

# Choosing a Madhab

*Dr Rizwan Syed*

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Respecting difference of opinion

**Summary**

**Bibliography**

This article is best read alongside the article, “Choosing a scholar”

Watch this video, covering both topics:

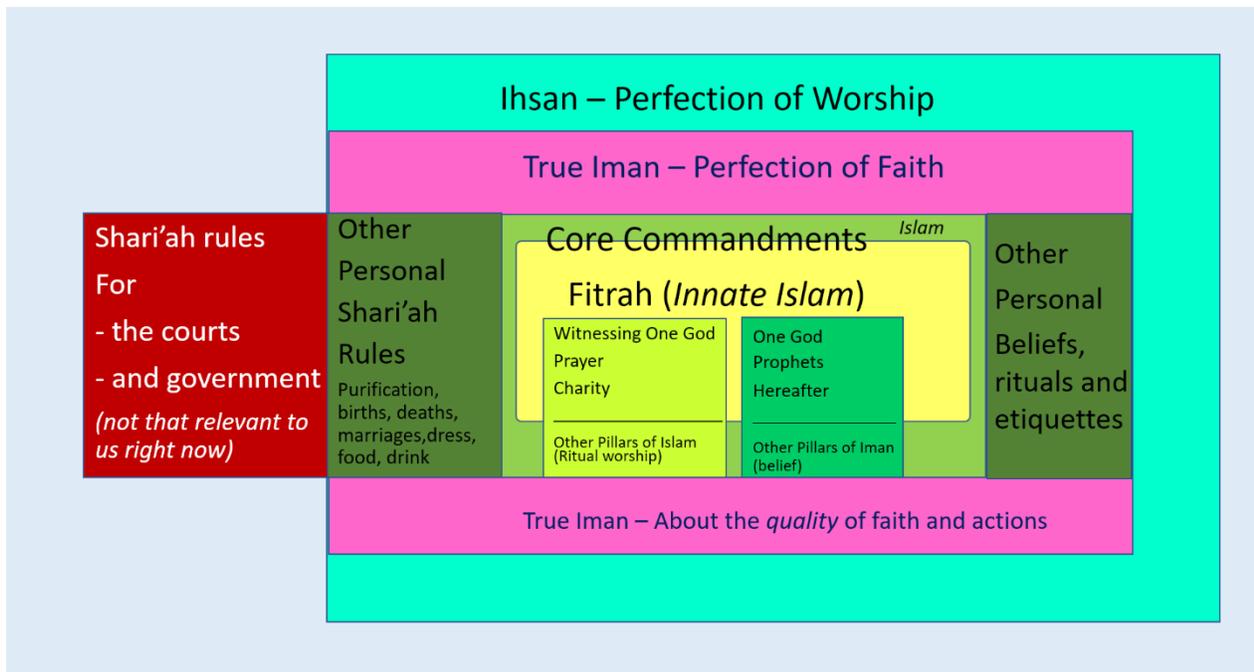
Choosing a scholar: <https://www.youtube.com/watch?v=I8uBuNM-bHc&t=2965s>

## 1. What do we need scholars for anyway?

In the past:

- Judges – family and commercial law was based on the legislations of the Prophet to his Arabian country
- Governmental advisors
- Universities/ teachers
- **Led the communal prayers, including Friday sermon**
- **Dealt with people’s religious questions to help them live a life in accordance with the sunnah**
- **Inspired the community, argue for the faith, guide them to become closer to God (tazkiyah)**
- **Taught religious knowledge to students and the public – clarify the creed, how to worship, knowledge of the Prophet and Qur’an – hadith, sirah, tafsir**

Nowadays, just the roles in bold. Interestingly, with the presence of the internet, how many scholars do we now need, one could argue? Whatever the specific need might be, it is always a blessing to share company with people who have a deep understanding of the faith.



## Should we follow scholars who belong to the madhab of our parents?

### Benefits of *taqlid*

The answer could be simply yes. As we will see later, **if you are following a scholarly opinion that harms no one else but benefits you, then you will get rewarded irrespective** of if there was a better opinion out there.

**‘The Umma up to the present date ... has unanimously agreed that these four recorded madhhabs may be followed by way of taqlid (simple following). In this there are manifest benefits and advantages,** especially in these days in which enthusiasm has dimmed greatly, and souls have been given to drink of their own passions, so that everyone with an opinion is delighted with his opinion.’

Shah Waliullah al-Dahlawi (Hujjat Allah al-Baligha, I, 132)

In areas of uncertainty, **the important thing is to turn to scholars if you want a religious verdict** because lay people just do not know enough to be able to define what Islam would teach on a particular matter. This is eloquently argued by Shaykh Abdal Hakim Murad:

**“We are all a little like Pharaoh: our egos are by nature resistant to the idea that anyone else might be much more intelligent or learned than ourselves.**

The belief that ordinary Muslims, even if they know Arabic, are qualified to derive rulings of the Shariah for themselves, is an example of this egotism running wild.

To young people proud of their own judgement, and unfamiliar with the complexity of the sources and the brilliance of authentic scholarship, this can be an effective trap...”

Abdal-Hakim Murad, UNDERSTANDING THE FOUR MADHHABS  
(<http://www.masud.co.uk/ISLAM/ahm/newmadhh.htm>)



### Imam Shafi'i

- Settled and died in Egypt
- Consolidated and propagated his teachings in Egypt
- Followers along the Red Sea Trade Routes (horn of Africa and southwards, Sri Lanka, Far East)

### Imam Ahmed bin Hanbal

- Few followers
- Important follower was Ibn Taymiyyah – though controversial and opposed by most of his contemporary scholars
- Salafi movement of Muhammad ibn Abdul Wahhab adopted many of Ibn Taymiyyah's teachings
- Call themselves Salafis, not Hanbalis – different to traditional Hanbalis in many ways (e.g. Salafis will follow only authentic hadith but are happy to accept isolated authentic hadith, unlike Hanafis, they are Hanbali in creed though)

### Choosing a new madhab

For some people, they **might wish to choose a madhab because of the methodological principles of the madhab**. The madhabs could be seen as being on different **points along a continuum** where aversion to reasoning and instead, adherence to anything that might have been a teaching of the Prophet, is on one side and a willingness to use reason to establish the *meaning* of what the Prophet taught is on the other.



In summary, these are the differences in approach of the four imams of the madhabs, as they appear on that continuum:

### Imam Ahmed bin Hanbal

- He would follow **authentic hadith as well as weaker ones** if they had a fair probability of coming from the Prophet
- After hadith he would prefer to take **the teachings of the Prophet's dedicated companions**, rather than using any reasoning as reasoning results in different opinions and each opinion could be wrong.

### Imam Shafi'i

- Believed the **Qur'an needed clarifying through hadith**
- Defined **sunnah as authentic hadith** confirming the **practices, instructions or endorsements** of the Prophet (PBUH)
- All forms of reasoning are dangerous and could be tantamount to rejecting the Prophet (S)
- When there was a difference between hadith, he worked out a methodical approach to reconciling authentic hadith, including collating them to work out the broader sunnah
- He would allow qiyas (analogical reasoning) but in a very strict, limited way (e.g. applying the hadith on zakah of barley to rice.)

### Imam Malik

- Held that the Sunnah was based on **authentic hadith endorsed by the practice of the learned people of Medina**
- Where there were authentic hadith that seemed to oppose each other, Imam Malik accepted those that were endorsed by the practice of Medina, and parked the rest.
- He would also park hadith if they would cause hardship because just as the practice of Medina was the supreme sunnah, so was benefit to the community.
- In the absence of hadith he would go for the opinion of prominent companions from Medina, or their students.
- Or just the accepted practice of the people of Medina because they had been shaped by the Prophet (S).
- Otherwise he would support ruling that conferred benefit to society, known as maslahah

### Hanafis

- **Saw sunnah as the principles that the Prophet lived by**
- **Also followed broad principles expressed in the Qur'an**
- Or by looking at lots of hadith together
- **Only accepted hadith that were mash-hoor (well known) or mutawatir (reinforced by lots of independent authentic chains) for law and beliefs (the rest were parked)**

- Or if a teaching was explained by a companion as being the sunnah of the Prophet (S)
- Then they might apply a practicality/ coherence filter – called istihsan
- Istihsan – giving preference to opinions from secondary sources to maintain consistency in the principles
- They also respected the norms of Muslim communities as part of Sunnah ('the Muslim way') = 'Urf (in the way Imam Malik did for just the customs of Medina)

What probably matters most however is the approach to new problems, since that is often when you feel the need to find a scholar anyway:

## Dealing with new problems

(Where there was no clearly relevant, ayah or authentic hadith to follow)

If new problems occurred:

**The Hanbali approach** to new problems would be to look for a hadith with a reasonable probability of accuracy and apply it even if it doesn't exactly match the new situation, and even if it caused a degree of hardship, because at least it showed a desire to adhere to the Prophet's teachings and to avoid thinking too much as that could be even more erroneous.

**Imam Shafi'i's** approach was to look for something in the hadith that was very similar to the new problem and analogise a ruling (*qiyas Jali* / manifest analogizing)

Completely new problems for which there was no precedent in the hadith, should be dealt with by the authorities and people would have to follow the law, but considered such things outside the scope of Shari'ah. So to not follow the law of the land will get you into trouble with the authorities but may not be a spiritual sin as such.

**Imam Malik** would have considered any laws that help the public part of shari'ah (maslahah mursalah). This would involve assessment of the best evidence of what benefits the public, and this would be endorsed.

If there was a hadith that applied to a similar situation but following it would cause hardship, then Imam Malik may not follow it, as the greater sunnah was that Islam came to benefit people.

**The Hanafis** established principles that would embrace new situations, so that Islamic teachings could extend into new contexts, even if the Prophet (S) had not specifically ruled on those situations.

Where the matter does not encroach on important areas of Divine Law, the Hanafis would endorse local custom ('Urf) for their judgements.

Unlike other madhabs, Hanafis devised rules for taxation, foreign policy and other spheres of government and the Hanafi madhab was preferred by most large empires.

## 2. Is it obligatory to consistently stick to one madhab/scholar?

For a governmental legal system, which in the past was based on shari'ah, there would obviously have to be a consistency in methodology and application of the rules. From classical times, we can find many scholars insisting that the population should stick faithfully to one madhab and it made sense when everything they did was governed by shariah so a consistent interpretation was required.

“If the jurists may legitimately disagree, how should the Islamic state apply a unified legal code throughout its territories? Clearly, the law must be the same everywhere.

Imam al-Qarafi states the answer clearly: **‘The head of state gives a judgement concerning the [variant rulings which have been reached by] ijihad, and this does away with the disagreement, and obliges those who follow ijihad verdicts which conflict with the head of state’s to adopt his verdict.’** (Qarafi, II, 103; affirmed also in Amidi, IV, 273-4.) Obviously this is a counsel specifically for qadis, and applies only to questions of public law, not to rulings on worship.”

Shaykh Abdal-Hakim Murad,  
Understanding the Four Madhhabs, The Problem with Anti-Madhhabism,  
<http://www.masud.co.uk/ISLAM/ahm/newmadhh.htm>

But is that same rigour required now, in our very different world, when people are asking for opinions simply on matters of personal worship and religious practice?

We often forget that there was a time before the madhabs and even in the early years after their establishment, people freely moved between one scholar and another.

## Seeking rulings at the time of the Prophet (S)

At the time of the Prophet, companions avoided asking too many questions about law since they understood that the basic teachings are simple and true reward is in doing them to one's utmost (e.g. prayer, dhikr, charity, helping others, spreading the message, defending Islam). So there was an aversion to hunting out too many rules, in case they became binding and caused undue hardship.

“It is reported on the authority of ‘Abd Allah ibn ‘Abbas, as saying: ‘I have never seen a people better than the companions of the Messenger of Allah (SAAWS). They did not ask him about anything until he passed away except thirteen questions, all of which are mentioned in the Qur’an...They used to ask questions only about those things which were beneficial to them’...

Al Qasim (b. Muhammad b. Abu Bakr) said: ‘Indeed you ask about such things, which we did not used to ask. You delve into things which we did not delve into and you ask about things which I do not know what they are’...

It is reported on the authority of ‘Umar b. Ishaq as saying: ‘Certainly the companions of the Messenger of Allah (S) I met were more than I missed. But I never came across a people who were more lenient 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 whilst not having a legal guardian. In response he said, ‘I have met (earlier) people who were not as strict as you are, and who did not used to ask questions like yours.’ These traditions are related by Al-Darimi.”

(Shah Wali Allah Al-Dihlawi, *Al Insaaf Fi Bayaan Sabab Al Ikhtilaaf*, Difference of Opinion in Fiqh, Ta Ha Publ. p.23)

## Seeking rulings in the era of the early generations

We must remember that there was a time before the madhabs came along and in that early era, people were flexible in choosing scholars for advice:

“Behold that people in the first and second centuries did not agree on taqlid (imitation) of a particular madhab. Abu Talib Al Makki (Qut ul Qulub) states: “The books and collections (of rulings) are innovations, (likewise) advocating the views of (particular) people. (Similarly) giving fatwa according to the madhab of a particular person, adhering to his view, relating to him in everything, and relying on his madhab (are later inventions). The people practiced (none such things) in the first and second centuries.”

Rather, there were two types of people: the ulama (scholars) and the masses. As for the masses, it was admirable of them, that on those collective matters on which there was no disagreement among the

Muslims or among the majority of mujtahidin, they used to imitate only the *Law Giver* (SAAS). **They used to learn the method of wudu, ghusl, rules of salah or zakah and (other such) things from their forefathers or teachers of their towns. This was their common practice.**

**And if there appeared something unusual, they would seek fatwa from any mufti they could find without specification of madhhab.**

At the end of his book *Al-Tahrir*, Ibn Humaam states that,

**“Sometimes people used to consult one mufti and sometimes others, without committing themselves to a particular mufti.”**

(Shah Wali Allah Al-Dihlawi, *Al Insaaf Fi Bayaan Sabab Al Ikhtilaaf*, Difference of Opinion in Fiqh, Ta Ha Publ. p.63)

### **3. What if you follow a madhab thinking you were following the best opinion but they end up being wrong? Is an incorrect opinion sinful?**

**As long as people are not harmed, both opposing opinions are valid and will be rewarded**

It was narrated from ‘Amr ibn al-‘Aas, that he heard the Messenger of Allah (blessings and peace of Allah be upon him) say:

**“If a judge passes a judgement having striven to reach a decision, and he gets it right, he will have two rewards. If he passes a judgement having striven to reach a decision and he gets it wrong, he will have one reward.”**

Narrated by al-Bukhaari (7352) and Muslim (1716).

Often times however, the Prophet did not make it clear which opinion was right. He was thereby validating both opinions.

We have already discussed the very important hadith of Banu Quraidha in which the Prophet asked the companions to pray ‘Asr at Banu Quraidha. Now let us consider some more.

Two companions went on a journey and being unable to find water, they performed tayammum and then prayed. When they were later able find water, one prayed again

whilst the other felt this was unnecessary. **Later they presented the disagreement to the Prophet, who is reported to have approved both courses of action.**

(Tabrizi, Mishkat, book I, no. 533. Mohamed Hisham Kamali, Principles of Islamic Jurisprudence, p.66)

‘Amr ibn al ‘As was on an expedition. At night he had a wet dream but due to the extreme cold, he performed Fajr prayer with tayamum instead of ghusl. **When he informed the Prophet of his decision, he laughed but said nothing, which amounts to approval.**

(Sunan Abu Dawud, I, no. 334)

Note that ‘Amr was new to Islam and by no means a scholar, yet instead of getting angry, the Prophet laughed!

## How can different opinions be valid when there is only one Islam?

But is there only one Islam?

Was Prophet Moses (AS) a Muslim? So he practiced ‘*Islam*’. But was his ‘*Islam*’ slightly different to ours? Of course!

Some madhabs state that Islam allows you to keep your arms by your side in prayer; others insist that Islam requires that hands must be folded on the chest. If both opinions are valid, then there are two Islams.

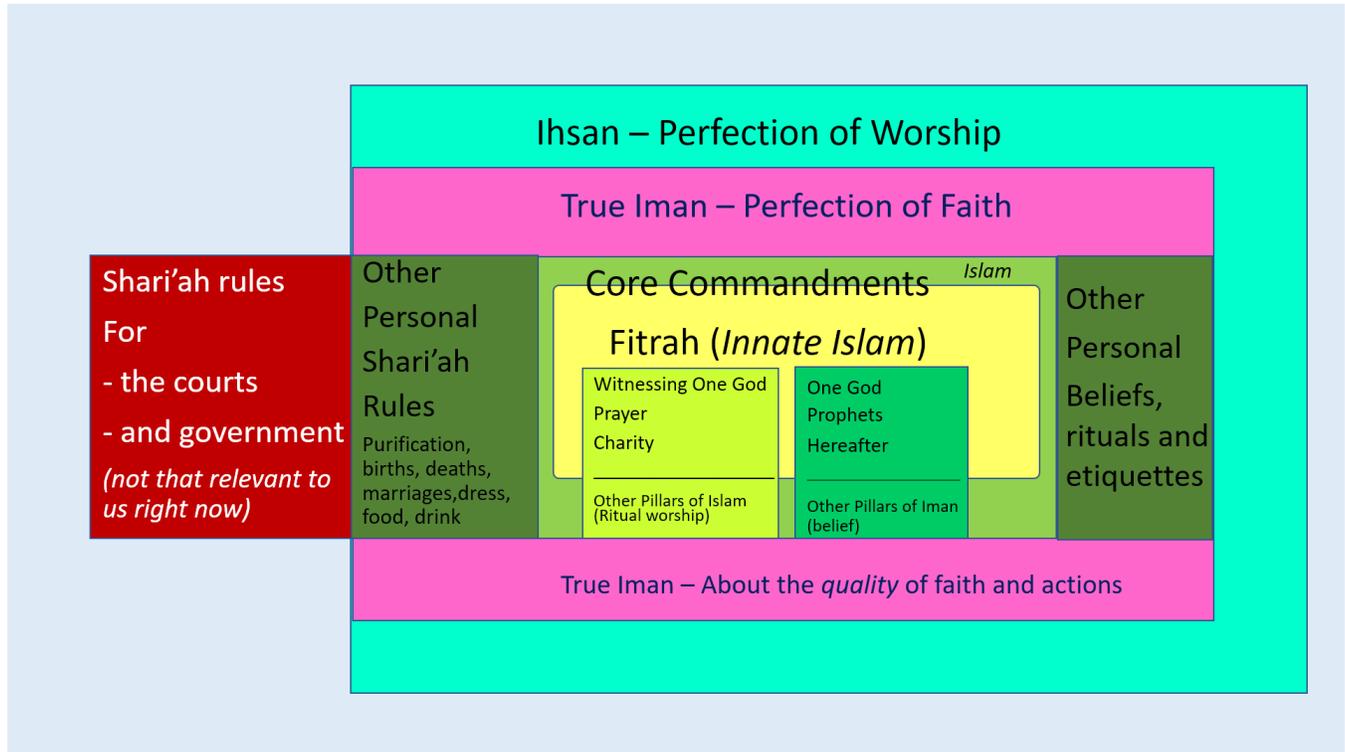
In this sense, there are lots of ‘Islams’. And importantly, an *Islam* of 16<sup>th</sup> century India would look quite different to a suburban 21<sup>st</sup> century Malaysian Islam.

It is reassuring however, that at the core, all ‘Islams’ are the same. But around the peripheries (the *furū*’, the branches) they differ. And we can’t say the peripheries are not part of Islam, a tree is not a tree without its branches; five oak trees are still oak trees, even if they each have different shaped branches: during prayer you have to place your hands somewhere, right? But if you ask the madhabs which part of the prayer constitutes the *fara’id* – the obligatory part, then they will essentially agree, namely the times of prayer, facing the Qiblah, saying Allahuakbar, reciting Fatiha, standing, ruku’, sadjah etc.

We must bear in mind that the tools of *ijtihad* ensure that the jurist remains close to the spirit of the *shari’ah* at all times and places, allowing for culturally different manifestations of Islam that are adapted to each country and context.

If the Prophet (S) were here in Britain today, he would probably drive cars, observe the traffic lights, speed limits, drive on the left, and condemn anyone that did not. Here, we wait in queues and he would probably condemn anyone that skipped the queue, right? He would probably ask people to keep their litter and throw it in a bin, etc., etc. For Britain, all of this would be Islam.

However, despite their differences in ijtiḥad on minor matters, we can see how consistent the teachings have remained if you look at what is agreed upon by all scholars.



Sometimes when you get bogged down with the detail of the differences it's easy to overlook the bigger picture. Try comparing the universally accepted teachings of Islam, even what is common to Sunnis and Shi'ahs compared to say, Muslims and Christians.

Just take marriage for instance:

1. Fornication and adultery are strictly prohibited
2. Marriage is a virtue, celibacy is not
3. Marriage requires the giving of a gift to the bride
4. Marriage is a contract
5. Marriage should be public and well-known
6. Having children is a virtue
7. But contraception is permitted
8. Sexual relations within marriage are condoned and deemed healthy
9. The objective is tranquility and love
10. The husband is responsible for the financial support of his wife and children
11. The husband is obliged to give his wife an allowance
12. Divorce is permitted if things go wrong
13. Reconciliation should be sought first
14. Wives are not allowed more than one husband at a time
15. Men can marry up to four wives (law of the land permitting)
16. First and second degree relatives are forbidden for marriage
17. Men cannot marry a close relative of an existing wife
18. Etc., etc.

## On tolerating and respecting differences of opinion

If all sincere scholarly opinions are valid and rewardable, then our rich diversity of opinions actually becomes an asset, allowing scholars to find precedents that will make life more amenable for people.

In particular, **when legitimate difference of opinion exists it is unacceptable for people to prevent others from following a different opinion**, unless of course, people are being injured by that opinion.

Sufyan al-Thawri said:

**'If you see a man doing something over which there is a debate among the scholars, and which you yourself believe to be forbidden, you should not forbid him from doing it.'**

Yahya ibn Sa`id, one of the great hadith narrators among the Followers (Tabi`un), said:

"The people of knowledge are a people of broadness (ahl tawsi`a). They continue to give fatwas which are different from each other, and no scholar reproaches another scholar for his opinion."

<http://www.masud.co.uk/ISLAM/ahm/newmadhh.htm>

This tradition of respect goes right back to the companions.

### Differences between Ibn `Abbas and Zayd bin Thabit (RA)

There was a major difference between Ibn `Abbas and Zayd bin Thabit on an issue of inheritance.

"Ibn `Abbas: 'Doesn't Zayd fear God in equating the grandson with the son while refusing to grant the grandfather the right of the father in inheritance?'

Yet when Ibn `Abbas saw Zayd riding one day, he took the reins of Zayd's mount and lead him as a gesture of respect. Zayd protested saying, 'Do not do that O cousin of the Messenger of God, May God bless him and grant him peace.'

Ibn `Abbas replied, 'This is how we have been instructed to treat our learned ones and our elders.'

Zayd responded by asking for Ibn `Abbas' hand. Zayd took the proffered hand and kissed it saying, 'This is how we have been instructed to behave towards the family of our Prophet.'

On his passing, Ibn `Abbas remarked, 'Today, knowledge in abundance has been buried.'"

(Kanz al Umal 7/37 Hayat as-Sahabah 3/30)

Taha Jabir Al Alwani: The Ethics of Disagreement in Islam, pp. 48-49.

## Differences between 'Ali and Talhah and Zubayr (RA)

Talhah and Zubayr joined A'isha in a battle against Ali's army which contained the murderers of 'Uthman. During the battle Ali met Talhah and Zubayr and they recanted and left the battlefield but were killed shortly after.

'Ali led the funeral prayer for them all, those who supported him and those who fought him. When he had finished burying Talhah and Zubayr he bade farewell to them with a heavy heart, a heart filled with tenderness and love.

"I really hope," he said in simple and sublime words, "that Talhah, az-Zubayr, 'Uthman and I will be among those of whom Allah has said, **'And We shall remove from their hearts any lurking sense of injury and rancour; they will be brothers joyfully facing each other on thrones of dignity [Al-Qur'an 15:47].'**"

Taha Jabir Al Alwani: The Ethics of Disagreement in Islam

Imam Ahmed went so far as to dislike people strictly following his own madhab:

“According to later notable scholars of the Hanbali school like Ibn Aqil and Ibn Taymiyyah, Ibn Hanbal ‘considered every madhhab correct and abhorred that a jurist insist people follow his even if he considered them wrong and even if the truth is one in any given matter.’

When Ibn Hanbal's student Ishāq ibn Bahlūl al-Anbārī had ‘compiled a book on juristic differences ... which he had named The Core of Divergence (Lubāb al-Ikhtilāf),’ Ibn Hanbal advised him to name the work The Book of Leeway (Kitāb al-Sa'a) instead.”

Gibril F. Haddad, *The Four Imams and Their Schools* (London: Muslim Academic Trust, 2007), pp. 306 and 313; see Ibn Taymiyyah, *Majmū' al-Fatāwā*, 20:365.

## In summary

**There are lots of different flavours of Islam.** Whichever flavour, it's

- Still cool and creamy, i.e. ice cream
- Still in a cone!

Each different 'Islam' is/was legitimate in its context – whether an 18<sup>th</sup> century Ottoman Turkish Islam, modern Malaysian Islam, 19<sup>th</sup> century Indian Islam, Saudi Islam, Suburban British Islam etc.

**It's ok to simply follow without thinking too hard about the evidences (*taqlid*)**

- As long it's a choice for you, personally
- You're not breaking the law
- You're not harming anyone else
- You're not saying this is the only acceptable opinion

Many people do just follow the rulings of their parents, and many scholars just follow the rulings of their teachers, their countries, their institutions

**Difference of opinion are natural and inevitable and can come about for lots of reasons:**

- Following hadith of different strengths of authenticity
- When some madhabs follow authentic solitary hadith, but others park it, in favour of a Qur'anic verse or a broader understanding of a sunnah or commonly held practice of early Muslims or prominent opinion of companions
- Sometimes a ruling might not take account of other hadith against it
- Sometimes differences come about due to difference in interpretation of a hadith or verse
- Sometimes because some scholars follow a hadith whilst others think it is not relevant to the present context
- Sometimes because one scholar follows the opinion of a companion and another follows an opposing opinion from a different companion

Our heritage of different opinions is enriching, not a curse!

## When seeking rulings

- Choose a jurist!
  - Who is well-versed in our context, e.g. western degrees, lived a normal-ish life
  - Who considers harm and benefit in making a judgement
  - Who leans towards making things easy
  - Who is moderate, and not harsh
- 

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