

***Ikhtilaf* (differences) among the Madhhabs in Islam**

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1 Al-Hafiz al-Bayhaqi in his book "*al-Madkhal*" and al-Zarkashi in his "*Tadhkirah fi al-ahadith al-mushtahah*" relate: Imam al-Qasim ibn Muhammad ibn Abi Bakr al-Siddiq said: "The differences among the Companions of Muhammad (s) are a mercy for Allah's servants. Al-Hafiz al-`Iraqi the teacher of Ibn Hajar al-`Asqalani said: "This is a saying of al-Qasim ibn Muhammad who said: 'The difference of opinion among the Companions of Muhammad (s) is a mercy.

2 Al-Hafiz Ibn al-Athir in the introduction to his "*Jami` al-usul fi ahadith al-rasul*" relates the above saying from Imam Malik according to al-Hafiz Ibn al-Mulaqqin in his "*Tuhfat al-muhtaj ila adillat al-Minhaj*" and Ibn al-Subki in his "*Tabaqat al-Shafi`iyya*."

3 Bayhaqi and Zarkashi also said: Qutada said: "'Umar ibn `Abd al-`Aziz used to say: 'It would not please me more if the Companions of Muhammad (s) did not differ among them, because had they not differed there would be no leeway (for us).'" 4 Bayhaqi also relates in "*al-Madkhal*" and Zarkashi in the "*Tadhkira*": Al-Layth ibn Sa`d said on the authority of Yahya ibn Sa`id: "the people of knowledge are the people of flexibility (*tawsi`a*). Those who give fatwas never cease to differ, and so this one permits something while that one forbids it, without one finding fault with the other when he knows of his position."

5 Al-Hafiz al-Sakhawi said in his "*Maqasid al-hasana*" p. 49 #39 after quoting the above: "I have read the following written in my shaykh's (al-Hafiz ibn Hajar) handwriting: 'The hadith of Layth is a reference to a very famous hadith of the Prophet (s), cited by Ibn al-Hajib in the "*Mukhtasar*" in the section on *qiyas* (analogy), which says: "Difference of opinion in my Community is a mercy for people" (*ikhtilafu ummati rahmatun li al-nas*). There is a lot of questioning about its authenticity, and many of the imams of learning have claimed that it has no basis (*la asla lahu*). However, al-Khattabi mentions it in the context of a digression in "*Gharib al-hadith*" . . . and what he says concerning the tracing of the hadith is not free from imperfection, but he makes it known that it does have a basis in his opinion.'"

6 Al-`Iraqi mentions all of the above (1-5) in his "*Mughni `an haml al-asfar*" and says: "What is meant by "the Community" in this saying is those competent for practicing legal reasoning (*al-mujtahidun*) in the branches of the law, wherein reasoning is permissible."

NOTE: What `Iraqi meant by saying "the branches wherein reasoning is permissible" is that difference is not allowed in matters of doctrine, since there is agreement that there is only one truth in the essentials of belief and anyone, whether a *mujtahid* or otherwise, who takes a different view automatically renounces Islam. (Shawkani, "*Irshad al-Fuhul*" p. 259 as

quoted in Kamali, "*Principles of Islamic Jurisprudence*" p. 383.) Al-Albani in his attack on the hadith "Difference of opinion in my Community is a mercy" ignores this distinction and even adduces the verse: "If it had been from other than Allah they would have found therein much discrepancy" (4:82) in order to prove that differences can never be a mercy in any case but are always a curse. Al-Albani's point is directed entirely against those who are content to follow a madhhab. The only scholar he quotes in support of his position is Ibn Hazm al-Zahiri, whose mistake he adopts without mentioning it was denounced by Nawawi. ("*Silsila da`ifa*" 1:76 #57)

7 Ibn Hazm said in "*al-Ihkam fi usul al-ahkam*" (5:64): "The saying "Difference of opinion in my Community is a mercy" is the most perverse saying possible, because if difference were mercy, agreement would be anger, and it is impossible for a Muslim to say this, because there can only be either agreement, or difference, and there can only be either mercy, or anger." However, Imam Nawawi said in his Commentary on "*Sahih Muslim*": "If something (i.e. agreement) is a mercy it is not necessary for its opposite to be the opposite of mercy. No-one makes this binding, and no-one even says this except an ignoramus or one who affects ignorance. Allah the Exalted said: "And of His mercy He has made night for you so that you would rest in it," and He has named night a mercy: it does not necessarily ensue from this that the day is a punishment."

8 Al-Khattabi said in "*Gharib al-hadith*": "Difference of opinion in religion is of three kinds: - In affirming the Creator and His Oneness: to deny it is kufr (disbelief); - In His attributes and will: to deny them is innovation; - In the different rulings of the branches of the law (*ahkam al-furu`*): Allah has made them mercy and generosity for the scholars, and that is the meaning of the hadith: "Difference of opinion in my Community is a mercy." Al-Jarrahi cited it in "*Kashf al-khafa*" 1:64 #153.

9 Al-Hafiz al-Suyuti says in his short treatise "*Jazil al-mawahib fi ikhtilaf al-madhahib*" (The Abundant Grants Concerning the Differences Among the Schools): "The hadith "Difference of opinion in my Community is a mercy for people" has many benefits among which are the fact that the Prophet (s) foretold of the differences that would arise after his time among the madhahib in the branches of the law, and this is one of his miracles because it is a foretelling of things unseen. Another benefit is his approval of these differences and his confirmation of them because he characterizes them as a mercy. Another benefit is that the legally responsible person can choose to follow whichever he likes among them." After citing the saying of `Umar ibn `Abd al-`Aziz already quoted (#3 above), Suyuti says: "This indicates that what is meant is their differences in the rulings in the branches of the law."

10 The muhaddith al-Samhudi relates al-Hafiz Ibn al-Salah's discussion of Imam Malik's saying concerning difference of opinion among the Companions: "Among them is the one that is wrong and the one that is right: therefore you must exercise *ijtihad*." Samhudi said: "Plainly, it refers to differences in legal rulings (*ahkam*). Ibn al-Salah said: "This is different

from what Layth said concerning the flexibility allowed for the Community, since this applies exclusively to the mujtahid as he said: "you must exercise *ijtihad*," because the mujtahid's competence makes him legally responsible (*mukallaf*) to exercise *ijtihad* and there is no flexibility allowed for him over the matter of their difference. The flexibility applies exclusively to the unqualified follower (*muqallid*). The people meant in the saying: "Difference of opinion in my Community is a mercy for people" are those unqualified followers. As for the import of Malik's saying "Among the Companions is the one that is wrong and the one that is right," it is meant only as an answer to those who say that the *mujtahid* is able to follow the Companions. It is not meant for others.""

11 The author of "*al-Fiqh al-Akbar*" (attributed to Imam Abu Hanifa) said: "Difference of opinion in the Community is a token of divine mercy."

12 Ibn Qudama al-Hanbali said in "*Al-`Aqa'id*": "The difference in opinion in the Community is a mercy, and their agreement is a proof."

Discussion

The decision of `Umar whereby he gave precedence to `Ubayy ibn Ka`b's *ijtihad* over the *ijtihad* of `Abdullah ibn Mas`ud on the validity of praying in a single garment is not a proof that `Abdullah was wrong, rather it is a proof that `Umar exercised his own *ijtihad* and authority as the Greater Imam in settling the question. He overruled, not invalidated, and if Ibn Mas`ud held his position from the Prophet (s) he cannot change it even after `Umar's ruling. This is true of every true *mujtahid* at any time: he is obligated to follow the result of his own *ijtihad* even if it should differ with that of every other *mujtahid* of the past and present, unless he becomes convinced that he was mistaken in his previous *ijtihad*.

According to all the scholars it is incumbent upon the leader of the Muslims to be a *mujtahid* and it is his responsibility in such cases to settle the question for the sake of the people of his time, and that is the proper context of Imam Malik's injunction: "Exercise *ijtihad*." It is addressed to the mufti who must establish what is correct in clearcut fashion, not to the *muqallid* (follower) who is only interested in "a way to follow" (= *madhhab*) without having to verify its proofs and inferences. However, another mufti may reach another conclusion and be followed, and is not bound by that of the first, nor are those who take their *fatwa* from him, and no-one finds fault with the other, as Al-Layth ibn Sa`d stated.

A clear proof that the *fatwa* of the leader overrules but does not invalidate the opinion of the Companions even if it directly contradicts it, is the fact that when `Umar ibn al-Khattab proposed to have all the hadith collected and written down he

consulted the Companions and they unanimously agreed to his proposal; later he disapproved of it and ordered that everyone who had written a collection burn it. Yet `Umar ibn `Abd al-`Aziz later ordered that hadith be collected and written. Al-Hafiz al-Baghdadi relates it in his "*Taqyid al-`ilm*" 49, 52-53, 105-106, and Ibn Sa`d in his "*Tabaqat*" 3(1):206, 8:353.

Those who think they are *mujtahid* but in reality are unqualified, when faced by the followers of *madhahib*, cover up their ignorance with the flashy claim: "We follow Qur'an and Sunna, not *madhahib*." When it is pointed out to them that to follow a *madhhab* is to follow Qur'an and Sunna through true *ijtihad*, they become upset: "How can the four *madhhabs* differ and be right at the same time? I have heard that only one may be right, and the others wrong." The answer is that one certainly follows only the ruling that he believes is right, but he can never fanatically invalidate the following of other rulings by other *madhahib*, because they, also, are based on sound principles of *ijtihad*. At this they rebel and begin numbering the mistakes of the *mujtahids*: "Imam Malik was right in this, but he was wrong in that; Imam Shafi`i was right in this, but he was wrong in that . . ." This is what they say, and what they hide in their heart is worse because it includes even the Companions. This we will never accept. But when they are rebuked for this blatant disrespect they make it known that they have been wronged and "They are arrogant in their sin" (2:206). This is nothing else than the legacy of the Wahhabi/Salafi movement.

Blessings and Peace on the Prophet, his Family, and His Companions. May Allah be well pleased with the Four Mujtahid Imams, and all the scholars who feared Allah truly.

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