

Choosing a Madhab & Choosing a Scholar

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Watch the full video:

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

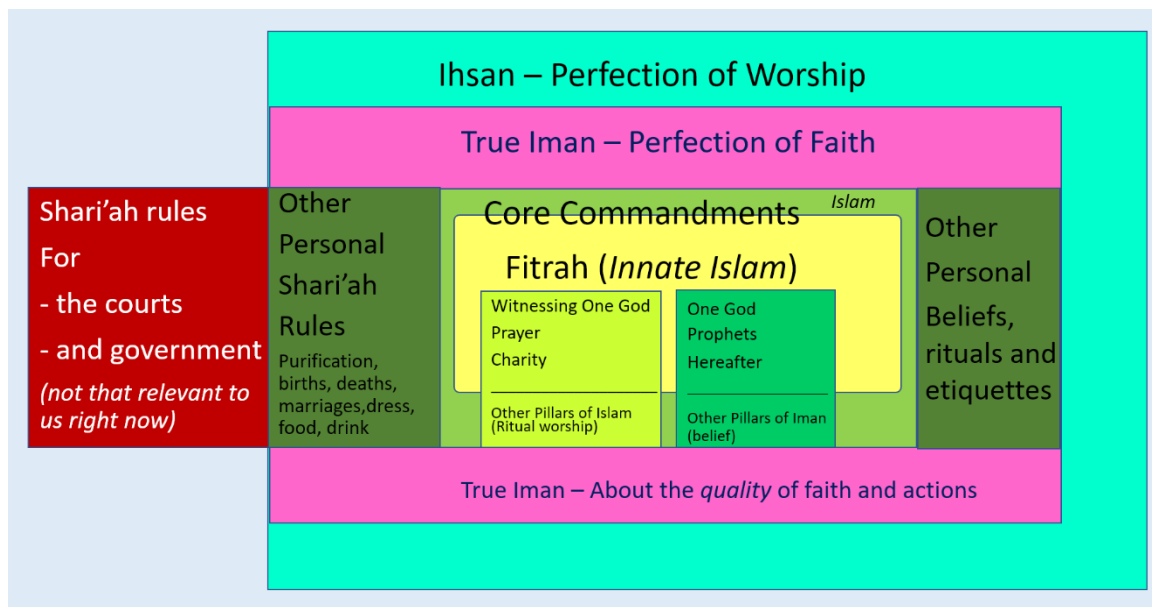
This article is best read alongside the article, “Choosing a madhab”

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.



2. 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>)

Choosing a new madhab

For some people, they **might wish to choose a madhab because of the methodological principles of the madhab**. The madhhabs 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*
- *Isihsan* – 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.

3. How do we choose a scholar?

Depth of understanding above tribal loyalty

It is worth noting though, that just as people of one religion learn from other religions and bring the good from other religions into their own practices and community without changing their religion, so there has been a lot of cross-fertilisation of ideas and opinions between scholars of different madhabs, even if they did not change their madhab.

If a scholar changes their madhab then all the beneficial ideas are lost to their congregation as the congregation will leave the scholar.

So scholars associating with one madhab still learn and adapt and grow and in time, may not necessarily follow the exact principles and rulings of their founding imams.

First example – *Malikis and istihsan*

The great Maliki jurist Imam Al-Shatibi says about istihsan: 'It entails giving priority to empowered deduction over analogy. Whoever uses istihsan does not refer to only his inclination and desire. He refers to what he knows of the intention of the Lawgiver in those kinds of theoretical matters, like the questions in which the people would give a certain judgement were it not that that matter would lead to the loss of benefit from a different aspect or would bring about evil in the same way... In some case, analogy without restriction would lead to distress and hardship in some cases, and so there is an exception for the place of distress.'

(al-Muwafaqat, pt. 4, p. 116)

Another Maliki jurist, Ibn al-'Arabi defined Istihsan in *Ahkam al-Qur'an*: "Istihsan according to us and the Hanafis is the use of the stronger of two pieces of evidence."

He divided it into four categories: leaving the proof in favour of custom and leaving it in favour of consensus; leaving it in favour of a benefit; leaving it in favour of making things easy; and removing hardship and preferring expansion.

Aisha Bewley/ Muhammad Abu Zahrah, The Fundamental Principles of Imam Malik's Fiqh
(http://www.iium.edu.my/deed/lawbase/maliki_fiqh/usul8.html)

Istihsan of course, was originally a Hanafi principle.

Second example – *Hanbalis and maslahah*

Another example was Imam Ibn Taymiyyah, a Hanbali scholar, who advised jurists to apply a 'maslahah (benefit) filter' to any ruling they were about to make.

Ibn Taymiyyah taught that:

- a) It is not permissible to command or forbid a course of action without thorough investigation.
- b) If the right is preponderant it should be commanded, even if it entails a lesser wrong.
- c) If the wrong is predominant, it should be forbidden, even if it entails the loss of a lesser right.
- d) A wrong should not be forbidden if doing so entails the loss of a greater right.
- e) If the right and wrong are equally balanced and inseparable, it is neither to be commanded nor forbidden.

(Al Hisbah fi Al Islam)

This approach requires a liberal use of intellect and in many cases parking of Prophetic teachings. This approach is more Maliki and quite a departure from Imam Ahmed bin Hanbal's teachings, as he was strongly against using intellect to oppose hadith.

Third example – Shafi'is and maqasid/ use of 'aql - reasoning

The most advanced application of reasoning to Islamic law is the field of Maqasid, analysing the underlying purposes of Islamic law. This work began with Imam Al Juwayni and then his famous student, Imam Al Ghazali – both Shafi'is. The work was advanced much further by the Maliki scholar, Al-Shatibi who proposed that rules could be derived using the principles of Maqasid.

By reflecting on the intention for each of the important laws, Imam Al Ghazali and succeeding scholars came to the conclusion that, at its core, the shari'ah came to protect six essential rights/freedoms:

1. Faith (Deen)
2. Life and limb (Nafs)
3. Free Thought/ reasoning ('Aql)
4. Family (Nasab)
5. Property (Maal)
6. Dignity ('Irdh)

Energetic reasoning of course, was a hallmark of Imam Abu Hanifah and his students and Imam Shafi'I was strongly opposed to the application of excessive analysis to the Qur'an and hadith, in case the subjectivity of thought resulted in erroneous conclusions.

In practice then, more important than the original madhab of the scholar, is how able and willing they are to embrace all the tools of jurisprudence now available, and analyse an issue well, applying the principles for the most appropriate solution.

Juristic opinions can only be sought from jurists

Ifta, the specialised skill of issuing Islamic advice i.e. fatwas, requires a specific further training in addition to the basic training that all scholars receive. It also requires a sharpness of intellect.

It is vital to understand that scholars specialise in different areas. *Muftis* (those scholars trained in the art of *ifta*) are different to *muhaddithun* – experts in hadith who are different to *mufassirun* – experts in the interpretations of the Qur’an (*tafsir*), and so on.

“In order to protect the Shariah from the danger of innovation and distortion, the great scholars of usul laid down rigorous conditions which must be fulfilled by anyone wishing to claim the right of *ijtihad* for himself. These conditions include:

- (a) mastery of the Arabic language, to minimise the possibility of misinterpreting Revelation on purely linguistic grounds;
- (b) a profound knowledge of the Quran and Sunnah and the circumstances surrounding the revelation of each verse and hadith, together with a full knowledge of the Quranic and hadith commentaries, and a control of all the interpretative techniques discussed above;
- (c) knowledge of the specialised disciplines of hadith, such as the assessment of narrators and of the matn [text];
- (d) knowledge of the views of the Companions, Followers and the great imams, and of the positions and reasoning expounded in the textbooks of fiqh, combined with the knowledge of cases where a consensus (*ijma*) has been reached;
- (e) knowledge of the science of juridical analogy (*qiyas*), its types and conditions;
- (f) knowledge of ones own society and of public interest (*maslahah*);
- (g) knowing the general objectives (*maqasid*) of the Shariah;
- (h) a high degree of intelligence and personal piety, combined with the Islamic virtues of compassion, courtesy, and modesty.”

Abdal-Hakim Murad, Understanding the Four Madhabs
(<http://www.masud.co.uk/ISLAM/ahm/newmadhh.htm>)

For example, in the context of analysing hadith we have seen how highly trained scholars can identify/ clarify

- When hadith conflict Quran
- When they conflict the sunnah

- The meaning of hadith, which sometimes only become clear through other hadith, e.g. women visiting graves and women travelling without a mahram
- Ambiguous language, hyperbole
- How to reconcile conflicting hadith – as exemplified by the imams of madhabs
- The capacities of the Prophet (S)
 - E.g. hadith about black seed being a cure for all disease
 - E.g. the sunnah of clothing

Muftis are often likened to doctors. They have the skill to be able to analyse the intricacies and peculiarities of the problems presented to them and tailor the management to the specific underlying need.

A person may come to the doctor with a headache and expect paracetamol but by asking the right questions the doctor may come to suspect a brain tumour and that the right course of action is actually a brain scan and surgery! (Please note that very few headaches are brain tumours!)

Juristic opinions should only be sought by jurists who understand our context

As Islam came to benefit mankind, one of the underlying principles that a competent mufti rules by is conferring benefit (*maslahah*) and minimising harm (*mafsadah*).

As such, a competent mufti is liberal in providing concessions (*rukhsah*) to people who are torn between observing the general rule and the harm it may cause in their specific context. In fact, Islamic law is full of exceptions to the rule, such as the ones the Qur'an specifically teaches us with respect to fasting.

And We have not sent you, [O Muhammad], except as a mercy to the worlds. (Qur'an 21:107)

God does not intend to make difficulty for you. (Qur'an 5:6)

We know the Prophet prescribed different advice to different people, even when they came asking the same question, e.g. when he exempted a young man from military service because he was the only person who could tend to his elderly mother.

Equipped with extensive knowledge of the Qur'an and Sunnah, and the intellectual heritage of past scholars, coupled with training in how to apply the essence of the teachings to contemporary issues, muftis take on the challenge of answering this question:

"I have this problem and if the Prophet (S) were here today, what would he advise me?"

Our context in Britain is very different from the context of Muslim majority countries. It would be wrong for a scholar to ignore this important distinction as this could result in inappropriate advice.

As a prominent British mufti says, "in a minority situation you might need to follow minority opinions." This point is well illustrated by the words of Imam Ibn Al Qayyim (from *I'lam al Muwaqqi'een*):, the student of Ibn Taymiyyah, both Hanbalis:

"Legal interpretation should change with the change in time, place, conditions, intention and customs... ignorance of this fact has resulted in grievous injustice to the shari'ah, and has caused many difficulties, hardships and sheer impossibilities, although it is known that the noble shari'ah, which serves the highest interests of mankind, would not sanction such results."

Sadly, there are many scholars, of all madhabs, who will read out rulings from books that were written in a totally different context, sometimes centuries ago. If a British Muslim asks a scholar a question, they cannot open a book of rulings written for a Muslim majority part of 18th century India and expect the 21st century British Muslim to follow it!

In the previous section on analysing hadith we looked at a book, written in Saudi Arabia, which had picked out rulings by some leading scholars of the country, who clearly had little awareness of the context of people in Western countries. Yet this book was being sold in Britain with the title, *"Answers to some Common Questions asked by New Muslims."*

We have looked at one opinion there, which stated that you should not initiate greetings with non-Muslims and when they initiate, we should say, "And upon you", because this is what the Prophet suggested. This was based on a hadith which was out of character with the greater sunnah of the Prophet, which we have studied already, in which the Prophet was going to Banu Qurayza to deal with a particular Jewish tribe and he did not want them to get the impression that things were fine between them.

Other fatwas in this book include:

- To hate non-Muslims but still be nice to them if there is a chance they could convert
- If a woman asks about Islam then ask her to cover, including her face, but if she declines, then still continue explaining
- If someone intends to convert, warn them that if they change their mind they will be executed!!!

Frankly these opinions are absurd in our context, but are unsurprising when offered to Western Muslims by scholars who have no awareness of their context. Imam Al Qarafi, a leading 13th century Maliki scholar was scathing of such a practice:

"Persons handing down legal judgments while adhering blindly to the texts in their books without regard for the cultural realities of their people are in gross error."

They act in contradiction to established legal consensus and are guilty of iniquity and disobedience before God, having no excuse despite their ignorance;

For they have taken upon themselves the art of issuing legal rulings without being worthy of that practice."

In the words of Shaykh Yusuf al Qaradawi:

"Many of our Scholars live in their books and do not live in their reality, they have no understanding of their surrounding reality because they have not read the "Book of Life", but only read the books of their predecessors. For that reason their fatwas appear as if they have just come out of a grave!"

Shaykh Abdullah bin Bayyah (Imam Hamza Yusuf's teacher, may Allah preserve them both) was asked what to do when confronted with different scholarly opinions. This is his very helpful reply:

"What is obligatory is to investigate the correct opinion in every issue, and to investigate the opinion that actualizes benefits for the Muslims and protects them from harm as long as [that opinion] is not free of evidence [from the sources of Islamic Law]. This type of investigation requires insight, knowledge and a deep understanding.

Thus, if one is unable to perform such a task, then what is asked of him is to follow, from amongst the scholars, one who possesses the most insight, knowledge and is known to be a person of piety and righteousness. In addition, such a scholar should be known as one who does not haste in giving religious edicts, nor does so without knowledge."

<http://binbayyah.net/english/what-is-the-ideal-position-for-a-muslim-to-take-when-confronted-with-different-scholarly-opinions/>

4. 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] ijtiḥad, and this does away with the disagreement, and obliges those who follow ijtiḥad 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)

5. Could picking and choosing rulings you feel more comfortable with, mean you are following your whims?

The opposite is probably more true, though most people do not realise it!

Moderation – Wasatiyyah

Many sincere Muslims' might be surprised to learn that moderation is the greater virtue, as opposed to zealousness, self-imposed hardship and an obsession with impractical detail.

“Notwithstanding its unquestionable importance, wasatiyyah is a much neglected aspect of the teachings of Islam. It is an aspect of Islam, however, which holds valid in almost all aspects of life.” (Kamali, Shari’ah Law, p.288)

"Thus we have made of you an ummah justly balanced (*ummatan wasatan*), that you might be witnesses over the nations, and the Messenger a witness over you." (Quran 2:143)

This verse, if carefully understood, implies that it is the middle way, the way of moderation that will naturally appeal to humanity, and indeed, the middle way that is the spirit of what the Prophet (S) taught us. This is the interpretation of the classical commentator of the Qur’an (*mufasssir*) Imam Ibn Kathir.

The people of the Book were warned: " O people of the Book, commit no excesses in your religion, nor say of Allah anything but the Truth...." 4:171.

Sometimes a desire to be safe can impose restrictions which were not actually intended by God. The end result is that a misplaced zeal can result in rendering prohibited what is actually permitted, and that is as great a crime as permitting what is prohibited.

God warns the Muslims likewise: **"O' you who believe! Make not unlawful the good things, which Allah has made lawful for you, and commit no excess; for Allah loves not those given to excess."** (Quran 5:87)

“One of the manifestations of extremism is an obsessive pursuit of fault-finding in others and making exacting demands of them.” (Kamali, Shari’ah Law, p.292)

The Prophet (PBUH) reportedly said, **"Beware of excessiveness in religion (*al-ghuluw*). Those before you have perished as a result of such excessiveness in religion."** (Reported by Ahmad)

The Prophet (S) repeated three times:

"Ruined are those who indulge in hair-splitting." (Muslim)

On the contrary, the Prophet instructed his companions Mu'adh bin Jabal and Abu Musa Al Ash'ari as they were setting off to become judges in Yemen, **“Be gentle to the people and avoid harshness to them; bring them good news and do not scare them off.”** (Muslim)

It is always difficult to know what the two extremes are, in order to define the middle way between them. One pointer, using 2:143, would be that if Islam is a natural way, the way of *fitrah*, and the middle way will show Islam's beauty to people, then perhaps a practice of Islam is veering to an extreme when it becomes unintelligible and appears wrong to ordinary people. As a steer, most of the core commandments of Islam are appreciated and shared by many communities.

Taysir - Facilitation

The intention of our religion is to inspire people to love God and care for their fellow man – not to make life difficult and impractical.

In fact God makes it clear to us in the Qur'an that our religion is simple, the same simple religion of our beloved nomad-Prophet, Abraham (AS), which is inherently free of difficulties, complexities and hardships. By reflecting on the life of a nomad, it should become crystal clear how simple and uncomplicated the essence of our religion is. Ibrahim (AS) did not excel by imposing complex laws and rituals upon himself, but in the immense love, devotion and connection he had with his unseen friend, the Creator:

“He has chosen you and has imposed no difficulties on you in religion; it is the way of your father Abraham.” (Quran, surah Hajj 22:78)

Here the Prophet (S) alludes to the simplicity of the religion and that the focus of his mission was to encourage a close relationship with God through worship and good manners, rather than excessively burdensome regulations:

Abu Huraira reported: The Prophet, peace and blessings be upon him, said, **“Verily, the religion is easy and no one burdens himself in religion but that it overwhelms him.** Follow the right course, seek closeness to Allah, give glad tidings, and seek help for worship in the morning and evening and a part of the night.”

Narrated by al-Bukhari (39) and Muslim (2816)

As such, there is nothing wrong in choosing the easier of two valid options – in fact this is the sunnah.

'Aisha [may Allah be pleased with her] states that, **“The Prophet [may Allah's peace and blessings be upon him] never chose between two things, one difficult and the other easy, except he chose the easier one as long as there was no sin in it.”** (Sahih Muslim no. 6047)

Mihjan ibn al-Adra' said: I came with the Prophet (peace and blessings of Allah be upon him), and when we were at the door of the mosque, we saw a man who was praying. He said: **“Do you think he is sincere?”** I said: **“O Prophet of Allah, this is so and so, he is one of the best of the people of Medina, or one of those who pray the most of the people of Medina.”** He said: **“Do not let him hear you lest you be doomed” – two or three times – “you are an ummah for whom I want ease.”**

Musnad Ahmed (5/32) - classed as hasan by the commentators on the Musnad)

According to another report: **“The best of your religion is that which is easiest, the best of your religion is that which is easiest.”**

(Musnad Ahmed (3/479). It was classed as hasan by the commentators.)

Imam al-Shatibi made ground breaking contributions to understanding the underlying purposes of the religion. He states, “Through the details [of law] one [will find] the intent [is clear for] the removal of hardships and burdens. Thus we [the scholars of fiqh] must judge, in the universal sense, utilizing the removal of hardships and difficulties in every area based on our survey of the law.”

Imam al-Shawkani, an independent 18th century mujtahid wrote: ‘Taking the difficult opinion is not something desired. On the contrary, taking the easier opinion [is what agrees] with the objectives of Shariah.’

(Sunnat al-fatwa wa fiqh al-Aqaliyat of Dr. Bin Bayyah)

Picking rulings because they are harder is actually therefore, *against* the sunnah.

“If you avoid the most heinous of prohibited conduct We shall conceal all your sins and admit you to a great honour.” (Quran 4:31)

It might be apt to conclude this section with the surprising reminder (based on the verse above) not to be too hard on ourselves and others:

“Thus it is noted in the relevant commentaries on this verse that avoidance of the major sins acts as a concealer on minor ones, an indication that God will forget the latter. Al-Qaradawi has consequently drawn the conclusion that it is enough in our time to comply with the principal teachings of Islam and avoid the major sins, in order to gain the good pleasure of God.”

(Kamali, Shari'ah Law, p.292)

6. What if you follow a scholar 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.

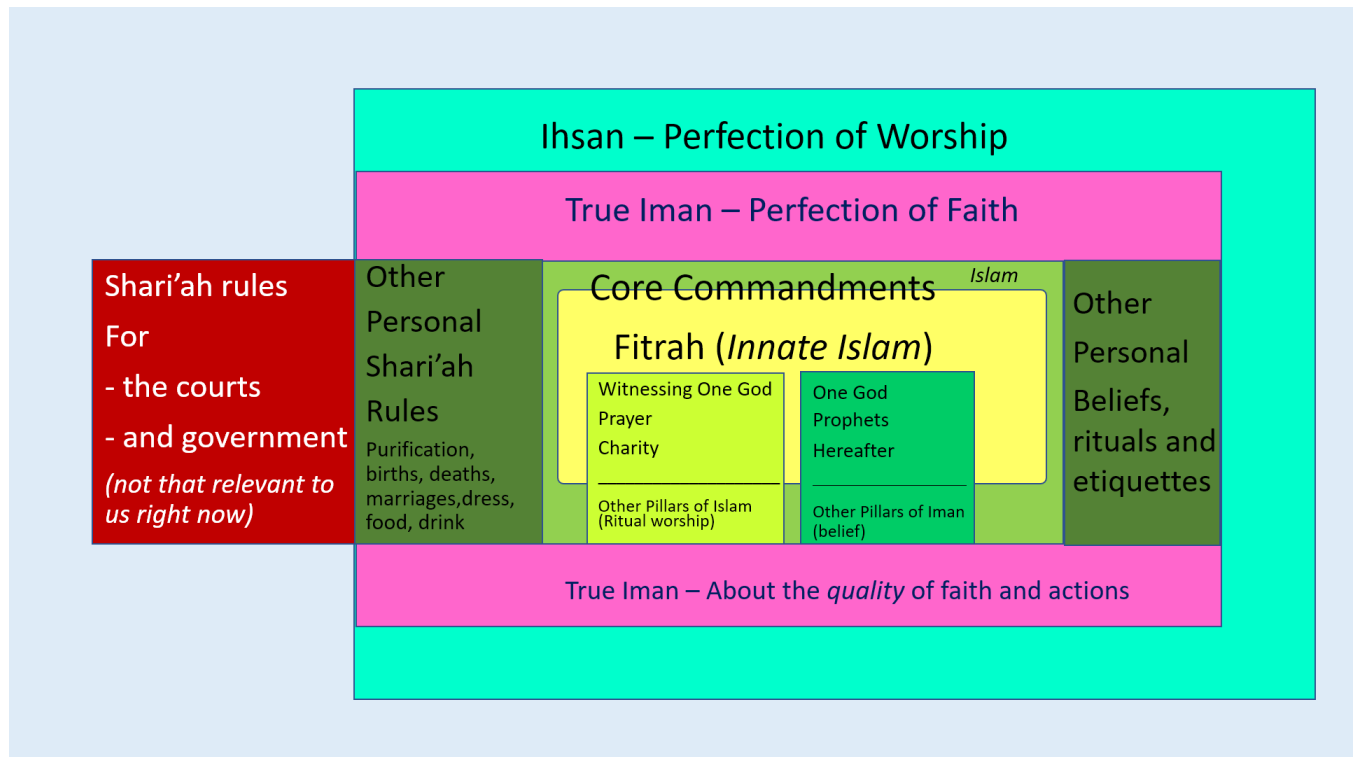
In this sense, there are lots of 'Islams'. And importantly, an *Islam* of 16th century India would look quite different to a suburban 21st century Malaysian Islam.

It is reassuring however, that at the core, all 'Islams' are the same. But around the peripheries (the *furu'*, 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 *ijtihad* 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 18th century Ottoman Turkish Islam, modern Malaysian Islam, 19th 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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