthermore, some of them have fabricated traditions on their Imams' virtues and attributed to the Prophet (a.s) wrongly, like what is falsely narrated from Prophet (a.s) about Abu Hanifah, "God's Prophets take pride in me and I take pride in Abu Hanifah. Whoever likes him has also liked me and whoever dislikes him has disliked me,"⁸² and so on.⁸³

Other traditions have been fabricated in the vices of other Islamic schools' founders, as Ibn Hajar says about Muhammad Ibn Saeed Tawarruqi, "He is among the fabricators and has fabricated inappropriate issues about the trustee... like this tradition wrongly narrated from the Prophet,⁸⁴ "A man will soon come from my nation, called Ibn Idris (Shafi') whose danger is worse than that of Satan."

Concluding Abandonment or Permission of Practicing Ijtihad

Some cases of biases of these four Islamic schools' followers were mentioned. It is thus clear what they did with the Ahl al-Bayt's religion! Many alterations, adaptations and fabricated traditions for eliminating the light of the Ahl al-Bayt!⁸⁵

Of course, a few true quotations can be found with some impartial people who were moderate to some extent. Anyway, confining Ijtihad to the four jurists (of the four Islamic schools) is an unprecedented issue. It is true that throughout history, sometimes a religious sect overcame another, but it has been a political issue depending on the whims of the rulers and leaders.

For instance, when Abu Yusuf, Abu Hanifah's student, was appointed as the chief judge of the state, he gave dominance to the Hanafite jurisprudence and their judges. Other instances of this you can see in

the book entitled *Tarikh Hasr Al-Ijtihad* (The history of the abandonment of Ijtihad) Historians' statements show that the official and effective dominance of these four Islamic schools and restriction of others has occurred almost in the seventh century. If truth be told, practicing Ijtihad must be allowed and understanding religion must not be restricted to what Malik, Abu Hanifah, Shafii and Ibn Hanbal have understood from it. Reference to the predecessors is only true in traditions, not Ijtihad.

1. Jahd or juhd

2. Sahih Muslim, Kitab Al-Salat, Section on prohibition of recitation in genuflection and prostration, No. 207, 738 (Int'l) and Musnad Ahmad Ibn Hanbal, Vol. 1, No. 199.

3. Sunan Al-Darimi, Vol. 1, Introduction, Section on superiority of knowledge, No. 100, 335 (Int'l No.)

4. Sunan Al-Darimi, Vol. 1, Introduction, Section on superiority of knowledge, No. 100, 335 (Int'l No.)

5. As is evident, in this tradition and the next one, Ijtihad means effort in worshiping.

6. Sahih Muslim, Kitab I'tikaf (seclusion for worship), No. 2009 (Int'l No.)

7. Sahih Al-Bukhari, Kitab Al-Jihad (holy war), Vol. 2, tradition 93, No. 259 (Int'l No.); Musnad Ahmad, Vol. 3, tradition 260 and 283.

8. Harithah was one of the fighters who was martyred due to a mistaken shooting in Badr Battle. The Holy Prophet told his restless mother, "Your son is placed in high Paradise." (Editor)

9. Sunan Al-Darimi, Vol. 1, p. 60, No. 168 (Int'l No.)

10. Islamic jurisprudential investigations, endeavoring for the deduction of commandments based on Islamic fundamentals

11. Kharazmi, Usul Al-Fiqh, p. 357.

12. About conjectural religious issues, The late Muhaqqiq Khurasani in the book entitled Kifayat Al-Usul, section 6, p. 297 writes: "When a mujtahid attends to a religious rule, either he reaches certainty about it or not. If he reaches confidence about a religious rule, he performs according to it. In case he does not make certain however, there are three situations: either there is a weak and unimportant probability which is called Wahm (illusion), or a 50 percent probability or Shakk (doubt), or a strong probability of more than 50 percent that is Zhann (conjecture).

The duty of a person in doubt is to refer to one of the scientific principles (association, acquittal, precaution and option) to get the apparent rule for it and not be left perplexed and wandered in the action phase. Indeed, conjecture is more preferable to illusion. But if one has a conjecture about a religious rule, he should see if his conjecture is religiously valid or not. If it is not, such as a conjecture resulting from a tradition quoted by an evil-doer, his duty is as of one in doubt. If his conjecture is religiously valid however, his duty is to do according to that conjecture. Therefore conjectural religious issues are those about which we are not certain, but to which we are led because of its religious validity. In such cases, though we are not aware and confident of the religious rule, since we have reached a valid religious conjecture, that is considered as reaching knowledge and confidence. Hence practice according to these rules is obligatory.

13. Allamah Hilli, Mabadi Al-Usul ila 'Ilm Al-Usul, p. 240.

14. Mustafa Al-Zarqa', Hadharat Al-Islam Magazine, Vol. 1, p. 240, No. 2.

15. Amudi, Irshad al-Fuhul, p. 250.

16. A firm tendency in human soul, including virtues and vices (Editor).

17. Al-Sayyid Al-Khu'i, Misbah Al-Usul, p. 434.

18. Ma'arj Al-Usul, p. 179.

19. Ibid.

20. Ibid.

21. Ma'arj Al-Usul, p. 179.

22. Shafi'i, Al-Risalah, Published in Egypt, p. 477.

23. Masadir Al-Tshri', p. 7.

24. Arsh or difference of healthy and injured means 'compensation of every harm –other than murder– to wealth and health of others.' So, harm is compensated by arsh. Some cases in which arsh is paid are (1) when a harm is done to someone's

animal, (2) when someone's goods is taken and harmed, (3) when something is sold, but harmed before delivery, or (4) when something is sold and found to be damaged later on, but the contract cannot be dissolved. In these cases, the difference between sound and damaged animal or goods should be paid to the owner or customer.

25. Al-Dhari'a, p. 673.

26. As stipulated in Verse 28 of Surah (chapter) Al-Najm:

وَلِإِنَّ الظَّنَّ لَا يُغْنِي مِنَ الْحَقِّ شَيْئًا.

Surely conjecture does not avail against the truth at all.

27. These reasons prohibit from following any conjecture, i.e. what is not knowledge cannot be acquired. But on the other hand, some conjectures are exceptions to the general rule in this honorable Verse, like a conjecture reached upon by Bayyinah (two witnesses). Therefore, except the exceptions to this general rule, other conjectures cannot be acted upon, such as Shuhrah (fame), Qiyas (alalogy), Istihsan (approbation) etc. (Editor).

28. This proof can either be an inherent or a conjectural one, which is religiously valid and can be followed. Since it has two possibilities: either it is followed truly or not. In the latter case, because that is what the religion has ordered, there's no duty left. (Editor)

29. Vol. 8, p. 169.

30. Vol. 4, p. 167; Vol. 3, p. 100.

31. Mir'at Al-Uqul (exposition of Al-Kafi), Vol. 2, p. 536.

32. Tarikh Al-Fiqh Al-Islami, p. 229 (the abridged version)

33. For more information see: narrative books such as Al-Durr Al-Manthur, by Suyuti.

34. Sahih Muslim, Published in Egypt, Vol. 7, Kitab Fadha'il Al-Sahabah, p. 130, No. 4450; Musnad Ahmad, Vol. 1, Baqi Musnad Al-Ansar, p. 31, No. 24132; Sunan Al-Tirmidhi, Kitab Al-Adab, No. 2738; Sunan Abu Dawud, Kitab Al-Libas, No. 3513, (Int'l No.)

35. Sahih al-Tirmidhi with exposition of Ibn Arabi Maliki, Published in Egypt, Vol. 13, Kitab Tafsir (Exegesis of Qur'an), p. 200, No. 3129 (Int'l No.) Kitab Al-Manaqib, No. 3719, Tafsir (Exegesis of Qur'an), No. 3129 (Int'l No.)

36. Sunan Al-Tirmidhi, Kitab Al-Manaqib, No. 3806 (Int'l No.).

37. "بيوتكن" (your houses), "تبرجن" (display), "أقمن" (keep up), "آتين" (pay), "اطعن" (obey).

38. "عنكم" (away... from you), "يطهركم" (purify you).

39. "وانكرن" (keep to mind), "بيوتكن" (your houses).

40. Sahih Muslim, Vol. 7, Kitab Faza'il Al-Sahabah, p. 122, No. 4425; Musnad Ahmad, Musnad Al-Kufiyyin, No. 18464 and 18508; Sunan Al-Darimi, Kitab Faza'il Al-Qur'an, No. 3182 (Int'l No.)

41. Kitab Al-Manaqib, Vol. 2, p. 308, No. 3720; Musnad Ahmad, Baaqi Musnad Al-Mukathirin, No. 10681, 10707, 10779 and 11135 (Int'l No.)

42. For further information see: first chapter of the present book or explanatory books such as Ithbat Al-Hudat and the like.

43. Sahih Al-Bukhari, Kitab Al-Ahkam, p. 127, No. 6682; Sahih Muslim, Kitab Al-Imarah, No. 3393, 3394, 3395, 3396 and 3397; Sunan Al-Tirmidhi, Kitab Al-Fitan, No. 2149; Sunan Abi Dawud, Kitab Al-Mahdi, No. 3731 and 3732; Musnad Ahmad, Musnad Al-Basriyyin, No. 19875, 19901, 19907, 19920, 19943, 19963, 19987, 19997, 20017, 20019 and 20022 (Int'l No.).

44. Al-Isabah, Vol. 1, p. 559, No. 2865, Al-Muntakhab Min Dhayl Al-Mudhayyal by Tabari, p.83; Kanz Al-Ummal, fifth ed., Al-Risalah, Vol. 11, p. 611.

45. The mosque built by some hypocrites under the leadership of Abdullah Ibn Ubay, when the Prophet (a.s) had left Medina for a holy war, to be a center for hypocrites and the Prophet's adversaries. The Prophet was informed of the event by the Divine Revelation, and arriving at Medina, ordered to dismantle it at once. See: Surah (Chapter) Al-Tawbah, Verse 107. (Editor)

46. These are three of the Prophets Companions, i.e. Furat, Hilal and Ka'b, who refused to engage in Tabuk War. See: (Surah) (Chapter) Al-Tawbah, Verse 118 (Editor.)

47. He was a Companion of the Prophet who gave him information about a newly-embraced Muslim. The angel of Revelation descended and rejected his information. See: Surah Al-Hujurat, verse 6 (Editor.)

48. He was one of the Companions who had a tree in the house of one of the Ansar (Helpers) and entered the garden to watch for his tree now and then. The owner of the house was disturbed by him and complained about it to the Prophet (a.s). The Holy Prophet suggested that he would pay the price of the tree to Samarah who rejected it. Then he promised to give Samarah a tree in Paradise instead. But he did not accept it either. Then the Prophet (a.s) ordered to uproot it and said, "You do harm to people." This tradition is narrated in Sunan Abi Dawud, Kitab Al-Aqziyah, No. 3125 (a Sunni source) and in Wasa'il, Kitab Ihya' Mawat, Section 12, No. 1,3 and 4. (a Shi'a source).
49. Sahih Muslim, Kitab Al-Jannah, p. 157, No. 5104 and 5103; Sahih Al-Bukhari, Kitab Ahadith Al-Anbia', No. 3100, 3191, 4371 and 6045; Sunan Al-Tirmidhi, Kitab Siffah Al-Qiyama, No. 2347 and 3091; Sunan Al-Nisa'i, Kitab Al-Jana'iz, No.2060; Musnad Ahmad, Musnad Bani Hashim, No. 192, 2168,... (Intl No.).
50. Sahih Muslim, Kitab Sifat Al-Munafiqin, No. 4983 and 4984 (Int'l No.).
51. Musnad Kufiyyin, No. 22229 (Int'l No.).
52. Musnad Ahmad, Musnad Al-Kufiyyin, No. 18128 (Int'l No.).
53. Dar Al-Ihya' Al-Turath Al-'Arabi 1392, Vol. 17, p. 125.
54. Vol. 5, Kitab Al-Maghazi, Dar Al-Fikr 1401, p. 65, No. 3852 (Int'l No.).
55. For further information see: The Philosophy of Ethics, section on intellectual goodness and wickedness and their accordance with religious rules, pp. 247-263 and pp. 48-58 (by the present author.)
56. Tajrid Al-Usul, p. 91.
57. See: Muhammad Taqi Hakim, Al-Usul Al-'Ammah lil Fiqh Al-Muqarin, section one, part 7, 1st ed., Dar Al-Andilus Publications, p. 381.
58. Tajrid Al-Usul, p. 93.
59. No. 168 (Int'l No.)
60. Al-Ahkam, Al-'Asimah Publication, Vol. 5, p. 773.
61. No. 3119 (Int'l No.)
62. No. 54 (It'l No.)
63. Sahih Al-Bukhari, Kitab Al-I'tisam, Dar Al-Ilm, No. 4828; Sunan Al-Tirmidhi, Kitab Al-Ilm, No. 2576; Musnad Ahmad, Musnad Al-Mukathirin, No. 6222, 6498 and 6602; Sunan Ibn Majah, Kitab Al-Muqaddamah, No. 51; Sunan Al-Darimi, Kitab Al-Muqaddamah, No. 241 (Int'l No.)
64. Sunan Ibn Majah, vol. 1, p. 8 No. 55 and Kanz al-Ummal.
65. Al-Insaf, by Dahlawi, p.7.
66. Al-Insaf, by Dahlawi, p.7.
67. Sunan Al-Darimi, Al-Muqaddama (introduction), Vol. 1, p. 75, Dar Ihya' Al-Sunnah, No. 229 and 230; Sunan Ibn Majah, Al-Muqaddamah, No. 227 and Kitab Al-Manasik, No. 3047; Musnad Ahmad, Musnad Al-Madiniyyin, No. 16153 and 16138 (Int'l No.)
68. Quoted from the Encyclopedia of Muhammad Farid Wajdi, Vol. 3, p. 221 (with a little difference)
69. The book is originally in Farsi, by Shah Abdul Aziz Dihlawi Hindi. Shaykh Qulam Aslami has translated it into Arabic in 1227 and then in 1301, Mahmud Shukri Alusi has abridged this translation (Editor.)
70. Then he continues: "It is said that Abu Hanifa has learnt knowledge and the traditions from Imam Sadiq, his father—Imam Baqir and his uncle Zayd Ibn Ali Ibn Al-Husayn (a.s). In this regard it suffices to say that most tradition chains of the Sunnis reaches back to the Prophet's Household (a.s). No one denies this save one who does not differentiate between the dead and alive. See Alusi, Mukhtasar Al-Tuhfah Al-Ithna 'Ashariyyah, Maktabah Ishiq, Istanbul 1399, p.8 (Editor).
71. Sharh Al-Zurqani ala Mawatta' Al-Imam Malik, 1st ed., Dar Al-Nashr Publications 1411, Vol. 1, p. 334; Also Al-Shifa' bi Ta'rif Huquq Al-Mustafa, Dar Al-Fikr Publications 1409, Vol. 2, p. 42.
72. The Encyclopedia of Muhammad Farid Wajdi, Dar Al-Kutub Al-Ilmiyyah, Vol. 1, p. 247.
73. Vol. 3, p. 343.
74. Ibn Kathir, Al-Bidayah wa'l-Nihayah, Vol. 4, p. 76.
75. Ibn Al-Kathir, Al-Kamil, Vol. 3, p. 375.
76. Vol. 1, p. 190-206.

77. Quoted from Tadhkirat Al-Huffaz, Vol. 3, p. 375.
78. Quoted from Shadharat Al-Dhahab, Vol. 3, p. 253.
79. A kind of tax charged from believers of other Heavenly religions in lieu of their non-acceptance of Islam and covering the cost of administration and their security in an Islamic country. (Translator)
80. Al-Imam Al-Sadiq wal Madhahib Al-Arba'a, Vol. 1, p. 190.
81. Tabaqat Al-Shafi'iyah, Vol. 1, p. 190.
82. Al-Dur Al-Mukhtar fi Sharh Tanwir Al-Absar, Vol. 1, p. 53-54.
83. Like what is said in praise of Shafi'i which is more a kind of reproach, as Fakhr Razi quotes from Harmalah: "Shafi'i took his tongue out and reached it to his nose; that is why he was so powerful in speaking and eloquence." See Manaqib Al-Imam Al-Shafi'i, p. 35.
84. Lisan Al-Mizan, Vol. 5, p. 179.
85. See Sharh Nahj Al-Balaghah of Ibn Abi'l-Hadid, Vol. 11, p. 44.

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