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## Differences in the Ummah

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<http://truelife200vi.wordpress.com/2007/02/22/ikhtilaf/>

In the ummah (body of Muslims, Muslim world etc) there are TWO types of Ikhtilaaf's (Differences). The Messenger of Allah (صلى الله عليه وسلم) has notified the ummah with regard to these differences and he has also guided the ummah with regard to them. The FIRST type of difference is with regard to the "Ijtihadi" "Masaa'il" (Interpretations of Islamic law points), which occurred between the Sahaabah (رضى الله عنهم), the Tabieen (those that followed them) and the Aimmah-e-Mujtahideen (The Qualified Masters of Jurisprudence i.e. Imam Abu Hanifa, Imam Shafiee, Imam Maalik, Imam Ahmad bin Hambal & those before them 'Rahimahullah'). A reflection of this is evident in the Hanafi, Saafi, Maaliki and Hambali Madhabs (Schools, Way etc) which are well known as an "Ikhtilaaf". This type of difference also occurred, at times during the blessed era of the Messenger of Allah (صلى الله عليه وسلم).

For example, once, Nabi (صلى الله عليه وسلم) instructed the Sahaabah (رضى الله عنهم) on the occasion of arriving at the tribe of Banu Quraidha (Jewish Tribe outskirts of Madinah):

"None of you should read his Asr Sallah except at (arrival at) Banu Quraidha".

It so transpired that the Sahaabah (رضى الله عنهم) were delayed in reaching there and the time of Asr Sallah (prayer) was about to terminate. The Sahaabah (رضى الله عنهم) made "Ashu'raa" (Consultation) amongst themselves as to what they should do. The consultation resulted in TWO groups. The one group opined that since Prophet (صلى الله عليه وسلم) gave a clear-cut instruction that Asr Sallah only be read at arrival at Banu Quraidha, how is it possible for them to perform their Sallah now on the way. therefore, even though the Sallah may become "Qadha" (expired), they felt that it was necessary to follow the instructions of The Messenger of Allah (صلى الله عليه وسلم). The Second group felt that the import and the intention of the Prophet (صلى الله عليه وسلم) instruction was that they reach Banu Quraidha before the expiry of Asr prayer, and upon reaching there they were to perform the Asr sallah. Therefore they felt that since the time for sunset was drawing close, they would not reach there before sunset, there was no question about making the Asr sallah Qadha. They felt that this would worsen their shortcomings.

Never less, the FIRST group decided to make the Sallah Qadha, thereby fulfilling the explicit instruction of The Messenger of Allah (صلى الله عليه وسلم), whilst the SECOUND group alighted from their conveyances and performed the Sallah opining that they were fulfilling and carrying out the intention the desire of The Messenger of Allah (صلى الله عليه وسلم). When the news of this incident reached The Messenger of Allah (صلى الله عليه وسلم) he DID NOT rebuke either of the two groups, in fact he regarded both of them as being correct, since both of them had completed and carried out his intention and desire. There are many other such examples besides this one. In conclusion, we have ascertained that one such difference is this type, which is called an "Ijtihadi Ikhtilaaf". This type of difference is not merely a natural, inevitable or indispensable difference, in fact, the holy prophet (صلى الله عليه وسلم), had termed such a difference as a "Rahma" (Mercy) from Allah. And for that person whom Allah Most High, had embed with even the slightest bit of insight, will immediately discern why such differences are termed as a "Mercy". Due to a lack of opportunity, I should have shed much more light on this topic.

In conclusion this type of difference is completely correct and in order. The ruling for the general masses (regarding such differences) is that they follow with conviction whichever "Mujtahid Imam" they have trust and confidence in, whilst keeping in mind and granting due respect and honour to the other pious personalities. All these personalities were of a very high level of intelligence and experts in Deen (affairs of religion) and they were also spiritually very elevated. Their was and is not a single person from amongst those how followed them who could even match their knowledge. There is also none who came after that can be equal in piety and "Noor-e-Ma'rifah" (Recognition of Allah Most High).

This is precisely the reason why great, great, personalities and "Awliyaa" (Close Servants of

Allah) the likes history has recorded such as: Shaykh Abdul Qadir Jilaani, Sayyidud Taa'ifah, Imam Junaid Baghdaadi, Shaykh Muhhyuddin Ibn Arabi, Khwajah Ali Hijoori, Mujaddid Alf-e-Thaani (just to name a few) were ALL followers of the Aimmah Mujtahideen. The SECOND type of difference is known as "Nazaryaa Ikhtilaaf" (Theoretical differences).

This is the subject matter regarding our concern. The Messenger of Allah (صلى الله عليه وسلم) had also foretold and predicted such differences. This type of difference is also the basis and differentiation between Haqq and Baatil (Truth and Falsehood). Hence our prophet (صلى الله عليه وسلم) said: "The Bani Israel (jews) were separated into 72 sects and my ummah will be split into 73 sects. All of them will be in the Fire." It was asked: "O Messenger of Allah! Which will be this successful group?" Nabiullah replied: ما لنا عليه واصحابي

"Those that will remain on that path which I and my Sahaabah are on" [Sunan Abu Dawood, Tirmizi]

It is reported in another Hadith that 72 sects will go to Jahannum and One to Jannah - and this is the "Al Jammah" (Ahla sunnah Wal Jammah) people 'group' of The Sunnah 'way' of the Messenger of Allah as shown by the Jammah 'group' of Sahabah (Radi'Allahu anhum Ta'ala Ajmaeen) and this is that group which will be on the Haqq (Truth). And some people will abscond from this Jamaat, their desires and false opinions will lead them astray just as the bite of a rabid dog makes a person ill, such that not a joint, vein or fibre of his remains except that this illness penetrates it. It is reported in another Hadith: "Any person remains alive after me will see many differences in the ummah. Therefore he should hold on fast to my way and the way of the Kulafaa Rashideen. He must hold on to it with his teeth.

Take Heed! stay away from all new innovations (which will spring up), because all such innovations (which are regarded as being part of Deen) are a Bid'ah and every Bid'ah is astray." It is reported in another Hadith that The Messenger of Allah (صلى الله عليه وسلم) once drew a line and said that this is (symbolises) the Road of Allah Ta'ala. He then drew some lines on either side of this line and said that these are those paths upon which one shaitaan sits at each one and tends to lead man astray by tempting him towards it. (Indicating to the first line) the messenger of Allah said: "This is the correct path." saying this, the prophet of Allah recited the following ayah: "This is My Straight Path, hence tread upon it." All these Ahaadith are reported in Mishkaat al Maseebah. Regarding this subject there are many many other Ahaadith which mentions these facts, from these statements the following become clear.

A) Rasullah (صلى الله عليه وسلم) had forewarned the ummah regarding Nazaryaa Ikhtilaafs.

B) He displayed an aversion for this type of differences and with the exception of one group; he warned all other with the Fire

C) Such Ikhtilaafs are the basis for leading people on Haqq or Baatil. The Messenger of Allah (صلى الله عليه وسلم) had clearly said that whoever treads the path and follows the way chalked out by him and follow his Sahaabah (رضى الله عنهم) will be on Haqq. Whoever goes astray of this path is on Baatil. The path of Haqq and the distinguishing factor is the way of the Messenger of Allah (صلى الله عليه وسلم) and his Sahaabah (رضى الله عنهم). The Qur'an had also in many instances, stated this as the basis of the Haqq: "And whoever contradicts and opposes the Messenger (Muhammad صلى الله عليه وسلم) after the right path has been shown clearly to him, and follows other than the believer's way. We shall keep him in the path he has chosen, and burn Him in Hell, what evil destination." [An-Nisa: 115] In this Ayaat, the "path of the believers" refers to the Sahaabah (رضى الله عنهم). "That is because they opposed Allah and His Messenger (صلى الله عليه وسلم). And whosoever opposes Allah, then verily, Allah is severe in punishment." [Al-Hasr: 4]

D) Prophet (صلى الله عليه وسلم) had labelled any innovation which was to come after him, in the name of the Deen, as "Bid'ah".

E) Rasullaah (صلى الله عليه وسلم) had also outlined the reason and contributory factor of Bid'ah and deviation, as being incorrect desires. This is such an illness that destroys one heart and mind. Just as the position in the bite of a rabid dog seeps into the system of the victim, which renders a normal person into displaying bestial tendencies. In that same way a person who is inflicted with the poison of false and incorrect opinions, his every vein and fibre is seeped with

## SELF-OPINIONS.

Then, besides his own opinions he disregards every other view.

F) Rasulallah (صلى الله عليه وسلم) had also guide the ummah in that at such a time when all such differences rear their ugly heads in the ummah, then they should hold on fast to his Sunnah and that of his Khulafaa e Raashideen (Rightly guided Amirs i.e Abu Bakr, Umar, Uthman, Ali (رضى الله عنهم)). There is absolutely no doubt about this being TRUE guidance. Muslims must hold on fast to this path, with their teeth. There may come a multitude of new innovations and differing views and opinions, but the ummah must hold on fast to this path of guidance and not leave it.

G) Rasulallah (صلى الله عليه وسلم) has also indicated that this is the path of (to) Allah Most High, which he had demonstrated and upon which the Sahaabah (رضى الله عنهم) had treaded. This path will remain so until Qiyaamah (Judgement Day). Besides this "Path of Allah Ta'ala", there are many other "Side-Streets" upon which Shaitan (mr.devil) is sitting and waiting to lead man astray by TEMPTATION. However the ummah must be vigilant and wary. They must know that the road leading to Allah is (only) the one which The Messenger of Allah (صلى الله عليه وسلم) has showed. That is also the road which the Sahaabah (رضى الله عنهم) and the Khulafaa e Rashideen (رضى الله عنهم) had treaded, and which all the Salaf-e-Saaliheen (pious predecessors) and Awliyaa had followed. Beside this ONE road all the others are the inventions of Shaitaan. Whoever calls to any of these roads is an agent of shaitaan, in fact, he is the personification of shaitaan.

Whoever, deviates from the Path of Allah Most High, and ventures into one of the other roads, must know that he has entered a cave and into the mouth of a large snake. Or that he has ventured into some dangerous jungle and has become pray to a wild animal. If one keeps in mind these principles and guidelines set out by the Qur'an and the Sunnah, and one understands them well, then it will not be difficult for one to discern and recognise which of all group is which and which is on Haqq.

## <http://truelife200vi.wordpress.com/> **Boundaries of Differences**

*From the Discourses of Faqihul-Ummat Mufti Mahmood Hasan Gangohi (rahmatullah alay)*  
<http://truelife200vi.wordpress.com/2007/02/22/ikhtilaf/>

It is only appropriate that the general public be shown what to do when any differences occur between the Ulema. Therefore, below are guidelines extracted from Hadhrat Mufti Muhammed Shafee Sahib's (rahamatullah alay) kitaab, 'Wahdat-e-Ummat', and Hadhrat Sheikhul-Hadith Moulana Muhammed Zakaria Sahib's (rahamatullah alay) kitaab, 'I'tidaal.

Hadhrat Mufti Shafee (rahamatullah alay) writes:

Many people become perturbed and worried, when the Ulema differ amongst themselves, and they ask, "Which way should we turn to?" But hidden beneath this question is the declaration, "Now we will listen to none, we will be free to do as we please." Yet, on the surface this innocent question seems to be justified.

Well, the answer can be found if one ponders over our day-to-day affairs. For example, a person becomes ill. He seeks the advice of the doctors. Doctors and Hakeems differ in diagnosing and in the treatment of the disease. What does he do? Doesn't he choose one of them after investigating the credibility of the doctor or finding out through their patients and other experienced people, as to who is more capable? He then follows his chosen doctor's diagnosis and treatment, and he does not rebuke or speak ill of the other doctors. At this juncture, he does not feel that since the doctors have varying opinions he will abandon all and do as he pleases. Why don't we apply the same tact when Ulema differ in some matter?

Take another example: You wish to file a case against a certain party. Hence, you seek legal

advice from a number of lawyers. If they have varying opinions, then no person will simply drop the case because of this, nor will anyone say, "Since the lawyers differ, I will not pay any attention to them. I will carry on with the case on my own." On the contrary, every person in his own way will find out who the most dynamic and successful lawyer is, so that he may handle the case. Furthermore, he does not hold a grudge against the other lawyers who held conflicting views with his lawyer. He does not go about quarrelling with them or speaking ill of them.

Why don't we use the same natural and easy principle when it comes to differences of the Ulema? Here is an important note to take heed of: If one has to choose an incompetent doctor or an unreliable lawyer that person will definitely suffer the harmful repercussion and result, but this is not the ease when one chooses a certain Alim's view, when the Ulema differ. It is stated in a Hadith, "When one enquires about any matter from an Alim and he issues an incorrect fatwa, the questioner is not sinful. In fact the sin is upon the one who issued the fatwa." Yes, the condition is that a person searches for an Alim whom he may question in the same way as he would search for a genuine lawyer or doctor. After exerting oneself to the utmost in the search of a genuine, reputable Alim, and he accepts his view and practices upon it, then Allaah absolves him of his responsibility. Even if the Alim's view were incorrect, there will be no blame upon the questioner.

It should not be the case, that in search of a doctor, we make sure that he be a M.B.B.S. graduate or a specialist for example, but in the search for an Alim, the only criterion is for him to have a kurta, beard, turban, and dramatic speeches. If this is the type of Alim you looking for, then you will not be absolved of your responsibility. If the person whom you have chosen is not truly a well grounded Alim, and he gives you an incorrect answer and you subsequently practice upon it, then you will be also be sinning. (Wahdete Ummat pg. 49)

Therefore, aside from the knowledge of an Alim, one should scrutinize his life. Is it conforming to the Sunnah or not? Which Alim's life is more in line with the Sunnah? Who has more greed for this temporary world and who has more zeal and desire for the Akhirah? Look at the persons who keep company with him, are they pious, Allaah fearing, followers of the Sunnah and desirous of the Hereafter or not? After contemplating over these points one may go ahead and follow the Alim he has most confidence in, keeping in mind that it is incumbent to respect the other Ulema, for it is extremely detrimental for the spiritual condition of a person to be rude and offensive towards them. Unfortunately, the situation has deteriorated to such an extent that let alone the integrity, even the Iman of the Ulema is being attacked. Hi! Only to Allaah do we complain.

Qutbul-Aqtaab Hadhrat Moulana Muhammed Zakariya Sahib (rahamatullah alay) writes: The masses among the Muslims have made it an unnecessary habit of passing judgement on religious affairs, considering it their right. What need is there for them to put themselves in judgment over men of knowledge when there is disagreement amongst them? What right have they when they are devoid of the ability to understand the academic discussions and arguments of the Ulema? Is it not foolish that they still persist in becoming judges between the Ulema and passing judgment on their findings, when they are not in the position to do so? What these common people should really be doing is to follow the guidance of the true Ulema in whom they have confidence, and whom by experience they know to be Allaah-fearing, pious, experienced and saintly. This would surely have happened if the object of these people were to seek the truth, so as to follow and do acts of righteousness, as a Muslim should. But here in this case, we find the object is only to create controversy. They will find no joy in those gatherings in which the opponents are not denounced and abused. On the contrary, those gatherings and functions in which straightforward simple religious talks are given are considered exceedingly lifeless and boring. To them such speech is definitely not worth listening to. In their view that speaker has not yet mastered the art of oratory, rather a good orator is he who is smart and can give a curt reply to his opponents. (Al-E'tidaal pg. 210)

Further-on Hadhrat writes, "Again I say that the correct way to follow is to act in accordance to the declarations of that Alim in whom they confide, who is a practical true Muslim, a man of knowledge and research. Unfortunately, we are such that we claim love and faith in the leader, but do not act according to his wishes.

The result of our love and support of our Elders is that we shower abuse on those considered the leaders of others. Our Elders never behaved in this manner. The word of Allaah, which is

the basis of the faith of the Muslims, is quite severe in this matter, In this regard, it instructs:

'Abuse not those who pray to other deities besides Allaah, lest they wrongfully abuse Allaah out of enmity, without knowledge'

Ponder! Here the Qur'aan even forbids us to abuse the idols of the idol-worshippers. But when we look and consider the adherents of the Qur'aan, we find that there is no political function, gathering, or procession in which slogans for the destruction and ruin of the Elders and leaders of the opposing parties are not shouted. We find today that the parties instead of striving for the building of unity and strengthening their forces and working together, every party is working for the downfall of the others, to ridicule and belittle them and wish them dead.

It is so amusing and ridiculous that every party wished the other to be dead, and yet they cry and complain that the Muslims are heading for destruction. (From Allah do we seek help.)

## <http://truelife200vi.wordpress.com/> **Al-Insaf fi bayan sabab al-ikhtilaf**

*A rational explanation of difference of opinion (in Fiqh) by Shah Waliullah Muhaddith Al-Dihlawi (rahi'mahullah)*

<http://truelife200vi.wordpress.com/2007/02/22/ikhtilaf/>

In the name of Allah the most gracious and merciful

Praise be to Allah who sent our master Muhammad (صلى الله عليه وسلم) to mankind to guide them towards Allah with His permission and as a luminous lamp. Then He inspired the Companions, the Followers and the diligent (mujtahidin) jurists to preserve together the essence of their Prophet's (teachings) until the world is called to an end. This is to complete His favour. He has the power over every thing. I bear witness that there is no god but Allah alone and He has no partner. I (also) bear witness that our master Muhammad is His servant and Messenger after whom there is no Prophet (to come), may Allah bless him, his progeny and the Companions altogether.

To proceed: says the one in need of the mercy of Allah the Kind-Wali Allah b. 'Abd al-Rahim, may Allah al-Mighty complete His favours on both of them here and in the world hereafter: "Once Allah al-Mighty inspired my heart to a mizan (scale) which explained to me the cause of every disagreement that happened among the followers (milla) of Muhammad (صلى الله عليه وسلم). With (the help of) this (scale) I can recognise what is right in the sight of Allah and in the sight of His Messenger. It (also) enabled me to explain the cause of disagreements so plainly that there remains no doubt and ambiguity.

Then I was asked about the reasons for disagreement among the Companions and those after them, especially over the laws of Fiqh. So I set myself to the task of explaining some of that, which was disclosed to me in that hour commensurating with the extent of the time and the grasp of the questioner. As a result a useful treatise of its kind came about which I call "Al-Insaf fi bayan sabab al- ikhtilaf". For me Allah is sufficient and He is the best disposer of affairs. There is no power and no strength except in Allah the Supreme and Powerful".

The reasons for difference of opinion amongst the Companions and Followers over the furu'

Behold that Fiqh in the noble time of the Messenger of Allah (صلى الله عليه وسلم), was not recorded. Neither was the search for laws in those days like the search of these Fuqaha'. (This is) because they take pain in establishing the basic principles (al-shurut), conditions (al-shurut) and the rules of conduct (adab) of everything (so that it could) be distinguished from each other on the basis of its evidence. They hypothesise conditions and then on the basis of those hypothetical conditions, they argue. They define what accepts definition and confine what yields to confinement. These and other things of this kind are of their (own) making.

As for the Messenger of Allah (صلى الله عليه وسلم), he used to do wudu (ablution) while the

Companions would see him. They would then copy him without being explained by him that this is a rukn and that is an adab. And when he (صلى الله عليه وسلم) used to pray they would see him and pray as they had seen him praying. (Similarly) when he performed hajj, people saw him and did as they saw him doing.

This was his (صلى الله عليه وسلم)'s general practice. He did not explain that obligations (furud) of wudu were six or four. Neither did he prescribe that if a man performs wudu without observing muwalat (continuity) judgement would be made on the validity or invalidity of his wudu. On some occasions, however, he used to explain such things.

The Companions rarely asked him about such things. It is reported on the authority of 'Abd Allah b. 'Abbas (رضى الله عنه d.68/687), as saying: "I have never seen a people better than the Companions of the Messenger of Allah (صلى الله عليه وسلم). They did not ask him (about anything) until he passed away except for thirteen questions, all of which are (mentioned) in the Qur'an. These include, "They ask you about the fighting in the sacred month, say fighting in it is a serious (offence)", and "They ask you about menstruation". He added: "They used to ask questions only about those things which were beneficial for them."

'Abd Allah b. 'Umar (رضى الله عنه d.73/692) said: "Don't ask about that which did not happen, because I heard 'Umar ibn al-Khattab (رضى الله عنه d.23/643) cursing the one who asks questions about that which did not happen". Al-Qasim (b. Muhammad b. Abu Bakr al-Siddique) said: "Indeed you ask about (such) things, which we didn't use to ask. You delve into things, which we didn't use to delve in and you ask about things I don't know what they are. Had we known them it wouldn't have been permissible for us to hide them".

It is reported on the authority of 'Umar b. Ishaq as saying: "Certainly the Companions of the Messenger of Allah (صلى الله عليه وسلم) I met were more than those I missed. (But) I never came across a people who were more lenient in their attitude and less strict than them".

It is reported on the authority of 'Ubada b. Busr al-Kindi, who was asked about a woman who died with a people and did not have a legal guardian (wali). (In response) he said: "I have met people who were not as much strict as you are, and who did not use to ask questions like yours". These traditions are related by al-Darimi (d.255/868).

(It was the practice of the Prophet (صلى الله عليه وسلم), that when) people consulted him over the events (waqa'i) he would advise them and pronounce the judgement on cases referred to him. When he would see people doing something good he would commend it and disapprove it if it was a reprehensible action (munkar). Whatever legal opinion he gave to an advice seeker, or a judgement he made in a case, or disapproval he showed of a person (for his reprehensible action), it (all) happened in public gatherings.

Similarly, the Shaykhain Abu Bakr (d.13/634) and 'Umar (رضى الله عنه), when they didn't have the knowledge of an issue, they would ask the people about the Hadith of the Messenger of Allah (SAAS). (Once) Abu Bakr (رضى الله عنه), said: "I did not hear the Messenger of Allah (صلى الله عليه وسلم) saying something about her, i.e. the grandmother's (share in inheritance)". So he asked the people (if they had heard something from him in this respect). After performing the Zuhr prayer he said: "Which one of you has heard the Messenger of Allah (SAAs) saying something about (the share of) grandmother?" Mughira b. Shu'ba (d.50/670) said: "I". Abu Bakr asked him: "What did he say?" Mughira replied: "The Messenger of Allah (صلى الله عليه وسلم) gave her one sixth (of the inheritance)". Then Abu Bakr asked him: "Does anyone else know that?" Muhammad b. Maslamah (d.43/663) said: "He is right". So Abu Bakr gave her one sixth.

(Or take for example) the story concerning 'Umar's consultation with the people over the ghurra and then his retraction to the report (narrated) by Mughira. Also his consultation with the people over the epidemic (waba) and then his retraction to the report (narrated) by 'Abd al-Rahman b. Awf. Similarly his retraction to the report (narrated) by 'Abd al-Rahman b. 'Awf with regard to the story of Magian (Majus). (Another example is) the delight of 'Abd Allah b. Mas'ud (d.32/651) over the report (narrated) by Ma'qil b. Yasar when it conformed to his view. (Or for instance) the report concerning the return of Abu Musa (al-Ash'ari d.42/662) from 'Umar's door, then 'Umar's inquiry about the Hadith, and Abu Sa'id's (al-Khudri's d.74/693) testimony in his (Abu Musa's) support. These kinds of instances are numerous, well known and reported in the two authentic (books of Bukhari and Muslim) and (other books of) Sunan.

In general this was his (صلى الله عليه وسلم)'s noble practice. Every Companion noticed what Allah facilitated him of his (SAAS) Worship, legal advices (fatawa) and judicial rulings. And so he remembered it, comprehended it and became familiar with the position of everything through circumstantial evidences (qara 'in) attached to it. The Companions interpreted some of these (practices) in the sense of permissibility (ibaha), some in the sense of desirability (istihbab) and some in the sense of abrogation (naskh) in view of the signs and circumstantial evidences that were sufficient in their opinion (to make such a judgement). The only criterion for them was the feeling of satisfaction and gratification without considering the methods of reasoning. This is just as you see the bedouins understand the purpose of conversation among themselves, and by clear (expression), gesture and indication their hearts are so much delighted that they do not realise (it).

And thus his noble time passed away but they remained on that (same pattern). Then they dispersed in towns and every one of them became a leader of an area. There appeared many events (waqa "i), and (jurisprudential) cases (masa "il) became subject of discussion. Therefore they were consulted for advice on these (matters) to which each one of them responded according to what he has remembered or inferred. And if he did not find in what he has remembered or inferred to suit the answer, he would exercise ijtihad on the basis of his personal opinion. This is how he recognised the 'illa (reason) upon which the Messenger of Allah (صلى الله عليه وسلم) based the law in his clear injunctions (mansusat). In such circumstances the Companions would search for the law wherever they (could) find it sparing no efforts (in their bid) to conform to the purpose of the Prophet (صلى الله عليه وسلم) (concerning that rule). It was at this point that a variety of differences occurred among them.

Among these (was the one) that one Companion (might have) heard a ruling or fatwa and the other didn't hear it. So the (latter) exercised ijtihad (on the basis of his personal opinion) in that (matter).

This happened in a number of ways; one of them was that his ijtihad conformed to Hadith. An example of this is what has been narrated by al-Nasai' (d.302/914) and others. Accordingly, 'Abd Allah b. Mas'ud was asked about a woman whose husband had died and did not fix her mahr. He said: "I didn't see the Messenger of Allah (صلى الله عليه وسلم) giving judgement over this matter". The people, however, kept on coming to him for a month and urged (him to find the answer). Consequently he exercised his ijtihad on the basis of his personal opinion. He ruled that her mahr would be (equal to) that of women like her without any reduction or addition, and that she has to observe 'iddah and was entitled to inheritance. There stood up Ma'qil b. Yasar testifying that the Prophet (صلى الله عليه وسلم) gave similar ruling about one of their women. Ibn Mas'ud was so much delighted that he had never experienced such a delight ever since (embracing) Islam.

The second (type of differences among the Companions) was that the debate (munazara) took place between the two (Companions). (As a result) the Hadith emerged in such a way that in strong probability (ghalib al-zann) it seemed acceptable. Consequently one of them would withdraw his ijtihad in favour of the narrated (Hadith).

An example of this is what the Imams have narrated of Abu Huraira (رضي الله عنه d.59/678). Accordingly, he was of the opinion that if someone gets up in the morning in the state of ritual impurity (junub), his fast would not be valid. He held this view until he was told by some of the wives of the Prophet (صلى الله عليه وسلم) contrary to what he believed, and so he withdrew (his opinion).

Thirdly, the Hadith reached him but not in the way that in strong probability it seems acceptable, and so he would not abandon his ijtihad. Rather, he would question (the authenticity of) Hadith. An example of this is what Ashab al-Usul have reported of Fatima bint Qays. She testified before 'Umar ibn al-Khattab that she was triple divorcee, but the Messenger of Allah (صلى الله عليه وسلم) granted her neither (the right of) maintenance nor residence. ('Umar) rejected her testimony saying: "I will not abandon the Book of Allah on (the basis of) a woman's statement (whom) we don't know whether she has spoken the truth or lied. She (the divorcee) has the right to maintenance and residence." 'A'isha (رضي الله عنها) d.58/677) told Fatima: "Don't you fear Allah, i.e. in (your) statement (that the divorcee is) entitled to neither maintenance nor residence".

Another example (of this type of difference) is the report by Shaikhain (Bukhari and Muslim). Accordingly, 'Umar ibn al-Khattab was of the opinion that for a (ritually) impure person who does not find water, tayammum (substitute to ablution) does not suffice. In response 'Ammar told him that (once) he was travelling with the Messenger of Allah (صلى الله عليه وسلم) that he became ritually impure and did not find the water, so he rubbed the dust all over his body. He then mentioned this to the Messenger of Allah (صلى الله عليه وسلم). The Messenger of Allah (صلى الله عليه وسلم) said that it would have sufficed him to have done like this, tapping the ground with his hands and then rubbing with them his face and hands (arms). 'Umar, however, did not accept (the Hadith), because the evidence in his opinion could not be substantiated because of a bidden defect he found therein. (This view remained prevalent) until the Hadith became widespread in the second generation through many lines of transmission (turuq) and the defect (in the meantime) vanished. And so the Hadith was (consequently) accepted.

Fourthly, the Hadith did not reach him at all. An example of this is what (Imam) Muslim (d.282/895) has reported that ('Abd Allah) b. 'Umar used to ask women to untangle their hairs when they bathe. When 'A'isha (رضي الله عنها) heard that, she said: "How strange it is of Ibn 'Umar to ask women to untangle their hairs. Why doesn't he ask them to shave their heads? Indeed I and the Messenger of Allah (صلى الله عليه وسلم) used to bathe with one vessel, which I would not pour it out over my head more than three times".

Another example (of such differences) is what has been mentioned by (Muhammad b. Muslim al-Shihab) al-Zuhri (d.124/741). Accordingly, Hind had not known the concession (rukhsa) (given) by the Messenger of Allah (صلى الله عليه وسلم) to the menstruating (mustahada). Therefore she used to cry for not praying (during the period of her menstruation).

Among those kinds (of differences was also the one) that they saw the Messenger of Allah (صلى الله عليه وسلم) doing something, but then some of them interpreted it in the sense of nearness (qurba) and some in the sense of permissibility (ibaha). An example of this is what has been reported by Ashab al-Usul in respect of the question of al-tahsib-i.e. stopover at al-abtah (valley) during al-nafar. The Messenger of Allah (صلى الله عليه وسلم) stopped there. Abu Huraira and Ibn 'Umar construed this (stopover) in the sense of nearness and treated it as Sunnah of hajj, while 'A'isha and Ibn 'Abbas considered this (stopover) a (mere) coincidence and not a Sunnah.

Another example (of this phenomenon) is the majority view that ramal in tawaf (circumambulation of the Ka'ba) is Sunnah. Ibn 'Abbas, however, believed that it was done by the Prophet (صلى الله عليه وسلم) as a coincidence in response to an incident. And that was the (taunting) remarks by the polytheists that the fever of Yathrib (Madina) had weakened the Muslims. (Therefore in his opinion ramal was) not a Sunnah.

Among these (kinds of differences) was (also) the difference of assumption (al-wahm) in interpretation. For example, the Messenger of Allah (صلى الله عليه وسلم) performed hajj and was seen by (many) people. Some of them thought that he was Mutamatti', some considered him Quarin, others thought he was Mufrid.

Another example (of this kind is the one) reported by Abu Dawud (al-Sijistani d.275/910) on the authority of Sa'id b. Jubair (d.95/713). He said: "I told 'Abd Allah b. 'Abbas that I was astonished at the (degree) of disagreement among the Companions of the Messenger of Allah (صلى الله عليه وسلم) over the ihlal of the Messenger of Allah (صلى الله عليه وسلم) when he put on ihram for hajj and performed the necessary acts of ihram". In response, 'Abd Allah b. 'Abbas said: "I know better about that. Truly it was the only pilgrimage of the Messenger of Allah (صلى الله عليه وسلم) and from there arose disagreement among them".

The Messenger of Allah (صلى الله عليه وسلم) set out for hajj. After performing the two rak'at prayer in Dh'ul-Hulaifa Mosque he put on ihram in the same place and uttered talbiyah for hajj. After completing his two rak'at prayer, many people heard him saying that and remembered it. Then he embarked upon his journey and when his she-camel lifted him up he uttered talbiyah, and many people saw that. This is because people were coming (to him) in groups and so they heard him uttering talbiyah when his she-camel lifted him up, hence they said: "Surely the Messenger of Allah (صلى الله عليه وسلم) uttered talbiyah when his she-camel lifted him up". Then he continued his journey. When he ascended the top of the steep he uttered talbiyah and many people noticed that. So they said: "Indeed he uttered talbiyah only when he ascended the top of the steep". By Allah indeed he put on ihram and performed the necessary acts of

ihram at his musallah and uttered talbiyah when his she-camel lifted him up, and he uttered talbiyah when he ascended the top of the steep".

These (differences also) took place because of the difference of inattentiveness and forgetfulness. An example of this is the report that Ibn 'Umar used to say: "The Messenger of Allah (صلى الله عليه وسلم) performed 'umra in Rajab". When 'A'isha heard this, she ruled inattentiveness on his part.

These (differences also include) the difference of accurate understanding and retention (dabt). An example of this is what Ibn 'Umar or 'Umar reported from the Prophet (صلى الله عليه وسلم) that the dead person is chastised because of the wailing of his family over him. "A'isha ruled that he did not perceive the Hadith in its context. "(Once) the Messenger of Allah (صلى الله عليه وسلم) was passing by (the grave of) a Jewess that he found her family wailing over her. There he said: ""They are wailing for her while she is being chastised in her grave". Hence he (Ibn 'Umar or 'Umar) considered chastisement a cause of bewailing and thought the rule was generally applicable to every dead person.

Among (these kinds of differences) was (also) their disagreement over (the interpretation of) the cause of rule. An example of this is the (observance of) standing for funeral (procession). Some said this was to show respect for angles and therefore would include believer and non-believer alike. Others said it was because of the horror of death and would therefore include both of them. Hasan b. 'Ali (رضي الله عنه) d. 50/669, however, said: "(Once) a funeral procession of a Jew was passing by the Messenger of Allah (صلى الله عليه وسلم) that he stood up out of his dislike lest it pass over his head". Hence (this rule) specifically applies to non-believer.

These (differences also) include their disagreement over reconciliation between the two contradictory (or inconsistent) Ahadith (al-jam' bayn al-mukhtalifain). For example, the Messenger of Allah (صلى الله عليه وسلم) allowed mut 'a (temporary marriage) during the year of (the conquest of) Khaybar. He allowed it (again) in the year of awtas, and then he prohibited it. 'Abd Allah b. 'Abbas said: "The permission was (given) out of necessity and the prohibition (was made) in view of the cessation of necessity and (therefore) the law remains effective in that (final) form". The majority (of scholars), however, said: "The permission was (given) in the sense of permissibility and prohibition (was made) for its abrogation".

(Here is) another example (of this phenomenon). The Messenger of Allah (صلى الله عليه وسلم) prohibited from facing the qiblah (Ka 'ba) during istinja. A group of people believed in the generality (umum) of this rule, and that it was not abrogated. One year before he (صلى الله عليه وسلم) passed away, Jabir (رضي الله عنه) saw him facing the qibla while urinating so he thought it an abrogation of previous prohibition. And (once) Ibn 'Umar (رضي الله عنه) saw him (صلى الله عليه وسلم) answering the call of nature while he was backing towards the qibla and facing to Syria, therefore, he rejected their (above-mentioned) view.

A group (of scholars), however, reconciled between the two reports. Al- Sha'bi and others thought the prohibition was (specifically) related to the desert and that in lavatories there was no harm in facing and backing to (Ka 'ba). Another group believed the statement (of the Prophet (صلى الله عليه وسلم)) was general and definite ('am muhkam) and that the action (of the Prophet (صلى الله عليه وسلم)) has the likelihood of being specific to the Prophet (صلى الله عليه وسلم) and therefore does not stand to be either abrogator or a specific matter (mukhassas).

In general the views (madhahib) of the Companions of the Prophet (صلى الله عليه وسلم) became divergent and so the Followers learned from them whatever it was possible for them. As a result they remembered and comprehended whatever they heard of the Hadith of the Messenger of Allah (صلى الله عليه وسلم) and the views of the Companions. They reconciled between al-mukhtalifat (contradictory or inconsistent Ahadith) as much as it was possible for them. They also gave preference to some of the views (of the Companions) over others. Some of these views became less significant in their opinion even though they were reported on the authority of great Companions such as the reported view of Ibn 'Umar and Ibn Mas'ud about (the validity of) tayammum for (ritually) impure person. This view became weak when the Ahadith transmitted by 'Ammar, 'Imran b. Husain (d.52/672) and others gained widespread currency.

By that time every scholar among the Followers had (developed) his own madhhab. Consequently in every town an Imam was appointed. For example in Madina Sa'id b. al-

Musayyab (d.93AH/711AD) and Salim b.'Abd Allah b.'Umar who were succeeded by al-Zuhri, Qadi Yahya b. Sa'id and Rabi'a b. Abu 'Abd al-Rahman (d.136AH/753AD); in Makkah 'Ata b. Abi Rabah , (d.114AH/732AD), in Kufa Ibrahim al-Nakh'i (d.95AH/713AD) and , al-Sha'bi ('Amir b. Shrahil d.103AH/721AD); in Basra Hasan al-Basri (d.110AH/728AD); in Yemen Ta'us b. Kaysan and in Syria Makhul (al-Shami d.118AH/736AD). Allah made people's hearts , thirsty of their knowledge and they craved for it. From these scholars people learned Ahadith, fatawa and the views of the Companions, as well as the madhahib and investigations (developed) by these scholars themselves.

People used to consult them for advice on legal matters and (thus) discussion on (such) issues became rotating among them. (As a result) disputes were referred to them (for solutions). Sa'id b. al musayyab, Ibrahim al-Nakh'i and people like them had collected the , entire sections of Fiqh. In every field of Fiqh they had principles, which they had acquired from the predecessors.

Sa'id and his companions were of the opinion that the people of Haramayn were the most reliable in Fiqh. The basis of their madhhab were the fatawa of 'Umar and 'Uthman (رضى الله عنه), and their legal decisions, and the fatawa of 'Abd Allah b. 'Umar, 'A'isha and Ibn Abbas (رضى الله عنه), and the legal decisions of the judges of Madina.

Out of all that they collected whatever Allah facilitated them. They examined it with a view of consideration and scrutiny. Of this whatever was agreed upon among the scholars of Madina they would adhere to it firmly, and on whatever there was disagreement among them they would accept (that view which was) the strongest and the most preferable. (The strength and preference of a view depended on the fact) that either because this was the opinion of the majority or because it was in concordance with a strong analogy or clear deduction of the Book (of Allah) and the Sunnah (of the Prophet (صلى الله عليه وسلم) and so on. And if they did not find the answer to the question in what they had collected from them (the 'ulama' of Madina), then they would deduce from their (salaf's) statement and search for the signs (al-ima) and alluded meanings (al-iqtida) (in the text). Thus they developed a collection of many masa 'il in every field (of Fiqh).

Ibrahim (al-Nakh'i) and his companions were of the opinion that 'Abd Allah b. Mas'ud (رضى الله عنه) and his companions were the most reliable in Fiqh. This is just as 'Alqama said to Masruq (b. 'Abd al-Rahman al-Ajda' al-Hamdani d.62AH/681AD): "Is there anyone among the Companions more reliable (in Fiqh) than 'Abd Allah (b. Mas'ud)?" And Abu Hanifa (رضى الله عنه)'s (d. 150AH/767AD) remarks to al-Auza'i ('Abd al-Rahman d.157AH/773AD): "Ibrahim is more knowledgeable than Salim (b.'Abd Allah b. 'Umar). If it were not for the excellence of Companionship, I would have said that 'Alqama is more knowledgeable than 'Abd Allah b.'Umar". And 'Abd Allah (ibn 'Umar) is (too well known).

Ibrahim's school of thought is based on the fatawa of 'Abd Allah b. Mas'ud and the legal decisions of 'Ali (b. Abi Talib (رضى الله عنه) (d.40AH/660AD), and the decisions of Shuraih and other judges of Kufa. From all this he collected what Allah facilitated him and then he treated their traditions (dthdr) just as the people of Madina treated the traditions of their (scholars). Then he deduced the way they deduced, and this is how he developed a collection of many masa 'il in every field of Fiqh.

Sa'id b. al-Musayyab was the spokesman of the jurists of Madina. He was the best of them at remembering the legal decisions of 'Umar and the Ahadith (reported) by Abu Huraira (رضى الله عنه). On the other hand, Ibrahim was the spokesman of the jurists of Kufa. Whenever they both spoke about something and did not attribute it to anyone, it was mostly (understood to be) attributed to one of the ancestors either expressly or by way of indication and other things like that. Then the jurists of their respective cities would agree on it, adhere to both of them, comprehend it and make deduction on the basis of it, and Allah knows best.

Difference of Opinion in Fiqh - Shah Waliullah Muhaddith al-Dihlawi (rahi'mahullah) 1114-1176 AH/ 1702-1762 Translated By Dr.Muhammad Abdul Wahhab

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