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THE CONCEPT OF TAQLID, OR ITTIBĀ', IN ISLAMIC LAW

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# THE CONCEPT OF **TAQLİD**, OR **ITTİBA’**, IN ISLAMIC LAW

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ABSTRACT

Taqlid or Ittibā‘ is an age-old institution of Sharī‘ah (Islamic Law) that traces its origins right back to the earliest eras of Islam. It finds its origins within the Qur’ān and Aḥādīth (Prophetic Traditions). Its validity is further reinforced by its being practised diligently by a majority of the expert and knowledgable scholars of Islamic Law over the centuries of Islam.

In essence, it simply refers to the practice of the unlearned, lay person accepting the authority of expert scholars in their ability of successfully expounding Islamic Law and thereafter following their directives and rulings in this regard. They do not have to delve too deeply into enquiring into the intricacies of the complicated procedures of Islamic Law itself in arriving at the said rulings. This exercise in itself requires many long years of study and erudition and a great exertion in acquiring a mastery of this science.

Recently however, misunderstandings have arisen around the issue of Taqlid and this has erupted into a theme of major debate in academic circles, consisting mainly of scholars associated with and having a keen interest in the discipline of Islamic Studies and Thought. The ensuing debate naturally resulted in arguments being promulgated by both the protagonists and the antagonists of Taqlid.
A need was felt to pursue a study that would delve into the correct interpretation and understanding of *Taqlīd* and *Ittībāʿ* and to trace its sources of origin from the primary sources of Islam i.e. The Qurʾān and *Ḥadīth*. This would lead to a better understanding and analysis of the arguments and counter-arguments of protagonists and antagonists and to assess impartially the strength and weaknesses of the said arguments and to attempt finally to judge between the differing views in order to enable and engender a greater understanding of this misunderstood Islamic concept.
NOTES ON TRANSLITERATION

The system of transliteration followed in this dissertation is as follows:

- b
- t
- th
- j
- h
- kh
- d
- dh
- r
- z
- s
- sh
- s
- d
- t
- z
- e
- gh
- f
- q
Vowels and Dipthongs as follows:

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Further Notes:

The l of al is always transliterated as l whether it appears after "sun letters" or not; may vary from the pronunciation.
# ABBREVIATIONS

- **A.H.**  
  After the *Hijrah*

- **Ch.**  
  Chapter

- **etc.**  
  *et cetera*

- **i.e.**  
  *that is*

- **p.**  
  *page*

- **v.**  
  *verse*

- **viz.**  
  *namely*
CHAPTER ONE: INTRODUCTION AND ORIENTATION

1. Statement and orientation of the problem

_Taqlīd_ or _Ittibāː_ is an age-old institution of _Shari'ah_ (Islamic Law) that traces its origins right back to the earliest eras of Islam. As a clear and lucid understanding of the dynamics of _Taqlīd_ and _Ittibāː_ existed in the earlier eras of Islam, an overwhelming majority of outstanding scholars such as _Imāms_ Muslim, Nasai, Abū Dāwūd, Ibn Mājah, Tirmidhi, Ghazzālī, etc. across the annals of Islamic history prescribed to the institution of _Taqlīd_ in their approach to the practical implementation of Islamic _Fiqh_ (Jurisprudence) in their lives.

Recently however, the issue of _Taqlīd_ has erupted into a theme of major debate in academic circles, comprising mainly of scholars associated with and having a keen interest in the discipline of Islamic Studies and Thought; such scholars hailing from either the Departments of Western Universities or their Eastern counterparts, the _Dār al ‘Ulūms_. The ensuing debate naturally resulted in arguments being promulgated by both the protagonists and the antagonists of _Taqlīd_. This in turn gave rise to a rich heritage of thought and literature on this subject.
The impetus to this debate could be attributed partially to the rapid growth of Western civilization and its far-reaching implications on the thought processes of peoples all over the globe, including Muslims. Muslim minds in the modern world have not remained unaffected by the influences of liberalism and free-thinking that forms an integral aspect of the present Western Culture. Liberalism has filtered down into various spheres of Muslim life, including their religious thought and outlook. As a result, the westernised Muslim mind regards those aspects of Islamic teaching, that seemingly appear prohibitive to their new-found liberty of thought and freedom of expression, in a disapproving manner. *Taqlīd* and *Ittibā',* which are perceived as the main stumbling block in the exercise of free-thinking and re-interpretation of Islam, bear the main brunt of their hostility, as *Taqlīd* appears to them as a stifling of thought and an obstacle to intellectual freedom.

Since this mode of thinking is gaining much popularity in present times, and it appears to be a lending factor towards the polarisation of Muslim thought in this area, a need was felt to carry out an impartial investigation into the concept of *Taqlīd* and *Ittibā',* tracing its sources of origin and assessing its position in relevance to the present times.
2. Aims

An attempt would be undertaken to look into the definitions of *Taqlid* and *Ittibā‘*, and to trace its sources of origin from the primary sources of Islam. An effort would be expended in order to understand and analyse the arguments and counter-arguments of protagonists and antagonists to ultimately enable and engender a better understanding of this greatly misunderstood concept of Islamic Law.

3. Methodology

Firstly the concept of *Taqlid* and *Ittibā‘* and the ambit of its influences would be clearly defined. This would be followed up by tracing the origins of *Taqlid* to the basic sources of Islamic Law, i.e. the Qur’ān and the Hadith. The practice of *Taqlid* during the era of the noble Ṣaḥābah (radiyallāhu-anhum) - Companions of the Holy Messenger (sallallāhu-alaihi-wa-sallam) and their successive generations will be studied. The formulation of *al-Madhāhib al-Arba‘ah* - the four schools of thought and the arguments of the non-conformists of *Taqlid* would be analysed and assessed impartially. In the present day context, the practicability and relevance of *Taqlid* would be examined. The dissertation would terminate with some observations and thought-provoking issues with regard to *Taqlid* and the way forward in hopefully facing the challenge of new problems.
4. Texts

The Qur’an and Hadīth would be utilized as primary sources of reference. Secondary sources would include various works of Arabic, Urdu and English, directly or indirectly related to the issue of Taqlīd within the frame work of Islamic Fiqh (Jurisprudence).

5. Chapterisation

Chapter 1 ...would comprise of the introductory statement, aims, methodology, texts and chapterisation.

Chapter 2 ...would delve into the literal and technical definitions of Taqlīd, its synonymity with Ittibā', and the close correlation that exists between the literal and technical definitions of Taqlīd.

Chapter 3 ...would comprise an overview of the relevent Qur'ānic verses and a commentary of the said verses that establish the concept of Taqlīd and Ittibā'. An attempt is also made to dispel some of the popular misgivings emanating from the incorrect perception of these verses.

Chapter 4 ...would look at the concept of Taqlīd and Ittibā', in the light of the
Aḥādīth (Prophetic traditions) and in the light of the practice of the Ṣabāḥah (radiyallāhu-‘anhum) - his illustrious Companions. A glimpse of Taqlīd-Shakhṣī in their lives will also be studied.

Chapter 5 ...would look at the history and background factors leading to the entrenchment of the practice of Taqlīd-Shakhṣī (Specific following of one school of thought) until it was declared to be compulsory, and the reasons thereto. A study as to why only four Madhāhib (Schools of thought) gained ascendancy would follow.

Chapter 6 ...would look at some of the more serious and pertinent issues of the anti-Taqlīd lobby and an impartial assessment of the said arguments. An attempt is made to dispel some of the more serious misgivings surrounding the issue of Taqlīd.

Chapter 7 ...would comprise the conclusion and a summary of the salient points of the dissertation. It would also discuss the apparent dichotomy presented in sticking to Taqlīd in the context of modern-day developments and the way ahead for Muslim scholars under the rapid changing of circumstances.
CHAPTER TWO: THE DEFINITION OF TAQLĪD AND ITTIBĀ’ IN AL-SHARĪ'AH (ISLAMIC LAW)

1. The concept of ṭa'bah (obedience) and ittibā’ (proper following) in the Islamic Faith

In the Islamic outlook of man’s relation towards Allāh, the Divine Messengers of Allāh and the revered Scholars of Islamic Law, a basic and important principle deserves to be carefully understood. At the very outset, it should be fully understood that according to Islamic teachings, man is obliged and required to pledge total and uncompromising obedience to Allāh alone; who is regarded as the Sole Authority in charge of the affairs of the universe, and thus being alone worthy of obedience.

However, since Allāh does not, in the normal course of events, communicate directly with all of His bondsmen, man would remain ignorant regarding the mode of obedience required of him towards his Creator. This was overcome by the ordaining of Messengers from amongst mankind, personalities who have been chosen for direct communion with the Creator and entrusted with the sacred duty of conveying Divine revelation unto mankind, thereby providing for them a complete code of conduct or a set of regulations whereby obedience to the Creator, Almighty Allāh is made known to man.
2. \textit{Ithā'b} and \textit{Ittiba'} in respect of the holy Messengers of Allāh

Since the Messengers of Allāh, being His vicegerents on earth and communicating His message to mankind, not only in word, but by way of practical example as well as by commentary and elucidation, were fulfilling a vital role in the guidance of mankind, obedience to the messengers was divinely ordained, not in a primary capacity but in a secondary capacity, as they were like unto all other men save that they received the Divine Revelation which distinguished them from the rest of mankind.

Thus it became that alongside the Almighty Creator, the Divine \textit{Rusul} (Messengers) were required to be shown full and unswerving obedience. In fact, obedience unto the Messengers was equated to showing obedience to the Creator Himself. This is borne out amply by numerous verses of the Holy Qur'ān, a few of which will now be quoted by way of illustration:

"Say (O Muhammad): Obey Allāh and His Messenger . . ."\textsuperscript{1}

"O people of the Faith! Obey Allāh and obey the Messenger . . ."\textsuperscript{2}

\begin{itemize}
  \item \textsuperscript{1} al-Qur‘ān; ch.3/v.32
  \item \textsuperscript{2} al-Qur‘ān; ch.4/v.59
\end{itemize}
"And be obedient to Allah and His Messenger and do not turn away therefrom while you hear very well (what is said to you)"

"And he that is obedient to Allah and His Messenger, will certainly attain success"

"And he who is obedient to the Messenger, has certainly shown obedience to Allah"

The above mentioned verses bear ample testimony to the fact that actual obedience is due to Allah primarily and to the Rusul (Messengers) due to being an intermediary between man and His Creator.

3. Muhkamat (explicit verses) and mutashabihat (ambiguous verses) in the Nusus (Divine Texts)

The clear cut and explicit texts of the Qur'an and Hadith can be understood by even the average Muslim (any person for that matter) without much difficulty. An example of such texts could be the following:

"And murder not your off-spring for fear of poverty . . ."
"And remember Allāh in abundance . . ."\textsuperscript{7}

The above texts are explicit and clear in purport and intent, and are comprehensible to all.

However a problem arises in the comprehension of those texts which are ambiguous, equivocal, ambivalent and indeterminate in meaning, which results in confusion and doubt. An example of such texts could be the following:

"And women who are divorced shall remain confined (to their homes) for a period of three Qurū’ courses (menstrual cycles or the period in between)"\textsuperscript{8}

In this particular verse, the word "Qurū’" carries the possibility of one of two opposite meanings. Granting preference to one above the other is definitely the domain of the erudite scholars alone. It is in the case of such texts, which are substantial in the Divine texts, that the non-professional is faced with a dilemma at reaching the correct interpretation of the texts. What would be the most common sense and logical approach for any person in such a situation?

4. Ambiguity of the Nusūṣ (Divine Texts) and the approach of the novice

\textsuperscript{7} al-Qur’ān; ch.33/v.41

\textsuperscript{8} al-Qur’ān; ch.2/v.228
Before we attempt an answer to the above question, it would not be inappropriate at this juncture to mention in passing, that it is not only the Divine Texts of Islāmic Jurisprudence that are subject to ambiguity; indeed such is the case with most of the sciences and academic disciplines prevalent even in the modern world. Nowhere is this more apparent and manifest than in the legal profession. Law can be cited as an appropriate example for the above in the sense that no matter how meticulously and cautiously phrased, it is constantly open to interpretation and it is on this very basis that the legal wrangling in courthouses across the globe are an accepted norm of present-day society. It is on the very basis of their abilities to interpret the letter of the law that lawyers differ in their pursuit of establishing a favourable case on behalf of their clients.

Similarly, this is the case with the Divine Texts of Shari'ah, where because of ambiguity of certain texts, a scope for interpretation has been created. Not only is it allowed but even encouraged by Islāmic teachings. Ample substantiation to the above statement exists in the light of Hadīth such as the following:

"When a Hākim (Authority of the Law) exercises Ijtihād and arrives at the correct ruling, he is granted a two-fold reward; and if he errs in his ruling, he is granted a single reward"\(^9\)

5. Wisdom of the mutashābihāt in the Nusūṣ (Divine Texts) and the differences of opinion in interpretation

On a slightly divergent note from the core discussion, a question may arise here regarding the possible wisdom underlying the allowance for ambiguity in Divine Text, which certainly is there by Divine Design and Intent and is not in anyway an incidental or accidental occurrence. This has thereby created an expediency and latitude for interpretation which naturally would result in conflict of views and differences of opinions as no two minds or thought processes are quite exactly alike?

The actual wisdom and reasons to the above question are known better to the Originator of the text, but on basis of surmising and hypothesizing, the following reasons could be espoused as likely solutions to the above question:

1. Differences of opinion, create a degree of latitude and flexibility within the framework of the Divine Text, which due to its rigidity would not normally allow or entertain. An advantage of tremendous proportions is achieved in this exercise by allowing the Divine Text to remain untampered and maintain its originality and yet create a dimension of versatility in so far as the purport and practical implementation are concerned.

2. The scope of interpretation of the Divine Texts has certainly presented a
challenge for the Experts of this science to demonstrate their expertise and abilities in probing the variable interpretations that could possibly be advanced as an acceptable elucidation of the Texts. The effort expended by the experts in this regard carry a promise of Divine recompense and reward as is amply borne out by the wording of the following Hadith:

"When a Hākim (Authority of the Law) exercises Ḥijād and arrives at the correct ruling, he is granted a two-fold reward; and if he errs in his ruling, he is granted a single reward."\(^10\)

The above is an example of an explicit Text proving this matter further. It is borne out by the implicit text of a Qur'ānic verse:

"And be not as those who divided and disputed after clear proofs had come unto them ..."\(^11\)

By a process of inverse intimation, it is manifest from this verse that difference of opinion after ambiguity in proof is neither deplorable nor disapproved.

3. In their inability to grasp the subtleties of the Divine Texts and the resultant difference of opinion, is a test for the unlearned and lesser qualified mortals in the sense of their willingness to graciously and ungrudgingly accept and follow the findings and opinions of their better qualified, erudite compatriots. Resorting to the

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\(^11\) al-Qur‘ān; ch.3/v.105
experts in the event of ignorance and unawareness and the subsequent submission to the persuasions of the masters has been ordained a Divine decree upon the unlearned as is clear from the following Texts:

"Thus ask of the people of knowledge if you know not"\textsuperscript{12}

and in the \textit{Hadith} as:

"Verily, the antidote to ignorance is (by way of) enquiry"\textsuperscript{13}

4. Difference of opinion has always engendered a spirit of healthy intellectual competition and stimulation which would otherwise have been absent and non-existent. The search for the best interpretations and meanings has never failed to foster a culture of research, erudition, intellectualism and a passion for the keen pursuit of knowledge, learning and wisdom. Contrary to a common misconception, difference of opinion, has enhanced the spirit of mutual respect and acknowledgement and opened wider vistas to the concept of tolerance.

5. The highly condensed, multi faceted life of the Holy Messenger (\textit{sallallāhu‘alaihi-wa-sallam})\textsuperscript{14} in all its great diversity is not within the ability of an individual person. The brevity of the Messenger's practice is amplified by the scholars and

\begin{itemize}
\item[12] al-Qur`ān; ch.21/v.7
\item[14] Which translates as: "May peace and salutations be upon him." The Arabic sense of the word \textit{Ṣalāt} denotes a much deeper undertone than its English equivalent of "peace", wherefore the original Arabic prayer will be utilized as a standard fixture throughout the text of this dissertation rather than its somewhat inadequate English equivalent.
\end{itemize}
advocates of the different Madhāhib (Schools of thought). In the tangible realm, this reality is best illustrated by that of a solitary seed that carries the potential of a variety of beautiful flowers in a dazzling assortment of colours.

These are then some of the surmised wisdoms underlying the allowance for laxity in the Divine Texts and the interpretation of the Divine Texts. It is perhaps on this basis that the Holy Messenger (sallallāhu 'alaihi wa sallam) referred to valid differences of opinion as a blessing and boon. This is borne out by a Hadīth to this effect:

"The differences of my companions is a comprehensive blessing"¹⁵

6. Taqlīd as a common-sense approach to the interpretation of Nūsūṣ (Divine Texts) by the uninitiated

Returning to the discussion of the problem facing the uninitiated in the understanding of Divine Texts, the most common sense and logical approach in such a matter would be to consult the learned scholars¹⁶ and to repose trust and reliance on their expert and qualified opinions, called Taqlīd, rather than exercising


¹⁶ Reference to A'immah-Mujtahīdin, 'Ulamā Muḥabḥīrin, Fuqaha' Ijāzin
one's self-founded opinions, known as *Rā'i Madhtmūm*, in such a delicate matter as the interpretation of the Divine Texts.

This common sense approach of relying on the expert's opinion is manifested daily by billions of mortals in virtually every facet of daily life. A visit to the doctor is one such example. Rarely has any sensible person, insufficiently qualified in the field of medicine, ever exercised his opinion against that of a qualified medical practitioner. The invariable outcome of such a foolish decision would be quite evident to even those inadequately endowed in mental aptitude. The same would hold true for law, architecture, engineering, commerce, taxation and indeed any mundane facet of life. There can hardly be any plausible or rational reason why this universal criterion or standard would not hold true for even the issue of the interpretation of the Divine Texts.

7. *Taqlīd* as a natural propensity of the human being

This reality of surrendering to the opinions and finding of the experts by virtue of their qualifications and credentials, without personally delving into the intricacies and complexities of the matter because of an inadequacy of sufficient knowledge and proficiency in the matter at hand, is known in Islamic Law as *Taqlīd*. Viewed from this perspective, *Taqlīd* is virtually a natural propensity and predisposition of
human life. The very elementary knowledge of learning the alphabets is based upon the Taqlid. Without unquestioned reliance upon the teacher, none would be able to master even the alphabet of his mother tongue, far less anything more complex or sophisticated in life. The same hypothesis would hold true in the case of learning grammar, spelling or pronunciation. These are all essentially learnt through the process of Taqlid. The essential and basic theories, axioms and principles of physics, mathematics, geometry, biology, botany, medical science, engineering, architecture, law, art, language and indeed every discipline and faculty of academic learning is acquired initially only through Taqlid. This has always been the logical trend and practice adopted by civilizations across the wide spectrum of human existence. Those amongst mankind who did not possess the ability, resources, inclination or ability to acquire expertise in any field of learning had no recourse but to Taqlid. Even the rudimentary faculties of eating, drinking, dressing, social decorum and etiquette are all learnt via Taqlid. Islām too, itself being a proponent and strong advocate of Fitrab - naturality," has granted credence and recognition to this basic human instinct.

In the matter of the correct interpretation and understanding of the Divine Texts, Islām has deemed it appropriate to accord religious and judicial sanctimony to an

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17 Refer Qur’ānic verse on Fitrab; ch.30/v.30
otherwise natural precept such as Taqlid. Opinionated and stubborn nonconformity to a natural and common-sense matter such as Taqlid by the uninitiated and unlettered novices of the science of interpretation, has been justifiably condemned in a rather forceful tone and vigorous manner within the Divine Texts as the following of hawā (submission to base desires and mean indulgence of the ego in opposition to Truth). There are numerous Qur'anic verses and Aḥādīth texts indicating to the veracity of both these matters. However, this being a distinct matter, requiring considerable circumspection and elucidation, would not be appropriate for discussion at this juncture.18

Before any discussion is attempted in this direction, it would be appropriate to study the literal as well as the technical definitions of the term Taqlid and other related and peripheral terminology attached to the understanding of the concept of Taqlid.19

8. The literal definition of the term Taqlid

Taqlid is the masdar (verbal noun) of the root "Qa la da" in the second form. The

18 Refer Qur'anic verses on the condemnation of Hawā; ch.4/v.135; ch.38/v.26; ch.47/v.14; ch.18/v.28; ch.20/v.16; ch.28/v.50; ch.42/v.15; ch.2/v.87; ch.13/v.37
19 Up to this juncture, the reflections and intimations in this paper are a culmination of thoughts, ruminations and inspirations gleaned from numerous sources that would be referred to in the bibliography, Allah willing.
verb "Qalada" means to place, to gird or to adorn with a necklace; to place a yoke around the neck.\textsuperscript{20} When used in relation to human beings, it refers to the wearing of a necklace, pendant or any similar ornament. When used in relation to animals, it refers to the placing of a yoke or a restrictive device around the neck or the placing of a distinguishing band for the purpose of recognition.

The famous master of Arabic lexicography, ‘Allāmah Quraishi (rabimahullah)\textsuperscript{21} states:

"\textit{Taqlīd} refers to the placing of a necklace or pendant around the neck; while in regards to animals, particularly those destined for sacrifice or pilgrimage, it refers to the placing of a distinguishing sign around the neck, etc."\textsuperscript{22}

The \textit{Dictionary of Islam} bears the entry on \textit{Taqlīd} in the following words:

"Literal meaning as "winding around" as in "putting a wreath around a victim destined to be slaughtered at Makkah" or "girding with a sword, as a sign of investiture of a high dignitary"; also used as "A

\begin{flushleft}
\textsuperscript{21} May Allāh’s mercy be upon him and other pious scholars.
\end{flushleft}
term in Muhammadan law for the following of a religious leader without due inquiry". 23

In the corpus of Hadîth literature, the root word "Qilâdah" is used in the context of putting on a necklace. Imam al-Bukhârî (rajâimahullâh) has titled a chapter on the wearing and mutual borrowing of necklaces by the women from each other in the Prophetic era. 24

This is the actual and original meaning of the word Taqlîd in its classical and original usage, even prior to the advent of Islâm. In latter times, as the technical concept of Taqlîd developed into a fully fledged institution within Islâmic Fiqh (Jurisprudence), the works of linguists and lexicographers began incorporating the technical overtures and nuances of the word as an extension to an otherwise purely literal word. It is in this context that latter day dictionaries, alongside the purely literal sense of the word, also refer to Taqlîd in the sense of copying and imitating another or following another's opinion, often blindly. 25

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Often the case with evolving terminology, the definition begins to assume implications and subtle nuances that did not originally form part of the core meaning but was introduced as an accretion, serving as an after-thought rather than as an objective reflection of the original word. This is a fact that should be accorded careful solicitude and consideration, especially by those who tend to denounce Taqlīd merely on the basis of such literal connotations.  

9. The technical definition of Taqlīd

Qādī Muhammad A'ālā Thānwi (raḥimahullāh) in his widely acclaimed compilation Kashshāf Iṣtilāḥāt al-Funūn (on the technical terminologies of Sharī'ah) states regarding Taqlīd:

"Taqlīd means to follow or accept the action or view of another on the basis of trust and having faith therein, without demanding proof or substantiation thereof".  

Other definitions in this regard are as follows:

'Allāmah Ibn Malik (raḥimahullāh), author of Sharh al Manār states:

"It (Taqlīd) refers to following the action or view of another,

26 Refer footnote 39 of this chapter


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regarding it as truth and factual, without querying the proof thereof."^28

The author of *al Nāmi* states:

"Making *Ittibāʿ* (following) another on the basis of considering him to be correct, without feeling the need of demanding substantiation thereto."^29

Maulānā Rashid Aḥmad Gangohī (*rahimahullāh*) states:

"*Ittibāʿ* and *Taqlīd* both refer to one and the same reality."^30

'Allāmahs Ibn al Humām and Ibn Nujaim al Miṣrī define *Taqlīd* as:

"To follow an opinion or view which is not a direct text of the Divine Sources, without demanding proof from it's expounder."^31

From the afore going, it is quite clear that *Taqlīd* of the learned scholars is only practised in matters that are not of clear interpretation within the Divine Texts. In matters that are clear and apparent within the Divine Texts there is no need for

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This matter is better elucidated in the words of `Allamah `Abdul Gani al Nablusi (rabimahullah):

"It is a unanimous view of the scholars that any matter of the religion that is obvious and clear in the Divine Sources (Qur'an and Sunnah), there is no need for Taqlid therein for any person; such as the compulsion of the pillars of the faith, the prohibition of adultery, sodomy, consumption of intoxicants, murder, theft, etc. Taqlid is only a requirement in the ambiguous and undefined texts."32

`Allamah Khatib al Baghdadi (rabimahullah) throws more light on the previous argument in the following words:

"There are two categories of Islamic regulations: One group which is evident and known because of the clarity of the texts regarding it, such as the five pillars of Islam, the prohibition relating to liquor, gambling, adultery, etc. In this category, there is no question of Taqlid, because Taqlid is only in such matters which are complicated and intricate. The second category is that of the detailed and

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elaborate regulations which comprise of innumerable by-laws and injunctions. This is only known and learnt after the necessary degree of proficiency had been acquired in the relevant sciences and disciplines (requiring a lengthy process of labourious scholarship and erudition). This is the division that requires Taqlid (of the nonprofessionals) by dint of the Qur’anic verse: “Thus ask of the people of knowledge if you know not...” If Taqlid would not be allowed in the likes of such detailed regulations, it would necessitate a binding obligation upon every individual to acquire the detailed knowledge of Islamic law. It is quite clear that such an injunction would lead to the utter disruption of life supporting systems such as trade, commerce, agriculture and the likes thereof and will hence be regarded null and void by Islam itself.33

It is also learnt from the afore going that the status of the scholar is not of being an independent authority who is worthy of obedience in himself, but that his status is rather of a juristic personality; deeply knowledgeable about the subtleties of the Divine Texts, adept at the procedures of Divine Law and well acquainted in the science of interpretation. His duty is nought but clarification of the complexities

of the Divine Texts.

10. Is "blind following" an integral constituent of the definition of Taqlīd?
A common component of virtually every version of the definition of Taqlīd is mention of the fact that the opinion of the experts is accepted without demanding proof and substantiation from them. Does this necessarily imply that the Muqallid - follower is required to be totally ignorant of the deeper subtleties of all the regulations at all times or not? The apparent intent of the wording tends to suggest that the Muqallid needs necessarily to be a "blind", unquestioning, ignorant follower. In order to dispel this possible delusion that may arise from a cursory and superficial perusal of the definition, it is stated clearly in Absan al Fatāwā:

"Taqlīd in reality is reliance on the expert opinions and findings of the qualified scholars of the Qur'ān and Ḥadīth; while this resignation to the ruling of the experts is generally based on ignorance of the subtle details, it need not necessarily be that the nonprofessional follower be totally ignorant of the proofs and substantiation of the experts' rulings. While Taqlīd is undertaken without demand of detailed proof, it is not contradictory to the

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34 Refer Chapter 6.2 of this dissertation for further detail on this matter

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definition of Taqlid for the muqallid to be cognizant of the detailed proofs. This is quite possible.\textsuperscript{35}

It is quite clear from the above that the issue of possessing knowledge or the absence thereof does not form an integral part of the definition of Taqlid, but is an incidental and inadvertent annexure in the comprehension of the definition of Taqlid as in the normal course of events, the majority of laymen are incapable of understanding the complexity of proofs and the process of substantiation.

It is perhaps in the light of the above misunderstanding that some scholars have incorrectly condemned Taqlid, mistaking the factor of ignorance as an integral part of Taqlid. They have thus coined an independent expression as a form of differentiation from the above. This they have termed Ittiba'.

11. Taqlid and Ittibā' : differing concepts or difference in wording?

One group of scholars\textsuperscript{36} have regarded Taqlid and Ittibā' as differing entities, nay rather as opposing entities. This school of thought regards Ittibā' as permissible and acceptable while Taqlid is regarded as a wholly impermissible act. In this regard,


\textsuperscript{36} Such as scholars of the anti-Taqlid persuasion; refer Ch.3/footnote.51
one of their leading scholars, Qādī Thanāullāh Amritsāri (raḥimahullāh) writes:

"It is our view that we are compelled and duty bound to follow (by way of Ḣittībā') the pious predecessors and not to follow (by way of Taqlīd). There is a great difference between the two concepts. Taqlīd means the acceptance of another's view without recognizing or understanding the detailed proofs, whereas Ḣittībā' refers to the following of another in the light of complete knowledge."

A similar view is expressed by the author of Haqīqat al-Ilhād on page eight of the afore said book.

‘Allāmah Ḥabīb ibn al-Qāyīm (raḥimahullāh) quotes the view of a certain Abū ‘Abdullāh bin Khawāz Mundād al Basrī al Mālikī as follows:

"Taqlīd means to follow the views of a person who has no substantiation for his views; the Shari‘ah has prohibited such an act of Taqlīd. Ḣittībā' on the other hand means following a view for which substantiation exists. Ḣittībā' is permissible in the religion but Taqlīd is not."

37 Amritsāri, Qādī Thanāullāh. Taqlīd Shākhī wa Salafī. p.52/53.

26
In the light of the above quotations, it is clear that a difference of opinion exists amongst the scholars on the issue of the apparent dissimilarity between *Taqlīd* and *Ittībā‘*. Is there a genuine and factual disparity between the reality of the above concepts or not? A superficial analysis of the above may tend to be inclined in that direction, but if a deeper and more perspicacious and discerning investigation is undertaken, it would appear that the differences are merely cosmetic and not genuine. The previously cited quotation from Ḍabāni al-Fatāwā indicates somewhat to this reality. The view of Maulānā Gangohī is even more lucid and explicit where he has equated each to the other. The main issue of contention between the two arguments hinges upon the attendance or absence of knowledge. It has been quite clearly pointed out that neither *Taqlīd* nor *Ittībā‘* espouse total ignorance and blind following of the *Muqallid*, but rather a submissive following, based upon trust and confidence in the expertise of the scholars; immaterial of whether such compliance is accompanied by knowledge or not. Would it be safe to surmise that this is merely an issue of verbal gymnastics rather than genuine differences? If such be the case, then the maxim "Lā munāqashata fī al *Iṣṭilāb*" - "There is no dissension in technicalities of terminology" would fit this matter most appropriately! If the reality of any concept is unified, it does not matter as to what designation is assigned to it, as this would not alter its essence in anyway.
Furthermore, if the attendance or absence of knowledge were really an issue of contention, it is clear that in either of the two cases, Taqīd or Ittibā', the extent of knowledge would always be deficient in respect of the desired level, else such a person would himself be competent enough to assume the mantle of ijtihād (judicial expertise) and join the fraternity of the mujtahidin (qualified scholars) rather than having to adopt the role of a mere muttabī (follower)? What need would such a learned scholar then have for either Taqīd or Ittibā'? It would be the classical case of having accomplished the accomplished!

12. The correlation between the literal and technical definitions of Taqīd

Taqīd, strictly in its literal sense in relation to human beings, exemplifies the sense of adornment and embellishment by way of donning an ornament or piece of jewelry, rather than a negative connotation as some anti-Taqīd scholars are wont to believe. This literal aspect pervades the technical dimension of Taqīd in the sense of adornment and embellishment with the "jewels" of another, albeit in a metaphorical context, rather than a physical or denotative sense. Thus one who was unenlightened regarding the procedure of executing the Divine Texts due to a dearth of sufficient expertise, now became enriched and adorned by the process of Taqīd. In this way a direct correlation and alliance is established between the

literal and technical definitions of *Taqlîd*.

13. By way of summary and final analysis...

The concept of *Tâṣab* in Islâmîc Law entails the total and complete submission to Allâh alone, being The Maker and Creator of man. Allâh appointed some of His chosen bondsmen as His Messengers and Emissaries to the rest of mankind. As such, obedience to the Messengers of Allâh has been equated to *His* obedience. In the Divine Text of the Scriptures, *Muḥkamât* (explicit verses) as well as *Mutashâbihât* (indistinct verses in respect to average persons) are found.

The unqualified and average person, due to insufficient qualification is unable to comprehend the portent of the indistinct verses. The comprehension of the indistinct verses requires much erudition and expertise and is the domain of the learned experts who have exhausted their efforts in the acquisition of this knowledge. It would be impractical and unrealistic for every individual to engage in the acquisition of such knowledge. The safest recourse for the non-professionals in this field would be to repose trust and reliance in the findings of the qualified experts without attempting to delve very deeply into the intricacies of their methodologies of study and research as this in itself would require intensive study and learning. This doctrine of reposing trust and reliance on the experts and
following their qualified opinions is referred to as Taqlīd; this being the essence of its technical definition.

Taqlīd is a natural propensity of the human being and hardly any facet of human life subsists without Taqlīd. Taqlīd would be the most common sense approach for the novice in any field of learning, including a study of the Divine Texts of Islamic Jurisprudence. Although a difference of opinion surrounds the validity of the institution of Taqlīd, which is denounced by some scholars in preference to Ittibā'; an impartial and objective study would reveal that this difference is only superficial and apparent, the essence and crux of both being one and the same.
CHAPTER THREE: **TAQLĪD IN THE LIGHT OF QUR’ĀNIC VERSES**

1. **The validity of Taqlīd and Ittibā’ as an essential institution of Islāmic Fiqh (Jurisprudence) in the light of the Qur’ān**

Since the Holy Qur’ān has been the primary source and fountainhead of all knowledge in Islām, it has always been the established trend, in keeping with Islāmic tradition, of all thinkers, philosophers, writers, researchers and scholars to consult Qur’ānic sources, before any other source, for the substantiation, verification and enrichment of their thoughts and ideas. In keeping with this age old tradition, the Qur’ānic verses discussing the concept of Taqlīd and Ittibā’ shall be discussed.

2. **Verse One: "Enquire of the people of knowledge if you know not ..."**

"... so enquire of the Abl al Dhikr (People of Knowledge) if you know not."¹

The above verse was revealed when the disbelievers of Makkah denied the prophethood of the Holy Messenger (ṣallallāhu‘alaihi-wa-sallam) on the basis that it was not possible for a human being to receive Divine Revelation. It directed the members of Quraish towards the learned scholars of the previous Divine Scriptures to enquire of them if this matter was true in relation to their knowledge of their

¹ Al-Qur’ān ch.16/v.43
own Prophets.

The term *Dhikr inter alia*, refers to knowledge of the Divine Texts. Thus the title *"Ahl al Dhikr"* is used to denote the experts of religious knowledge, the learned scholars.²

3. Principles derived from this verse

The general principle derived from this verse is the necessity for the unlearned and ignorant to acquire knowledge of Divine Regulations from the qualified and learned scholars of this domain. This is the very essence of *Taqlīd* and *Ittīḥād*. There could be two possible modes of enquiring from the scholars; either by direct questioning or by reference to their works and writings in the light of the *Uṣūl* (Principles) laid down by them in the science of *Uṣūl al-Fiqh*.

It is on the basis of this verse and others of this intent that the learned scholars have deduced the necessity of *Taqlīd* and *Ittīḥād*.

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² By the term learned scholars, experts, etc. reference is always being made to the great *Fiqah*, the *'Ulama* and the *Mujtahidin*; in short, any person capable of *Ijtihād*. Check Ch.2/footnote 16

32
Hence, 'Allāmah Maḥmūd al-Ālūsī (raḥimahullāh) states:

"This verse also indicates that it is compulsory for the unlearned to refer to the Ulama in unknown matters (of a religious nature) and (this is why) Suyūṭī (raḥimahullāh) has stated in his work al-Iklīl that this verse indicates towards the permissibility of Taqlīd for the unlearned in the matters of Furū' (by-laws) of Shari'ah."

In similar vein, the renowned scholar of Islamic History, 'Allāmah Khatīb al-Baghdādī (raḥimahullāh) observes:

"In so far as the issue of Taqlīd is concerned, it is quite permissible for the uninitiated commoner to follow a learned scholar by way of Taqlīd; This is contained in the verse: "Enquire of the people of knowledge if know not." Thereafter, Khatīb al-Baghdādī substantiates the validity of this view by tracing it to Amr bin Qais (raḥimahullāh) with a complete chain of narration.

3 May Allāh's mercy be upon his soul
4 al-Ālūsī, 'Allāmah Maḥmūd; Rūḥul-Maʃāni; v.14 p.148
5 al-Baghdādī, Khaṭīb. al Faqīh wa al Mutafaqqib. v.2 p.68. Dar-al-İftā', Riyadh. 1979
Imām Fakhruddīn al-Rāzī (raḥimahullāh), the famous commentator of the Qur'ān, states in this regard:

"Amongst the scholars are those who have even alluded, on the basis of the said verse, to the permissibility of Taqlīd of one Mujtahid of another in the event of that Mujtahid not being sufficiently informed with regard to the matter in which he wishes to make Taqlīd."6

‘Allāmah Muftī Shafi’ (raḥimahullāh), the late grand Muftī of Pakistan, writes in his famous work Ma‘ārif al Qur‘ān: 

"Even though the verse "Enquire of the people of knowledge . . . " was revealed under a particular circumstance, but from the intent of this verse a general principle is clearly derived; which is in conformity with both naqīl and aql - narration and rationality. This is the principle of the ignorant enquiring and learning from the expert scholars and practising in accordance with this acquired knowledge. This is in reality what is known as Taqlīd. Not only is Taqlīd a command of the Qur‘ān, but it is also established from logic and sound reasoning. How else would it be possible for the unlearned to acquire knowledge of Divine Regulations without

consulting the learned and without reposing trust in their knowledge? This has been the accepted and established trend from the era of the Ṣaḥāba (radiyallahu-āanhum) (Noble Companions of the Messenger) right up to the present day. When this has been accepted, it could then be categorically stated that let alone the permissibility of Taqlīd, the necessity of Taqlīd could be safely established ..."7

4.1. Views of anti-Taqlīd scholars

On the contrary, it is the view of certain scholars such as Imām Shaukānī (raḥimahullāh), a leading scholar of the anti-Taqlīd school of thought, that the validity of Taqlīd could not be established by this verse as it was revealed under particular circumstances. According to scholars of this persuasion, the Abl al Dhikr spoken of here specifically refers to the Jewish scholars of Abl al Kitāb and none else. In the light of this argument, they opine that the concept of Taqlīd cannot be substantiated on the basis of this verse. The author of Fatāwā Nadhiriyya writes:

"By Abl al Dhikr is intended the scholars of Abl al Kitāb as the addressees of this verse are the disbelievers of Makkah. Therefore, to

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7 Shafi‘, ‘Allāmah Mufti Muhammad; Ma‘ārif al Qur‘ān; v.5 p.345; Dar al Hikmah, Deoband, India; 1983

8 Refer Chapter 3; footnote 50
substantiate the concept of Taqlīd of the great Imāms from this verse is incomplete.”

In this regard, Imām al-Shakānī (rabīmahullāh) claims:

“This verse was revealed under particular circumstances as is evident from the background verses, totally unrelated to what is being attempted by some to establish the validity of Taqlīd. This is why Ibn Jarīr al-Tabarī, al-Baghawī and other commentators are of the opinion that this verse was revealed in refutation of the Makkān polytheists who denied the humanity of the Holy Messenger Muhammad (ṣallallāhu 'alaihi wa-sallam). Imām al-Suyūtī (rabīmahullāh) has discussed this matter in great detail in his renowned commentary al Durr al Manthur. The verse in question reads as follows: "And We did not send before you but men (like unto you) upon whom We sent revelation; thus enquire of the people of knowledge if you know not.”

9 Dehlāwī, Sayyid Nadhir Hussain; Fatāwā Nadhiriyyah; v.1 p.163

10 Shaukānī, Imām Muḥammad bin ‘Alī; Haqiqat Taqlīd wa Ijtihad; p.22/23; Nashr al Sunnah, Multan

36
The crux of al-Shaukānī's argument centres around the fact that since this verse was revealed under a particular circumstance, it would not be correct to infer the validity of *Taqlīd* from it as this is not in conformity with the background of the revelation of this verse.

4.2. Analysis of above view

However, Shaukānī's view in this regard is not in conformity with the *Usūl* or general principles of *Tafsīr* writing, which state clearly that: "Consideration is granted to the general purport and intent of any verse and no verse is restricted strictly to the circumstances of its revelation; this view is held by consensus of all the leading scholars like al-Shafi'i, etc."

It is necessary to uphold such a unanimous principle of the science of *Tafsīr*, else the object of the Qur'ān, its being a source of guidance for mankind for the generations to come, stands to be defeated. If this be not the case, then the Qur'ān would be reduced merely to the status of a book of history, rather than being a source of *Shari'ah* (Divine Law) and guidance for all generations. Furthermore, if such an argument as al-Shaukānī's is acceeded to, there is hardly a single verse of

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11 Refer to the following sources: *Kitāb al Umm* v.5/p.241; *Ṣārim al Masālif* p.50; *Budūr al Fawāid* v.3/p.161; *Ibn Kathir*, v.2/p.9; *Fath al Bāri* v.8/p.143; *Nail al Awārār* v.2/p.149; *Budūr al Abillah* p.209
the Qur'ān that was not revealed under any particular circumstance. If such type of consideration is accorded to every verse, what guidance would the Qur'ān then have to offer the succeeding generations?

In the light of the above reasoning, the inconsistency and flaw in al-Shaukānī's view becomes evident. Therefore Abl al Dhikr would refer not only to the Jewish scholars of Ahl al Kitāb, but to all experts and scholars of religious knowledge, irrespective of the special circumstances of the verse in question.

5.1. Second view of the anti-Taqlīd lobby

The second misgiving that Shaukānī expresses in regard to the validation of Taqlīd from this verse, is based on the fact that the scholars to whom the people of Taqlīd (Muqallidīn) refer their queries to, the A'immah of the Muqallidīn, do not qualify for the title of Abl al Dhikr, as it refers only to those scholars who produce a detailed, substantiated reply to every and any query that is posed to them and none other.

al-Shaukānī writes, explaining this point of view:

"If we do hypothetically accept the view that Abl al Dhikr in this verse, refers to all learned scholars, other than the scholars of Abl al
Kitāb, then too, it is clear that by Dhikr is intended the Qur'ān and the Sunnah and no other source. Al-Shaukānī claims that in his opinion, none could differ with him on his view in this matter as the Shari'ah comprises of only the Qur'ān or the Sunnah of the Holy Messenger (ṣallallāhu ʿalaihi wa sallam); there is no third person who has been accorded the authority to legislate in Islamic Law. This being the case, we are then constrained by virtue of this verse to enquire only of those scholars who have knowledge of Qur'ān and Sunnah; therefore this verse, rather than being in favour of the proponents of Taqlīd, actually goes against their view. When any person asks any Aḥl al Dhikr for an opinion, the reply would be: "Allāh said so-and-so; the Holy Messenger said so-and-so." Contrary to this, the Muqallidin when asking for an opinion in religious matters, would be told with regard to the views and opinions of their scholars (rather than the Qur'ān and Sunnah)...Therefore this verse does not fulfil the purpose of the Muqallidin."12

The views and reasoning of al-Shaukānī (ṣalīmuhullāh), which could be summarized as follows:

12 al-Shaukānī, Imām Muḥammad bin ʿAlī; Haqīqat Taqlīd wa Ijṭihād; p.22/25; Nashr al-Sunnah, Multan
1. Dhikr, which can be equated to Shari'ah, has only two sources; the Qur'an and the Sunnah.

2. Any scholar who cites substantiation from Qur'an and Sunnah in reply to every query that is posed to him, alone qualifies for the title of Ahl al Dhikr. The verse in question refers to enquiring from and making Taqlid/Ittibā' of such scholars alone; then only would one be practising on the true intent of the said verse, not otherwise.

3. Conversely, any scholar that does not cite substantiation directly from Qur'an and Sunnah, each time a query is posed to him, but rather cites the views of former scholars in reply, is ignorant and does not qualify for the title of Ahl al Dhikr; it follows that to enquire from such a scholar would not be correct as the verse has only permitted Taqlid of Ahl al Dhikr and none other.

4. Since the people of Taqlid are contented with the views of scholars alone in reply to their queries, they are not basing their practise on this verse.

5. The protagonists of Taqlid are therefore, not entitled to cite this verse in substantiation of Taqlid, when they themselves are not practising upon it's intent.

5.2. Analysis of second view

al-Shaukānī's forceful argument would have been acceptable if it could be proved firstly, that it is compulsory upon every scholar to provide a detailed, substantiated
reply to every questioner, irrespective of his mental and intellectual abilities to comprehend the evidence or not and secondly, that replying to any query in the absence of citation of substantiation from Qurʾān and Sunnah is in itself evidence of ignorance. However, common sense sufficiently refutes this view. In the majority of circumstances, as is the experience of a vast majority of the scholars, the ignorant enquirer is completely incapable of grasping the *Turuq al-Istidlāl* - intricacies of substantiations from the Qurʾān and Sunnah; would it still be compulsory upon the scholar to cite proof of his reply even under such circumstances, as al-Shaukānī is wont to believe? And would the absence of citation of evidence render the said scholar ignorant as al-Shaukānī most forcefully espouses? The answers are quite evident . . .

Furthermore, the people to whom al-Shaukānī has alluded to in his arguments, as is clearly discernable to his readers, are none other than the eminent and proficient scholars of the Muqallidīn, the great *Aʾimmah Mujtahidīn*. Particularly in the case of these erudite scholars, al-Shaukānī's argument is irrelevant, simply because of the fact that every jurisdical fact they have cited has been amply substantiated by them from the Qurʾān and the Sunnah. Testimony to this fact is eloquently borne out by their meticulous and pain-staking recording of their views in the voluminous works that they have left behind as a rich legacy and heritage for the succeeding
generations. Since the detailed evidence of their views and opinion is amply available for any seeker who wishes to peruse through the relevant sources, it is no longer necessary for even the scholars of these established institutions of jurisprudence to cite evidence upon every single query that is directed to them in view of the above mentioned reality. al-Shaukānī and his compatriots, have erroneously understood this as absence of evidence and even ignorance on the part of these scholars, and have incorrectly opined that such scholars do not qualify for the appellation of Ahl al Dhikr. The train of thought displayed by al-Shaukānī in his view here could be appropriately compared to the difference that allegedly exists between Taqlīd and Ittibā'. A superficial analysis of this has often confused even respectable scholars, let alone novices. Upon profound investigation, however, it could be conclusively proven that this is merely a difference of technicalities and terminology, rather than being an actual difference of opinion.

6. Appraisal of the conflicting views on Verse One

In conclusion, it could be reiterated that the scholars of the Muqallidin are completely worthy of the office of Ahl al Dhikr and that citation of the said verse in substantiation of Taqlīd is valid and totally justified.

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13 al-Madhāhib al-Arba'ah al-Mudawwannah - The four well established schools of thought

14 Refer Chapter 2; p.25-29
Commenting on the verse in question, Maulana Sarfaraz Khan, a leading present day scholar writes:

"In conclusion, if the Taqlid of the scholars was an abominable practice, then why after all, has the command of asking the people of knowledge been issued? and why then did the Holy Messenger (sallallahu'alaíhi-wasallam) state so clearly: "The only remedy to ignorance is by way of enquiring (from the learned scholars)." If this system of learning by enquiring and following the opinion of the learned scholars was an invalid practice, why then was such a command issued in the first place? The concept of Taqlid and Ittibâ' of the learned scholars is but for the very same reason, that instead of the novice relying upon his own Ijtihâdi interpretations and understanding of the Divine Texts of the Qur'an and Sunnah, he places greater reliance on the findings of the learned and qualified experts of this field. By doing so, the chances of him erring will be minimal and negligible when compared to allowing him to follow his personal interpretations of the Nuṣūṣ - Divine Texts."
7. Verse two: "And let there be a group amongst you that would devote themselves towards acquiring proficiency in knowledge . . ."

"Nor should the Believers all go forth together; if a group from every expedition remained behind, they could devote themselves towards acquiring proficiency in religious knowledge, and thereby admonish the people when they return to them, that thus they may learn to guard themselves (against evil)."\(^{17}\)

This verse emphasizes that all Muslims should not venture forth in the event of war or any other need, but that a group amongst them should dedicate themselves completely to the acquisition of the religious sciences that are regarded as essential for the study and scholarship of the Qur’ān and the Sunnah.

Here in this verse, an emphasis is placed on only a particular and select group to undertake the responsibility of mastering the Islāmic Sciences rather than every individual member of the community. It would not be within the ability, nor the inclination of every individual in the community to qualify as a scholar of the Divine Texts. Furthermore, on a collective basis, it would not be in the better interest of the needs of the general community for such a development to occur as people of diverse disciplines would be required for the normal functioning of a

\(^{17}\) al-Qur’ān; ch.9/v.123
community; thus if every single individual would be charged with the task of acquiring detailed knowledge of the relevant Islamic disciplines, the community would not be able to function smoothly and normally. It would mean that a lopsided development of the community would take place.

8. The role of the learned scholars in society

This select group is charged with the task of educating and conveying their knowledge to the lesser educated in the community in order to prevent them from transgressing the Divine Regulations and thereby incurring Divine displeasure and possible chastisement. When a select group has been charged with the responsibility of acquiring in depth knowledge of the Divine Texts and not the entire community, it conversely follows that the rest of the unlearned masses would then be compelled to adhere to their verdicts and rulings and thereby avoid contravention of Divine Law out of ignorance. This Qur'anic system of following by the unlearned, of the qualified scholars, is referred to as Taqlid or Ittibā'; this in a nutshell is the essence of Taqlid.

Hence, Imam Abū Bakr al-Jaṣṣāṣ (rāhimahullāh) comments on this verse:

"In this verse, it has been made compulsory upon the common Muslims to submit to the verdicts of their scholars."18

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18 al-Jaṣṣāṣ, Imam Abū Bakr; Aḥkām al Qur'ān; v.2/p.262; Suhail Academy, Lahore; 1980
This verse provides clearcut evidence for the validity of *Taqlīd* and *Ittibā‘* in the Qur‘ān.

9. Verse 3: "and follow the way of those who turn unto Me . . ."

"And follow the way of those who turn to Me (in submission)."\(^{19}\)

Since the *Amr* (imperative) denotes obligation, it is clearly derived from here that not only is it permissible, but is actually compulsory to follow and make *Taqlīd* and *Ittibā‘* of those who are themselves obedient and submissive to Allāh. It is now left to be verified whether the great scholars of Islām, the *A‘immah Mujtahidūn* qualify for the criterion set out in this verse as "those who turn to Allāh (in submission)" or not?

A cursory study of their authentic biographies and other historic narrations bear eloquent testimony to their qualification as legitimate scholars, and worthy of emulation as set out in this verse. When this matter has been accepted, then it naturally follows that *Taqlīd* and *Ittibā‘* of the learned scholars of Islām is obligatory upon the unlearned masses, in the light of this Qur‘ānic verse. *Rūḥ al Ma‘āni* of ‘Allāmah al-Ālūsī greatly emphasizes this point.\(^{20}\)

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\(^{19}\) al-Qur‘ān; ch.31/v.15

\(^{20}\) al-Ālūsī, ‘Allāmah Ma‘āmid; *Rūḥ al Ma‘āni*; v.21/p.78
10. Verse 4: "had we but listened or used our reasoning ability . . ."

"They will say: Had we but listened or used our reasoning ability, we would not have been amongst the companions of the blazing fire." 21

This verse is in relation to the dwellers of hell-fire, who would express remorse for not having listened and obeyed, or for not having used their mental abilities in following the path of rectitude and thereby saving their souls from chastisement and damnation. In this verse, subtle implication to the validity of Taqlid and Ijtibād is to be found.

Shah 'Abdul 'Azīz (rahimahullāh) writes in his well-known work, Tafsir 'Azīzī, the commentary of the Holy Qur'ān:

"Some of the past commentators of the Qur'ān have alluded to the validity of Taqlīd and Ittībā' from the phrase "Nasmā'ū - had we listened and followed" and to the validity of Ijtihād from the phrase "Na'qīlu - had we used our intellect". Either of these two ways is a means of salvation." 22

21 al-Qur'ān; ch.67/v.9
22 Dehlawi, Shah 'Abdul 'Azīz; Tafsīr 'Azīzī; p.13; Muḥammad Press, Lahore
In this regard, Maulâna `Abdul Haqq Haqqânî (rāhmānhū) writes in his commentary:

"There are only two modes of salvation for man; the first option, which is the easier one, is to listen to and heed the guidance of a learned scholar by following his instructions; this is Taqlīd. The second option, which is the difficult one, is the use of one’s reasoning powers and mental capacity in adopting a path of action (in line with Qur’ān and Sunnah). This is known as Ijtihād. Anyone who is beyond these two (Taqlīd or Ijtihād), what doubt remains in the destruction and damnation of such a person?"\[23\]

Furthermore, Maulâna Ashraf ‘Alî Thanwî (rāhmānhū), while explaining this verse observes:

"By "Nasma‘u" reference is being made to Taqlīd and by "Na‘qilu" to Taḥqīq (research leading to Ijtihād). Thus in order to be saved from Hell-fire, only one of two methods are acceptable; either Taqlīd or Taḥqīq."\[24\]

\[23\] Haqqânî, Maulâna `Abdul Haqq; Taṣīr Haqqânî; v.9/p.149

\[24\] Thanwî, Maulâna Ashraf ‘Alî; Da`vût ‘Abdiyyah; v.5/p.8; Jamal Press, Delhi
It is a rudimentary fact of life that very few persons indeed qualify for the lofty post of *Ijtihād*. This is the mantle of only the erudite, knowledgable scholars of Islām. It is clear that those who do not qualify for the exacting office of *Ijtihād* are left with only one option and that is the option of *Taqlīd* or *Ittibāʿ*.

11. Verse 5: "obey Allāh and obey His Messenger and the people of authority among you"

"O Believers! Obey Allāh and obey His Messenger and the people of authority among you."

Three directives have been issued in this verse of the Qurʾān:

1. Obedience to Allāh’s command
2. Obedience to the Messenger
3. Obedience to the *Ulū al-Amr* - the people of authority

In so far as the first two are concerned, there is no need for further discussion as it is a unanimously agreed matter amongst all Muslims. Discussion will therefore be centred around the third command in the verse from which the validity of the institution of *Taqlīd* and *Ittibāʿ* will be illustrated.

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25 al-Qurʾān; Ch.4/v.59

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12. Analysis of the points derived from this verse

The following pertinent points come to the fore:

1. It is clear that obedience to the "people in authority" is compulsory due to the imperative (Amr) command: Obey! The clause "among you" indicates that compulsory obedience in all Islamic matters will be rendered only in respect of a Muslim authority as the opening phrase of the verse "O Believers!" indicates.

2. From other Divine Texts and principles of Shari'ah, it is established that obedience to any authority other than Allah and His Messenger (sallallâhu 'alaihi wa-sallam) is conditional to the fact that such an authority does not issue any command or directive in contravention of the commands of Allah and His Messenger. If per chance, such a contradictory command was issued, it would summarily be dismissed and regarded as invalid for practice.

The Holy Messenger (sallallâhu 'alaihi wa-sallam) is reported to have said:

"If any person (of authority) issues a command of sin and transgression (against Allah and the Messenger's command), no submission should be rendered to him (in respect of his command)."

Similarly, he is reported to have said:

"There is no obedience for a creature (makhlûq) in sinning against the Creator."26

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26 al-Bukhârî, Imâm Muhammad bin 'Abdullâh; Sahîh al Bukhârî; v.2/p.1057
3. On the other hand, when the commands of the person in authority are not contradictory but consistent with the commands of Allāh and His Messenger, then it becomes compulsory to render obedience in respect to the person in authority. The Holy Messenger (sallallāhu 'alaihi-wa-sallam) is reported to have said:

“He who has rendered obedience to my Amir (person placed in authority by me), he has certainly rendered his obedience to me, and he that disobeys my Amir has in fact disobeyed me.”

13. Definition of Uлу al-Amr

4. Uлу al Amr could be classified into one of the two categories; the ‘Ulamā’ and the Fuqahā’ or the Rulers and Governors. This is amply borne out by countless citations of the learned predecessors among the scholars from the earliest era of Islām to the present day.

5. The definition of Uлу al Amr as the ‘Ulamā’ and Fuqahā’ (Jurists) is established from innumerable sources of which a few will be presented here by way of example. Jābir (radiyallāhu ‘anh) says in this regard:

"By Uлу al Amr is meant the people of jurisprudence and nobility (i.e. The honourable Fuqahā’ - Jurists).”

27 al-Bukhārī, Imām Muhammad bin ‘Abdullāh; Šaḥīḥ al Bukhārī; v.2/p.1057

28 Hikum, Imām; Mustadrak; v.1/p.123

51
This is a tradition that is established by authentic chain of narration. 'Abdullah bin 'Abbas (radiyallahu anh) comments:

"(By Ulu al Amr) is intended the people of Jurisprudence and Islamic Knowledge; Allah has made obedience of them compulsory."29

This is also narrated by a reliable transmission of narrators.

Regarding the Tafsir of the Sahabah (radiyallahu anhum), it is unanimously agreed that Tafsir of a Sahabi occupies the same position as a Musnad Hadith; Tafsir of a Sahabi is equivalent to a Marfu' Hadith; Tafsir of a Sahabi is regarded as a Hujjah (established proof) in Shari'ah.30 In light of the above principle, it would be quite correct to understand the concept of Ulu al Amr as applying to the Scholars and Jurists as emanating from none other than the Holy Messenger (sallallahu alaihi wa sallam) himself. Assuming any person differs from this unanimous principle for whatever reason, then too, the Tafsir of a Sahabi receives preference over that of any other tafsir which came to be written after the period of the Sahabah.

Nawab Siddiq Hasan Khân Bhopalî (raimahullah), a leading scholar of the anti-Taqîd group, reiterates:

29 Hākim, Imâm; Mustadrak; v.1/p.123
30 Refer: Ma’rifat al ’Ulama al Hadîth; p.20; Zad al Ma’âd; v.4/p.52; Al Jannah; p.96: Tadrib al Rawî; p.65

52
"The Tafsīr of the Șahābah is much more reliable and worthy of acceptance than that of those succeeding them."31

Alongside the Șahābah, a great many Tābi‘īn are of the same opinion regarding Ulu al Amr as applying to the Jurists and Scholars. Among them are scholars like Hasan al-Baṣrī, al-Mujāhid, ‘Aṭā bin Abī Rabāh, Qaṭādah, Ibn Abī Laylā, Abul ‘Āliyah, al-Ḍāḥṭār, Abū'Ulah, Al-Ḍāḥṭār, Aḥmad bin Hambal, etc. ‘Aṭā bin Abī Rabāh states: "By Ulu al Amr is meant the Jurists and the Ulamā’."32

With regard to the Tafsīr of the Tābi‘īn, it is an accepted principle that it is a valid proof (Hujjah). Nawāb Șiddiq Hasan Khān states:

"The Tafsīr of a Tābi‘ī too, is considered a Hujjah."

6. The other view regarding Ulu al Amr is that it refers to the ruling class. This is the view of certain authorities such as Abū Hurairah (radiyallahu ‘anh), al-Suddī, Maymūn bin al-Mahrān, etc.

7. Both of the above views regarding the definition of Ulu al Amr are acceptable

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31 Khān, Nawāb Hasan; Al junnah; p.96
32 Dārīmī, Imām; Musnad Dārīmī; p.40
33 Khān, Nawāb Hasan; Al junnah; p.96
and both views are compatible and easily reconcilable as can be understood from
the writings of the learned commentators of Qur’ān in this regard. Imām Abū Bakr
al-Jaṣṣāṣ writes:

"There exists differing opinions regarding the correct definition of
Ulu al Amr. It has been reported by Jābir bin 'Abdullāh, Ibn 'Abbās, (in one narration) Hasan al-Basrī, al-'Aṭā and al-Mujāhid that Ulu al Amr refers to the 'Ulamā’ and the learned scholars and
according to Abū Hurairah and another narration of Ibn ‘Abbās, it
refers to the commanders of the army and military expeditions."\textsuperscript{34}

He reconciles both the views in the following words:

"It is quite correct to accept both the interpretations, for the word
could be used in both contexts. Thus obedience to the military
commanders is necessary (on the battlefront) as they are entrusted
with the responsibility of planning and enacting the strategies of
warfare while obedience to the 'Ulamā’ and scholars are required as
they are entrusted with the responsibility of protecting the limits of
Shari‘ah and legislating upon the permissible and the
impermissible."\textsuperscript{35}

\textsuperscript{34} Jaṣṣāṣ, Abū Bakr; \textit{Aḥkām al Qur‘ān}; v.2 p.210

\textsuperscript{35} Ibid.
Imām al-Jāṣṣāṣ also mentions:

"Hasan, Qaṭādah and Ibn Abī Laylā interpret Ulū al Amr as the people of knowledge and jurisprudence. al-Suddī is of the opinion that it refers to the rulers and governors. Abū Bakr al-Jāṣṣāṣ agrees that it is quite in order to accept both the meanings; the 'Ulamā' as well as the rulers because the title is befitting of both the groups."36

'Allāmah Ālūsī writes:

"And some have said by Ulū al Amr is meant the commanders of the army as is the view of Abū Hurairah and Maymūn bin Mahrān while others have said it refers to the scholars. Jābir, Ibn 'Abbās, Mujāhid, Ḥasan, ‘Aṣā and Abul 'Aliyah have substantiated this view in light of another verse in which the Ulū al Amr have been defined directly as the scholars and the 'Ulamā'. It is, however, possible to reconcile both the views as the term encompasses both classes of men; the scholars as well as the rulers; for just as the rulers carry the responsibility of (protecting the state by) controlling the military and warfare; the 'Ulamā' have the responsibility of protecting the Shari‘ah (from distortion and misinterpretation) and overseeing the

36 Jaṣṣāṣ, Abū Bakr; Aḥkām al Qur‘ān; v.2/p.210

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affairs of permissibility and prohibition."  

It has been abundantly pointed out that just as the rulers qualify for the epithet of *Ahl al Amr*, so too do the 'Ulama' and scholars. In *Ma'ālim al Tanzil*, *Tafsir Ibn Kathir*, *Kashshaf*, etc. *Ahl al Amr* have been defined only as the people of knowledge. Even Imām Shaukānī concedes:

"The commentators hold two views with regard to *Ahl al Amr*; firstly, the rulers and secondly, the 'Ulama' and scholars. It is not unconventional that both meanings could be intended here."  

Nawāb Śiddīq Hasan Khān also writes:

"Ibn 'Abbās, Jābir, Hasan, Abul 'Āliyah, 'Aṭā, Ḍaḥḥāk, Mujāhid and Imām Aḥmad have interpreted *Ulu al Amr* as 'Ulama'."  

When it has been mentioned by most of the eminent scholars that by *Ahl al Amr* is also intened the 'Ulamā', then it can be established that the practice of *Taqlīd* (following the scholars) is perfectly legitimate and valid else what benefit would

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37 Alūṣī, Ṭabād; *Rūh al Ma'āni*; v.5/p.65  
38 Shaukānī, Imām 'Alī; *al Qawāl al Muṣīd*; p.11  
39 Khān, Nawāb Hasan; *Al Sunnah*; p.4

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there be in making obedience to the ‘Ulama’ compulsory upon the Believers? This obligation given under direct command of Allâh in the said Qur‘ânic verse, further proves its importance and efficacy. After all, the scholars fulfil a vital function in religion; that being the duty of correctly expounding the regulations of Qur‘ân and Sunnah because of their level of knowledge and expertise. Thus Taqlid is a practice sanctioned by the Qur‘ân.

14.1. First view of the anti-Taqlid group

Some scholars such as al-Shaukānī and his compatriots forward two counter arguments against this view. Firstly, they claim, this verse cannot be a proof for Taqlid because there is no permission for obedience and subservience to the ‘Ulamā’ except if they legislate in accordance with the Shari‘ah and since the Shari‘ah comprises only of the Qur‘ān and the Sunnah and since the Shari‘ah has already been decreed, therefore the ‘Ulamā’ would be compelled to reply only from Qur‘ān and Sunnah. Therefore this verse refers to only those ‘Ulamā’ who substantiate their views from Qur‘ān and Sunnah alone, while the scholars of the Muqallidūn, because they do not substantiate their opinions when replying to queries, do not fall in this category and do not qualify for the epithet of Ulu al Amr. Hence the protagonists of Taqlid are not justified in their substantiation of Taqlid from this verse of the Holy Qur‘ān.
al-Shaukānī (raḥimahullāh) writes:

"Where can the Muqallādīn substantiate their theory of Taqlīd from this verse? For obedience to the 'Ulamā' and Rulers is only valid when they legislate according to Shari‘ah as the Holy Messenger (ṣallallāhu ‘alaihi wa-sallam) has clearly stated: "There can be no obedience to the creation in transgression to the Creator." ⁴⁰

14.2. Analysis of first view

There is no disagreement with al-Shaukānī (raḥimahullāh) on the point that the 'Ulamā' are not allowed to legislate against the Qur’ān and the Sunnah as he so rightly points out. However, to come to a conclusion on the basis of this hypothesis, that this verse does not support Taqlīd seems to be unjustifiable. This claim of al-Shaukānī would only be useful, if he could substantiate that the learned scholars did in the past and presently do legislate against the Qur’ān and the Sunnah. It appears far from reality to entertain such an assumption as any impartial study of the works of these scholars would clearly reveal that the pious and honourable 'Ulamā' always gave the highest regards to the Qur’ān and Sunnah. It is therefore not in the fitness of things to falsify the validity of Taqlīd from this verse.

⁴⁰ Shaukānī, İmām ʿAlī; al Qawl al Mu‘jid; p.11
15.1. Second view of anti-Taqlīd group

The second argument forwarded to scuttle the view of Abl al Amr being the 'Ulamā' and Scholars, is the contention that the term Abl al Amr is more appropriate and befitting of the rulers, rather than the scholars, as the domain of their (rulers) legislation is the mundane rather than pure Shari`ah, which is the domain of the 'Ulamā'. Thus obedience to them in the mundane matters relating to economics, politics, defence, etc. is actually intended in this verse rather than obedience to the 'Ulamā', mention of which has already come within the ambit and purview of the phrase "Render obedience to Allāh and render obedience to His Messenger".

Hence al-Shaukānī writes in this regard:

"Obedience to the Ulu al Amr is necessary in matters relating to warfare, etc. It is not inconceivable that the obedience of Ulu al Amr here is related to those matters that do not fall within the purview of Shari`ah. This because of the fact that if obedience in matters of Shari`ah was really intended, then this was adequately contained in the phrase "Obey Allāh and obey His Messenger". This verse thus refers to obedience to the rulers of the state; a matter which is supported by many scores of Hadīth narrations. It is as though these
Aḥādīth serve as an evident explanation of the intent of this verse and it now becomes clear that this verse has nothing to do with Taqlīd.\textsuperscript{41}

As this verse has nothing to do with Taqlīd and obedience to the Ulamā‘, thus the attempt to validate Taqlīd by its protagonists from this verse is baseless and incongruent with the real intent of this verse, according to al-Shaukānī’s above view.

15.2. Analysis of second view

This argument is defective and invalid on account of certain inherent contradictions which we shall endeavour to expound here as best as possible.

Firstly, to differentiate between the mundane and religious as separate entities is alien to Islām. From the correct Islāmic perspective, everything including politics, economics, defence, etc. fall completely under the ambit of Shari‘ah. In fact, every action of Muslims, whether collective or individual, fall under some classification or categorization of the Shari‘ah as al-Shaukānī claims. There is nothing that "does not fall within the purview of Shari‘ah. Even if this verse is related to the

\textsuperscript{41} Shaukānī, Imam ‘Ali; Haqīqat Taqlīd wa Ijtīhād; p.44

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rulers as viewed by al-Shaukānī, it is an accepted fact that the very objective of appointing a ruler is based upon his ability to establish and enforce the regulations of *Sharī'ah* in every facet of life. In the works of *Kalām* it is mentioned:

"The object of appointing a ruler is for the purpose of establishing the *Sharī'ah*."\(^{42}\)

In *Sharḥ al 'Aqāid*, it is stated that the primary purpose of appointing a ruler is for the establishment of *Sharī'ah*; this is the ultimate object."\(^{43}\)

It would therefore be erroneous to claim that the domain and activity of the ruler is any thing beyond the scope of *Sharī'ah*. Thus the contention that since the domain of the rulers is related to mundane matters, therefore obedience to them is intended here in this verse rather than obedience to the 'Ulamā', whose domain is purely religious affairs, seems to be invalid.

Secondly, if it is arbitrarily conceded that by *Ulu al Amr* is intended only the rulers and not the 'Ulamā' as al-Shaukānī (raḥimahullāh) believes, and that the domain of the rulers is purely mundane beyond the scope of religious issues; then too, there

\(^{42}\) *Musāmirat al-Uṣūl*, v.2/p.153

\(^{43}\) al-Nasafi, Imām; *Sharḥ al 'Aqāid*, p.110

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is no escaping from the fact that even the rulers are dependent upon the knowledge and expertise of the ‘Ulamā’ in order for them to correctly fulfil the objective of their appointment, i.e. the enforcement of the Shari‘ah in all facets of life. It is not rationally conceivable that they would be able to do so without recourse to and obedience of the ‘Ulamā’. If the public is constrained to render obedience to the rulers (by virtue of this verse) because of their ordainment of the regulations of Shari‘ah, then the rulers by the same token, will be constrained to render obedience to the ‘Ulamā’ by virtue of them being the experts of Shari‘ah. It is al Siyāsah al Shari‘ah (Islamic Politics) which is domain of the ‘Ulamā’ rather than that of the rulers.

Imām al-Rāzī (raḥimahullāh) writes:

"There is no contradiction in the issue of Ulu al Amr (whether referring to rulers or scholars). Verily the actions (and activities, mundane or other) of the rulers and governors will be subjected to and upheld only if sanctioned by the Fatwā - legal verdicts, decrees and rulings - of the ‘Ulamā’. In reality, the ‘Ulamā’ could be regarded as the rulers of the rulers themselves and this appellation of Ulu al Amr is more befitting of the ‘Ulamā’ (than even the rulers).""
Nawāb Șiddīq Hasan Khān (*raḥīmahullāh*) comments on this issue:

"The rulers are only to be obeyed if they govern in accordance with the dictates of knowledge (to be acquired from the 'Ulamā'). Therefore, obedience to them, is in essence, obedience to the 'Ulamā'; just as obedience of the 'Ulamā' is conditional to their obedience of the Holy Messenger."45

'Allāmah Ibn al Qayyim (*raḥīmahullāh*) summarises the entire discussion, saying:

"Obedience to the rulers is conditional to their obedience of the 'Ulamā'."46

In the final analysis, it could be safely stated that even if al-Shaukānī's view regarding *Ulu al Amr* as being the rulers was to be regarded as valid, then too, the concept of *Taqlīd* as being obedience to the verdicts of the expert scholars, is sufficiently evident even from this point of view. The 'Ulamā' and Jurists have an important role to play in correctly expounding the Divine Texts of Qur'ān and Hadīth. It is due to this fact, that they deserve to be followed by the unlearned and non-Jurist classes. This process of following the Jurists is called *Taqlīd* and *Ittībā*, and is clearly apparent from the above verse of the Qur'ān.

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45 Khan, Nawāb Hasan; *Al Jannah*; p.4
46 Jauziyyah; Ibn al Qayyim; *Iḥām al Muwaqqīṭīn*; v.1/p.71
16. Verse Five: "If they had only referred it to the (Holy) Messenger and the people of authority among them . . ."

"And when there comes to them some matter (news) regarding (public) safety or fear, they (the hypocrites) publicize it; if they had only referred it to the Messenger and to the people of authority among them, the people of discernment would have certainly perceived it."47

The hypocrites of Madinah were adept at magnifying and publicizing rumours relating to public safety or fear in order to create imbalance in the serene and tranquil social atmosphere of Madinah. These rumours were taken seriously by the simple-minded Believers and further amplified. This verse was revealed as a warning to the mischief-mongers to desist from this practice and instead report any such matters directly to the Messenger of Allah and the Ulu al Amr - people of authority among them - i.e. the senior Sahabah (ra'diyallahu'anhum). The Ulu al Amr would then investigate the actual source of the information and assess its veracity and thereafter, charter a course of action accordingly. It is clear from this verse that it would be unfair if laymen were allowed to draw their own conclusions and to take any kind of action. This is due to the fact that they do not possess the ability, astuteness and competence of analyzing such intricate matters. Their duty and

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47 al-Qur'an; ch.4/v.83

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responsibility was to submit to the findings and verdicts of the Ulu al amr - the people of authority. From this verse, the validation of Taqlid is manifest as this very process of the commoners and unlearned relying upon and following the findings and research of the scholars forms the very essence of Taqlid and Ittibā'.

Although the verse in question was revealed under particular circumstances, it is perfectly valid to generalize its principles, meaning and sense to any similar circumstances. Maulāna Ismā'īl Salafī (rāhimaullah), a leading anti-Taqlid scholar, gives a view quite similar to the one espoused by al-Shaukānī previously in his explanation of this verse.48 The same answers will apply here as were cited in the previous instance. It has already been expounded at length elsewhere in this paper that consideration is given to the generality of verses and not restricted to only circumstantial context. Further discussion on this topic would be superfluous.

The general principle derived from this verse is the Shar'i (Islamic) requirement of applying the rules of Istinbāt and Ijtihād to all problematic situations of a jurisprudential nature. This requirement is only fulfilled by the qualified experts of this discipline; expert scholars possessing the ability and propensity of Ijtihād.

48 Refer: Salafī, Moulāna Ismā'īl, Tabrīk Āzādī Fikr, p.31
Imám al-Rází (rahimahulláh) derives a few regulations from this verse:

"Firstly, certain regulations of Shari'ah are derived from deduction and analogy (ijtihād and qiyās) and not directly from the Divine Texts of Qur'ān and Sunnah. Secondly, Ijtihād is to be regarded as a valid source of Islāmic Jurisprudence. Thirdly, only certain scholars possess the ability of ijtihād and the rest of the people, i.e. non scholars have no other choice but to follow (make Taqlīd of) their rulings."\(^49\)

By way of conclusion, it could be tendered that Taqlīd and Ittīhād is not a foreign concept in relation to Qur'ānic teachings. A modest attempt has been made to firstly, study the validity of Taqlīd and Ijtihād, in the light of Qur'ānic verses and the authentic interpretations of eminent Muslim scholars and secondly, to understand the misconceptions that exist in this regard.\(^50\)

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\(^49\) Rāzī, Imám; Tafṣīr Kabbīr; v.3/p.272

\(^50\) The Ghair Muqallīd (anti-Taqlīd) group, referred to as the Ahl al Hadīth group by themselves, are the most vehement and outspoken regarding the issue of the validity of Taqlīd and Ittīhād. In their attempts to denounce the concept of Taqlīd, they have often committed excesses, particularly in regards to vilifying the venerable scholars and Fuqahā of Islam such as Imāms Abū Hanīfah, al-Shaftī, etc. Imām Muḥammad bin 'Ali al-Shaukānī (rahimahulláh), alongside Nawāb Hasan Khān Bhopālī, Maulāna Ismāīl Salāfī, etc. are claimed to be the leaders of this group.
CHAPTER FOUR: *TAQLID IN THE LIGHT OF SUNNAH*  
**(PROPHETIC TRADITIONS)**

1. **The concept of *Taqlid* and *Ittibā’* in the light of the *Sunnah***

After the Holy Qur'ān, the *Sunnah* [Traditions of the Holy Messenger (ṣallallāhu-‘alaihi-wa-sallam) and his Companions] is regarded as the second most important source of knowledge and inspiration in Islam. Muslim scholars have consistently corroborated their thought processes in the light of the *Sunnah*, for the *Sunnah* is regarded as the most accurate, precise and authentic *Tafsīr* - interpretation of the Holy Qur'ān; for who could better explain the intent of the Holy Book than the Holy Messenger (ṣallallāhu-‘alaihi-wa-sallam) himself? In vogue with the age old tradition of Muslim scholars across the ages, an attempt will be undertaken to study the sources of the *Sunnah* and investigate thereby, the validity of the practice of *Taqlīd* and *Ittibā’* in the light of the *Sunnah*.

2. **Iqtida as a synonym of *Taqlīd* and *Ittibā’***

Hadrat Huzaifah (raḍiyallāhu-‘anh) reports that Rasūlullāh (ṣallallāhu-‘alaihi-wa-sallam) once said:

"I do not know how long I will remain with you people; therefore,
make *Iqtidā* of (follow) Abū Bakr and 'Umar after me."¹

Special note and consideration should be given to the word *Iqtidā* here. This word refers to following of and obedience to an authority in *religious matters*. In one verse of the Qur'an, reference is made to this word:

"Those (the Anbiyā') are the people whom Allāh has guided aright; therefore follow their guidance."²

This is further supported by a Hadīth which states:

"(At the time close to the demise of the Holy Rasūl (ṣallallāhu-‘alaihi-wa-sallam), Abū Bakr was making *Iqtidā* of Rasūlullāh (ṣallallāhu-‘alaihi-wa-sallam) and the people in turn were making *Iqtidā* of Abu Bakr."³

In these and other instances in the Qur'ān and Abādīth, *Iqtidā* is used particularly in the sense of obedience and submission to a religious authority; this is the very essence of *Taqlīd* and *Ittībā‘*. The terminology is interchangeable, but the central concept remains the same. In this sense, *Taqlīd* is a concept supported and endorsed by the Sunnah of the Holy Rasūl (ṣallallāhu-‘alaihi-wa-sallam).

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¹ al-Tirmidhī, Abū ʿIsā; *Sunan al-Tirmidhī*; v.2/p.207 - this narration has been authenticated by Hāfīz al-Dhahabi in *Talkhīṣ Mustadrak* v.3/p.75

² al-Qur'ān; ch.6/v.90

³ al-Bukhari, Muḥammad bin Ismā‘īl; *al-Jāmi‘ al-Sahīḥ*; v.1/p.99

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3. Taqlid of qualified scholars only is allowed

By a process of subtle inference the validity of Taqlid is established from the following Hadith by way of its subject matter. Since only a select group of people are capable of issuing Shari'ah and legal directives, it follows that the majority of people would fall in the category of followers in relation to these qualified A'immah and scholars. Their dependence and need to seek guidance from these scholars is what is referred to as Taqlid and Ittibā'. In the absence of such professional scholars, unqualified persons will assume the mantle and role of scholarship and the gross outcome of such an eventuality will be ignorance and deviation.

Hadrat ‘Abdullāh bin ‘Amr (radiyallāhu-anh) narrates from Rasūlullāh (sallallāhu-‘alaihi-wa-sallam):

"Allāh will not remove knowledge by snatching it away from the people, but He will withdraw knowledge by the demise of the Ulama’ (qualified scholars of Islām) until eventually no ‘ālim is left on earth. People will then take ignorant (pseudo-scholars) persons as their leaders and guides. They will be questioned regarding religious matters and will issue Fatawās (legal decrees) without (the necessary
degree and qualification of knowledge; they will be corrupt themselves and will cause others to become corrupted and deviated."

It is evident from this Hadith that the work of issuing Fatwā is the responsibility of the qualified scholars of Islam. The reality of the office of Fatwā is based on the reliance of the unqualified upon the religious directive of a qualified scholar. This is the very essence of Taqlīd and Ittibā‘ too.

Another noteworthy issue here relates to the prediction of the proliferation of ignorant "scholars" after the demise of the qualified 'Ulamā‘. At a time when ignorant ones will reign supreme, how would those persons desirous of following the truth find the path of correct and authentic knowledge? The only feasible course of action at that time would be to refer to and consult the works and intellectual legacies of the qualified scholars of the previous eras and to make Taqlīd and Ittibā‘ of these. There is no other way of reaching unto the truth in the absence of those qualified 'Ulamā‘ who have the ability of Ijtihād and deriving regulations directly from the Qur’ān and Sunnah, other than Taqlīd and Ittibā‘ of their works and the system of Fiqh that they have bequeathed to the subsequent generations.

4 al-Bukhārī, Muhammad bin Ismā‘īl; Sahih al-Bukhārī; v./p.
If any lay person has, to the best of his ability, verified the credentials of a scholar in so far as his qualification, his being well-versed in the religious sciences and his being of sound morals and pious propensity, and thereafter relied unquestioningly upon his rulings i.e. made Taqlid and Ittiba' of him, he will be absolved of sin and responsibility for any errors committed by such a scholar. This fact is verified by a Hadith of Rasûlullâh (ṣallallâhu-'alaihi-wa-sallam).

Hadrat Abû Hurairah (raḍiyallâhu-'anh) narrates from Rasûlullâh (ṣallallâhu-'alaihi-wa-sallam):

"He who issues a Fatwâ without (sufficient qualification and) knowledge, the sin of issuing the verdict will be upon him."  

The permissibility of Taqlid and Ittiba' is manifest in the light of this Hadith. If Taqlid - unreserved following - by the ignorant of the learned was not permissible, then why would the burden of the sin of issuing an incorrect Fatwâ be restricted to the issuer of the Fatwâ only and not upon the person who accepted such a Fatwâ as we see in this Hadith? This Hadith has made it quite clear that the person who is not a scholar in his own right, his responsibility is primarily to enquire regarding such a matter from an expert and then to repose trust in the ruling of the learned

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persons. This is *Taqlīd*. He is not responsible for any errors committed by the expert.

4. *Taqlīd* as an established practice in the era of the *Sahabah* and the post-*Sahabah* era

The instances of the *Sahabah* (*rādiyallāhu-‘anhum*) resorting to the practice of *Taqlīd* are very frequent and common in the volumes of *Abādīth*. If any *Sahabī* was unable to deduce regulations from the Divine Sources directly, he would consult those among the *Sahābah* who were blessed with this propensity and qualified for this office. This reliance on the views of a competent scholar is the essence of *Taqlīd* and it is in this sense that the practice of *Taqlīd* had gained great prominence in the *Sahābah* after the demise of Rasūlullāh (ṣallallāhu-‘alaihi-wa-sallam). In fact, it became an encouraged practice as we find in the following narration. Haḍrat Ibn ‘Abbās (*rādiyallāhu-‘anhu*) narrates:

"Umar bin Khattāb delivered a sermon to the people at a place known as *Jābiyyah* and said: O People! He that wishes to know anything regarding the Qurān should consult with Ubayy bin K‘ab; he that wishes to know anything regarding inheritance, should
consult Zaid bin Thabit; he that wishes to know anything regarding Islamic Law (Fiqh) should consult Mu‘adh bin Jabal and he who requires wealth (for his needs) should come to me, for Allâh has made me responsible for the distribution of wealth."

It is clear from this sermon that not only did Haḍrat ‘Umar regard the practice of consultation with the qualified experts - Taqlîd and Ittibā‘ as permissible, but even encouraged it and gave it prominence through his sermon. It should be borne in mind that ‘Umar is the person with regards to whom the Noble Rasiîl (ṣallallâhu-‘alaihi-wa-sallam) himself had decreed that Taqlîd of ‘Umar should be made as was pointed out previously in this dissertation.

By dint of this fact, it could be understood that Haḍrat ‘Umar’s directive in his sermon is really an extension of what he understood to be the spirit of the teachings of Rasûlullâh (ṣallallâhu-‘alaihi-wa-sallam) and he therefore exhorted towards the implementation of this practice of Taqlîd among the people by referring them to the qualified experts of the various fields rather than attempting to follow their own rulings or deductions in such matters. In this sense, the practice of Taqlîd is endorsed and encouraged in the Sunnah.

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6 Anas, Imam Malik bin; Muwatta‘; p.279
Those persons who wished to know any regulation regarding an Islamic matter would simply enquire of a learned scholar without delving into detailed research, questioning and demand of evidence and substantiation. This is illustrated in numerous incidents in the life of the Sahābah (rādiyallāhu ‘ānḥ).

On one occasion, Ibn ‘Umar was asked regarding a certain regulation relating to collecting of debts before the due date by offering a reduction in the capital amount to the debtor by the creditor. He pronounced a verdict of prohibition for this practice, sounding his dislike for it. In the said instance, there is no direct reference in the Texts from which Ibn ‘Umar (rādiyallāhu ‘ānḥ) drew his conclusions. This was done solely on the grounds of his Ijtihād. It is significant to note that neither Ibn ‘Umar nor his questioner felt any pressing need to advance a detailed answer as to how he had arrived at such a verdict. This is really the essence of Taqlīd - the reposing of trust in the findings and verdicts of a qualified and expert scholar. This is an evident example of the existence of Taqlīd as it existed in the Khair al-Qurīn - the golden-era of Islam.

On the occasion when Hadrat ‘Umar (rādiyallāhu ‘ānḥ) sent ‘Abdullāh bin Mas‘ūd (rādiyallāhu ‘ānḥ) as a tutor and expert of religious knowledge to the people of
Kūfa, he wrote an accompanying letter stating:

"I have sent 'Ammār bin Yāsir as your leader, and 'Abdullāh bin Mas'ūd as your guide and tutor, and they are from the chosen companions of Rasūlullāh (sallallāhu 'alaihi wa-sallam) and from among the participants of Badr; therefore follow them and render obedience to them."

This "rendering of obedience" and "following" of a religious authority that 'Umar (raḍiyallāhu-anh) commanded is the very essence and crux of Taqlīd.

Regarding Ibn Mas'ūd (raḍiyallāhu-anh) it is stated in one tradition:

"I approve for you all that which 'Abdullāh bin Mas'ūd approves for you."

This is clear evidence that Rasūlullāh (sallallāhu 'alaihi wa-sallam) regarded Ibn Mas'ūd of being such an authority in religion that he fully endorsed and approved of his verdicts and regarded them as being worthy of emulation and acceptance even for his own Sahābah (raḍiyallāhu-anhum), let alone those to come after them. This exhortation of Rasūlullāh (sallallāhu 'alaihi wa-sallam) to his companions to refer to and consult with Ibn Mas'ūd and to respect his verdicts, forms the basis

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7 Nasai, Imām; Sunan an-Nasai; v.2/p.305
8 al-Hākim, Imām; Mustadrak li al-Hākim; v.3/p.319
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and essence of Taqlīd and Ittibā'. It may be noted here in passing that Ibn Mas'ūd (raḍiyallāhu-anh) settled down in Kufa, Iraq and his teachings gained prominence in this part of the Muslim world. It is on the foundation of his teachings that the system of Fiqh of Abū Ḥanīfah - al-Fiqh al-Hanafī, who hailed from Kufa, is based upon.

5. Taqlīd Shakhṣī - following of a specific scholar as a valid practice in the prophetic era and post-prophetic eras

On occasion, the masses were required to follow and make Taqlīd of a specific scholar only. This practice is commonly referred to as Taqlīd Shakhṣī - following of a "Shakhṣ" i.e. adhering only to an individual scholar's views. Such a practice gained ascendency in the time of Rasūlullāh (sallallāhu-alaihi-wa-sallam) and in the eras after him as well. By the third century of Islam, due to various mitigating factors, this had adopted the form of an institutionalised practice and ultimately evolved as the various schools of jurisprudential thought - al-Madhāhib al-Fiqhī - four of which gained prominence in the Muslim world upto this day. However, more of this discussion will follow in subsequent chapters, Insha-Allah⁹. Here it will

⁹ Allāh willing
be pointed out that this practice of *Taqlid Shakhṣī* existed during and after the time of Rasūllullāh (ṣallallāhu-ʿalaihi-wa-sallam). In 10 Hijri, before the occasion of the *Hajjat al-Widā* - the Farewell Pilgrimage, Sayyidinā Muʿādh bin Jabal (raḍiyallāhu-ʿanhum) was sent by Rasūllullāh (ṣallallāhu-ʿalaihi-wa-sallam) to the people of Yemen as a governor of the state and a tutor of religious affairs. The following incident verifies this fact. Aswād bin Yāzīd relates:

"Muʿādh bin Jabal came to us as a teacher and governor. We asked him regarding the inheritance of a deceased man who was survived by his daughter and a sister. He ruled half a share for the daughter and half for the sister."¹⁰

Muʿādh (raḍiyallāhu-ʿanhum) was fulfilling a dual role in Yemen; that of governor and also of a teacher - being an authority on religion. It can be concluded from here that just as it is compulsory on the citizens to render obedience to the ruler or governor of the land in state and public related issues, by the same token, it would be necessary to follow the verdicts and directives of one who is regarded as the religious authority. If this is not the case, then there was no need for the narrator to single out the aspect of Muʿādh’s presence in Yemen as a religious teacher. His specific reference to this capacity and linking it to governorship indicates the

¹⁰ *al-Bukhārī, Imām; Sahīḥ al-Bukhārī;* v.2/p.997
commonality that existed in so far as the rendering of obedience to such an authority is concerned. A few other salient aspects emerge from this narration:

1. If it is conceded, and it has to be in light of clear evidence that exists in this regard, that the people of Yemen were to follow Mu‘adh (raḍiyallāhu-anh) in relation to his being a religious authority, scholar and teacher, then it is also established without question that they were to make Taqlīd - Taqlīd Shakhṣī of him since he was sent to them for this purpose.

2. Since this incident took place during the life and era of Rasūlullāh (ṣallallāhu-‘alaihi-wa-sallam) and by his express injunction, it can be concluded that he had by way of tacit approval, which forms an integral component of the definition of his Sunnah, unreservedly sanctioned the practice of Taqlīd Shakhṣī. It is thus established from the Sunnah.

3. In this narration, no mention is made of Mu‘adh (raḍiyallāhu-‘anḥ) substantiating his verdict by way of evidence and proof, nor was any substantiation demanded of him in this regard by the questioners, although the proof of this verdict was a rather straight-forward, elementary issue. This reliance on the verdict of an expert scholar is the essence of Taqlīd and Ittibā‘.

By way of conclusion, it could be tendered that Taqlīd and Ittibā‘ is not any alien concept in the sources of the Sunnah. In this chapter, a modest attempt has been
made to view the concepts of Taqlīd, Ittībāʾ and Ijtīḥād, in the light of the Sunnah and its authentic explications, from the writings of eminent Muslim experts and scholars over the centuries.
CHAPTER FIVE: A HISTORICAL BACKGROUND TO
THE DEVELOPMENT OF TAQLID-SHAKSI (SPECIFIC
FOLLOWING) AND THE FORMULATION OF AL-
MADHĀHIB AL-ARBA‘AH (THE FOUR ESTABLISHED
SCHOOLS OF JURISPRUDENTIAL THOUGHT)

1. The dangerous trend of following of Hawā in religious matters and its
equally dangerous consequences

In the previous chapter, (Chapter 4) it was pointed out via numerous examples
that Taqlid existed in two forms in the earlier eras of Islam, Taqlid-Muṣlaq
(General Taqlid) and Taqlid-Shakhsi (specific Taqlid). From the examples cited,
it becomes evident that both forms of Taqlid were prevalent and both forms of
Taqlid were deemed legitimate and valid practice.

However, an era dawned in the history of Islam (towards the end of the second
century of Hijrah), where due to numerous internal and external factors, a
process of decadence set into the Muslim Ummah (Nation) and a dangerous
trend towards freedom in religious thought and action was looming
threateningly on the horizons. Under the guise of general Taqlid, rulings were
being picked and chosen from various sources at random, to suit personal
inclinations. There was evidence of an open leaning towards the pursuance of
personal and base desires even in the matters of religion. This augured ill for the future of the *Ummah* as it could lead to a general state of anarchy and confusion of a grand scale in religious matters.

2. The learned scholars efforts to contain the above dangers

It should be remembered that Islam has always regarded the unfettered following of *Hawā* (self-opinion and base desires) in a disapproving light because of its serious negative implications for individual as well as collective well being in the society.

The Quran has castigated the practice of following *Hawā* in no unambiguous terms at various junctures. Two verses are quoted merely by way of example:

"Follow not *al-Hawā* lest you swerve (off the straight path)."

"And follow not *al-Hawā* for it will mislead you from the path of *Allāh*."

It was the alarming rate at which the following of *Hawā* was gaining ascendency that perturbed the intelligentsia among the righteous and pious scholars of Islam in those past era. The unchecked practice of following *Hawā* could well nigh

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1 For more examples refer: al- Qurʾān ch.47/v.14; ch.18/v.28; ch.20/v.16; ch.28/v.50; ch.42/v.15; ch.2/v.87; ch.13/v.37

2 al- Qurʾān ch.4/v.135

3 al- Qurʾān ch.38/v.26
lead towards the ultimate move of tampering with the Shanah itself, they felt, which had hitherto retained its original and pristine purity.

In the face of these alarming factors, the learned Fuqaha (Jurists) of that era passed a Fatwā (verdict) allowing only one of the two permitted modes of Taqlid (previously referred to) to subsist for the purpose of general practice and that was the practice of Taqlid Shakhî. In the light of their wisdom, prudence and juristic acumen coupled with the above mentioned fears, they disallowed the other form of Taqlid for practice, which was of a more general nature.

3. Ibn-Taymiyyah (ra~imahullah) explains the evils of unrestricted following

Intellectual giants of the calibre of 'Allamah Ibn-Taymiyyah (ra~imahullah) understood well the implications that would follow if both modes of Taqlid were to be permitted in the latter eras. He thus writes, explaining by way of examples, the wisdom behind the prohibition of one form of Taqlid and the permissibility of the other only:

"For example, if a person wants to pre-empt a sale, he adopts the view of those who give the right of al-Shufah (pre-emption to contingent neighbours); but if he is the vendee of a property, he refuses to accept the right of pre-emption for the neighbour of the vendor (this on the basis of al-Shâfi‘î's view)... and if the relevant person claims that he did not know from before (that
Imām al-Shafi‘ī does not give the right of pre-emption to the neighbour) and has come to know it right then, and he wishes to follow that view as from today, he will not be allowed to do so, because such a practice opens the door for playing and trifling with the rules of Shari‘ah, and paves the path for deciding the issues of ḥalāl and ḥarām in accordance with one's personal desires."

In the same strain, he further writes:

"And such persons (who flirt from verdict to verdict) at times follow a verdict which annuls a marriage and at times, one that upholds it, in accordance with the dictates of his mean and base desires. This type of action is prohibited according to the unanimous opinion of all leading scholars."

In essence, the baneful practice of regarding any matter as ḥalāl or ḥarām (lawful or unlawful) on the basis of Hawā is a practice which no scholar has ever regarded as permissible. There are innumerable quotations of the 'Ulamā' on this issue, which are however, beyond the scope of this brief treatise.

4 Ibn-Taymiyyah; al-Fatāwā al-Kubrā; v.2/p.237; Dār al-Kutub, Egypt
5 Ibn-Taymiyyah; al-Fatāwā al-Kubrā; v.2/p.285/286; Dār al-Kutub, Egypt
4. Why general Taqlid was disallowed after the golden era of Islam by the Jurists

Due to the high level of piety, righteousness, honesty, truthfulness and integrity that prevailed in the people of the earlier centuries of Islam, there was no possibility of the above mentioned dangers in general Taqlid overtaking the Ummah at that time. This is verified by a prophetic tradition:

"The best of eras is my era, then the one succeeding it, then the one that succeeds it, then falsehood will become widespread."

It is on the basis of such traditions that this golden era of earlier Islam is referred to in Islamic History as "Qurīn mashūd laba bi al khair" - eras testified for their abundant good. It is for this very reason that Taqlīd-Muṭlaq was permitted for practice in those earlier eras of Islam without any objection. No sooner had these eras passed, the need for regulating the free practice of Taqlīd-Muṭlaq was felt by the learned Jurists of that time and a verdict was issued in this direction.

5. The testimony of other leading scholars on this matter

The Commentator of Ṣaḥīḥ al-Muslim, Ḥaṁd b. Ḥaḏīth al-Nawawī (raḥimahullāh) throws more light on this matter in the following words:

"The reason for it (the compulsity of Taqlīd-Shakhsi) was based upon the fact that if people were permitted to continue with the practice of Taqlīd-Muṭlaq, it would result in each person's
choosing the most expedient verdict among all of the varying Madhâhib (Schools of Jurisprudence) which would conform to his personal desires and whims until the choice of balâl and harâm, wâjib and jawâz would devolve upon the people until eventually the rules and laws of Shari'ah would be reduced to a trifling matter. Another reason why Taqlid-Shâkhî was not much in vogue and practice in the earlier eras was because the various madhabîb (schools of thought) had not unto that time crystallized into a systematic, organized madhâhib as yet; thus it would have been difficult to compel people to follow any single, specific school of thought. However, when these schools of thought have now taken on a codified system, it becomes compulsory upon every individual to follow a particular madhab and cling to it's teachings. 6

The scenario presented in the previous passage of İmâm Nawawi (raḥimahullâh) is not a mere conjectural exercise but a stark reality of how the pristine teaching of Islam would eventually be transformed into a hybrid cult of confused regulations and principles.

6 al-Nawawi; Al-Majmû Sharh Al-Muhadhab; v.1/p.91; Al-'Āşimah, Cairo
6. The dangers of flirting from Madhhab to Madhhab in the view of leading scholars

It was this great and realistic danger that prompted another scholar, Ma'mar to react in the following words:

"If a person had to subscribe to the irregular view of some scholars of Madinah in the matter of the permissibility of listening to music and the commission of anal intercourse, the irregular view of some scholars of Makkah in the issue of the legality of mut'ah (temporary marriage) and the unconventional view of some scholars of Kufa in the matter of the permissibility of consuming intoxicants, then such a person veritably would turn out to be the worst of Allah's creation."7

‘Allamah Abd al-Rauf al-Munawi (rahiimahulla) has deliberated at great length on this topic in his famous work entitled Faid al-Qadir Sharh Jami‘ al-Saghir8 under the discussion of the prophetic tradition on "Ikhtilaf ummati-Rahmah".

Similarly, ‘Allamah Abú Isḥaq al-Shaṭbī al-Mālikī (rahiimahulla) writes in his renowned work al-Muwafaqat regarding the practice of "borrowing" from various Madhāhib merely for the sake of convenience and the great perils

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8 refer v.1/p.211
entailed in this practice. In this regard, he records a very thought-provoking instance of another leading Mālikī scholar, 'Allāmah Ma‘zīrī (raḥimahullāh) on the occasion when he was once requested to issue a fatwā (legal decree) on an unconventional view of the Mālikī school of thought, to which the great scholar retorted:

"I will not encourage people to follow a verdict based upon a ghair-mashhūr (unconventional) view of the Mālikī school, because the level of piety in people has diminished greatly and the urge to follow base desires has increased and many are there who are laying a bold claim to being custodians of knowledge, while they are bold and intrepid in the matter of issuing fatwā (without sufficient qualification); if in this way, the doors of undermining the Mālikī Madhhab are opened unto them, they will run amok with religious teachings and the final outcome of all this would be plain anarchy in the matters of Dīn, which is clear to one and all."

Commentating on the resolute and unremitting stance adopted by this stalwart of the Mālikī Madhhab, he writes:

"Observe how he ('Allāmah Ma‘zīrī, despite his unanimous acceptance as an Imām in the Madhhab) did not submit to the
proposal of issuing a fatwa on unconventional views of the Malikī Madhhab. His unbending stance in this matter is based upon the dictates of prudence and understanding of the requirements of the times, because the levels of piety and precaution have even diminished among those people who have taken upon themselves to issue Fatwa, as has been discussed previously. If this opportunity were to be accorded to them (by the said Imām), then it would create an open opportunity to eventually demolish the Malikī Madhhab, in fact all of the Madhāhib.”

Another great Muslim scholar-cum-philosopher and historian of repute, 'Allāmah Khaldūn (raḥimahullāh) delves even deeper into the possible reasons for the restriction of Taqlīd-Muṭlaq and the allowance of only Taqlīd-Shakhṣī. He writes:

"...and Taqlīd became to be restricted to only one of the four schools of jurisprudence in all the cities (of the Muslim world); the followers of the other authentic schools of thought (other than the four popular schools) dwindled until none were left. In this way the doors of dissension were effectively closed (i.e. with the introduction of the four schools) for two basic reasons:

10 ibid.
1. The technicalities and terminology associated with this science had become complicated and very diverse for many to grasp and fully comprehend, making it extremely difficult if not impossible for many to attain the lofty standard of complete Ijtihad.

2. There was a genuine fear that the highly responsible and lofty office of Ijtihad would be claimed by many aspiring but unqualified persons who could not ever be trusted to fulfil the requirements of this lofty office. The 'Ulamā' of the time therefore declared most prudently their inability to conduct independent Ijtihad and directed the people towards following only the four prevalent schools of thought. They prohibited people flirting from madhhab to madhhab as this would ultimately result in religion being transformed into playing and trifling matter. 

By way of summary and conclusion, the views of a leading philosopher-scholar of Islam, Shāh Walīyullāh's (rahimahullāh) thoughts on this matter:

"Know and understand well that people in the first two centuries of Islam had not as yet adopted the practice of following a particular madhhab (school of thought). It was after the second century that the practice of following a particular school of

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11 Ibn Khaldun; Muqaddimah, p.448; Tijariyyah Press, Egypt
thought gained prominence. Very few were they who did not conform to any particular school of thought and this became \textit{Wajib} (a compulsory duty) for the time."\textsuperscript{12}

7.1. An objection

Any thing that did not come into vogue within the earlier centuries of Islam could be regarded as a \textit{bidah} (innovation) in Islam. By this token it would not be correct to regard \textit{Taqlid-Shakhsi} as \textit{Wajib} as it had only come into vogue after the initial eras of Islam. The objection could arise here that how could it be possible that something which had not been \textit{Wajib} (compulsory) in the former eras (first two centuries) should suddenly become compulsory later on. Surely the \textit{Sa\'b\'abah} and their pious predecessors (ra\'iyallahu-'anhum) did not regard this mode of \textit{Taqlid} as compulsory, then why should it now be regarded as such?

7.2. Observations on above objection

Shah Waliyullah has written extensively on this objection and hereunder follows his explanation to this pertinent question:

"The original \textit{Wajib} (Compulsion) upon the \textit{Ummah} is for them to know the detailed laws of \textit{Shari\'ah} from its original sources.

\textsuperscript{12} Dehlawi, Shah Waliyullah; \textit{al-Inq\'af fi bay\'an sabab al-Ikhtilaf}; p.57-59; Mujtabai Press, Delhi; 1935
This is the unanimous outlook of all the leading scholars. Another principle to be borne in mind is that the preliminary of a wājib is also wājib. When there are numerous ways of acquiring such a wājib, it would be permissible to acquire it in any one of the ways possible. However, if that objective is attainable only by means of a single avenue, it would logically become wājib (compulsory) to acquire it via that avenue alone (since it is not attainable in any other way). (For example) The past predecessors were not inclined to committing the abadīth (prophetic traditions) to writings (as they relied on memory alone). In our times however, it has become Wājib to commit the abadīth narrations to writing because there is no other means of acquiring the knowledge of this science except by consulting the written works of Hadīth in our times. Similarly, the pious predecessors did not engage in the study of the various branches of Arabic Grammar (Nahwa and Lughah) because Arabic was their mother tongue and they had no requirements to study these branches. However, it has become compulsory upon us to acquire these branches of knowledge because of the great time lapse between us and the original Arabs. There are numerous other examples that we could present to substantiate our point. It is on this very premise that the compulsion of Taqlīd of a specific Imām or Madhab (called
Taqlīd-Shakhṣī should be understood, for it was not compulsory at one time (in the initial eras of Islam) and has now become compulsory in another era (from the third century onwards, right to our times)."13

It is in the light of this very principle explained by Shah Waliyullah (wherein he specifies the principle of the means leading towards a wājib as also being wājib) that the ruling regarding a person following a particular madhhab who finds himself in a situation where there are no qualified scholars of his madhhab to guide him that it now becomes wājib (compulsory) upon him to switch over to the prevalent madhhab of his area of residence in order for him to be able to fulfil his Islamic obligations. Under these circumstances, this is the only avenue leading towards his fulfilment of his compulsory duties, thus this avenue (of switching from one madhhab to another) also becomes Wājib upon him in light of the above principle.

Shah Waliyullah (rahimahullah) expounds this point further by means of an example; he writes:

"If an unlearned (Shāfī) person happens to be an inhabitant of the Indian Sub-continent or the regions of Mā warā al-Nahr (present day Caucasian Republics) - predominantly Hanafī areas -
and there happens to be no Shāfi‘ī scholars residing in his vicinity nor does he have access to any works of Shāfi‘ī Fiqh, it becomes compulsory upon him to follow the Hanafi school of thought (in his circumstances) and it becomes compulsory upon him to leave his own madhhab, otherwise he would be removing the obligations of Shari‘ah from himself and would become free to do as he pleases in the matters of religion, contrary to the situation say, had he been resident of the holy cities of Makkah or Madinah where qualified scholars of other schools of thought are to be found (as he would thus have a choice of following any one madhhab there)."14

In essence, Shāh Waliyullah regards the introduction of Taqlid-Shakhšī as a great blessing upon the Ummah, as it timeously prevented the arising of a major fitnah (corruption) in the Ummah. He writes:

"In short, the formation and promulgation of the four schools of thought is an act of great wisdom which Allah sent as intuition into the hearts of the leading ‘Ulamā’ and scholars of that time and Allah unified them upon its compulsion, whether fully realizing (the long term implication of their decision) or not."15

14 ibid.
15 ibid.
At one place, he explains it in the following words:

"Undoubtedly these four codified schools of thought have been accepted by the unanimity of the Ummah (through those scholars whose opinions are seriously considered right to present times). The grand wisdoms inherent in this decision are such as not to be hidden from the Ummah, especially in these times when people have become extremely relaxed (in religious matters) and base desires are openly followed and personal opinions are pursued by unqualified people who entertain high opinions of themselves (without merit)." 16

7.3.1. The opinions of leading present-day scholars

Regarding the issue of the wujub of following one particular Imam only, many quotations have been recorded in the preceding pages. Hereunder follow the views of two leading present-day scholars of high repute and academic standing. The first of the two being Maulānā Justice Taqī Uthmānī (ḥafīẓahullāh) who was questioned in regard to this matter. The question:

"It is generally believed by the Sunni Muslims that each one of the four Madhāhib of Hanafī, Shāfī, Mālikī and Ḥambalī, being one of the possible interpretation of Shariāh, is right and none of them can be held as something against the Shariāh. At

16 Dehlawi, Shāh Waliyullāh; Hujjat Allāh al-Bālighāh; v.1/p.154
the same time we see that the followers of the Hanafi school
never depart from the Hanafi view and never adopt the Shafi’i
or Malik view in any juristic matter. Rather, they deem it
impermissible to follow another jurist’s view in a particular issue.
How can this behaviour be reconciled with the belief that all the
four madhabib are right? If all of them are right, there should be
no harm if the Hanafi Muslims follow Shafi’i or Malik or
Hanbali views in some particular matter?”

The learned Maulana responded:

"It is true that all the four madhabib are right, and following any
one of them is permissible in order to follow the Shari‘ah. However, a layman who lacks the ability to compare between the
arguments of each Madhab cannot be allowed to pick and choose
between different views only to satisfy his personal desires. The
reason for this approach is twofold:

Firstly, the Holy Qur‘an in a number of verses has emphatically
ordered to follow the guidance of Shari‘ah, and has made it
strictly prohibited to follow personal desires vis a vis the rules of
Shari‘ah. The Muslim Jurists, while interpreting the sources of
Shari‘ah never intend to satisfy their personal desires. They
actually undertake an honest effort to know the intention of
Sharī'a and base their Madhhab on the force of evidence, not on the search of convenience. They do not choose an interpretation from among the various ones on the basis of its suitability to their personal fancies. They choose it only because the strength of proof leads them to do so.

Now, if a layman cannot judge between the arguments of different Madhāhib is allowed to choose any of the juristic views without going into the arguments they have advanced, he will be at liberty to select only those views which seem to him more fulfilling to his personal requirements, and this attitude will lead him to follow 'desires' and not 'guidance' - a practice totally condemned by the Holy Qur'ān.

For example Imām Abū Ḥanīfah is of the view that bleeding from any part of the body nullifies the wudū, while Imām al-Shāfi‘ī believes that the wudū is not broken by bleeding. On the other hand, Imām al-Shāfi‘ī says that if a man touches a woman, his wudū stands broken and he is bound to make a fresh wudū before offering salāh, while Imām Abū Ḥanīfah insists that merely touching a woman does not break the wudū. Now, if the policy of 'pick and choose' is allowed without any restriction, a layman can choose the Hanafī view in the matter of touching a woman and the Shāfi‘ī view in the matter of bleeding.
Consequently, he will deem his \textit{wuđū} unbroken even when he has combined both the situations, while in that case his \textit{wuđū} stands broken according to both Hanafi and Shafi'i views.

Similarly, a traveller, according to the Shafi'i view, can combine the two prayers of Zuhr and 'Aṣr. But at the same time, if a traveller makes up his mind to stay in a town for four days, he is no more regarded a traveller in the Shafi'i view, hence, he cannot avail of the occasion of \textit{Qa‘r}, nor of combining two prayers. On the other hand, combining two prayers in one time is not allowed in the Hanafi school, even when one is on journey. The only concession available is that of \textit{Qa‘r}. But the period of travel, according to Hanafi view is fourteen days, and a person shall continue to perform \textit{Qa‘r} until he resolves to stay in a town for at least fourteen days.

Consequently a traveller who has entered a city to stay there for five days cannot combine two prayers, neither according to Imam al-Shafi'i because by staying for five days he cannot use the concession, nor according to Imam Abū Hanîfah, because combining two prayers are not allowed at all in his view. The policy of "pick and choose" often leads some people to adopt the Shafi'i view in the matter of combining prayers and the Hanafi view in the matter of the period of journey.
It is evident in these example that the selection of different views in different cases is not based on the force of arguments leading to them but on the facility provided by each. Obviously this practice is tantamount to "following the desires" which is totally prohibited by the Holy Qur'ān.

If such an attitude is allowed, it will render the Shari'ah a playing thing in the hands of the ignorant, and no rule of Shari'ah will remain immune from distortion. That is why the policy of "pick and choose" has been condemned by all renowned scholars of Shari'ah. Imam Ibn Taymiyyah, the famous Muḥaddith and Jurist, says in his Fatāwā:

"Some people follow at one time the Imam who holds the marriage invalid, and at other times they follow a jurist who holds it valid. They do so only to serve their individual purpose and satisfy their desires. Such a practice is not permissible according to consensus of all the Imāms and scholars."

This is the basic cause why the later jurists made it necessary for the common people to adopt a particular madhhab in its totality. If one prefers the madhhab of Imam Abū Ḥanīfah, he should adopt it in all matters and with all its details, and if he prefers another madhhab he should adopt it in full in the same way and he should not 'pick and choose' between different views for his
individual benefit.

The consequence of the rightness of all the madhāhib, according to them, is that one can elect to follow any one of them, but once he adopted a particular madhhab, he should not follow another madhhab in a particular matter in order to seek convenience or to satisfy his personal choice based on his desire, not on the force of argument.

Thus the policy of allegiance to a particular madhhab was a preventative measure adopted by the jurists to prevent anarchy in the matter of Shari‘ah. But obviously, this policy is meant for the people who cannot carry out ijtihād themselves, or cannot evaluate the arguments advanced by every madhhab in support of their respective views. Such people can do nothing better than following a particular madhhab as a credible interpretation of Shari‘ah. But the people equipped with the necessary qualifications of ijtihād need not follow a particular madhhab. They can derive the rules of Shari‘ah directly from their original sources. Similarly, the persons who are not fully qualified for the exercise of ijtihād, yet they are so well-versed in the Islamic disciplines that they can evaluate the different juristic views on pure academic grounds without being motivated by their personal desires are never forbidden from preferring one madhhab over the
other in a particular matter. There is a large number of Hanafi Jurists who, despite their allegiance to Imām Abū Hanīfah, have adopted the view of some other Imām if they found the argument of such an Imām to be more forceful. Sometimes they found the view of Imām Abū Hanīfah based upon pure analogy, but an authentic Hadīth expressly contradicted that view and that it was most likely that the Hadīth in question was not conveyed to Imām Abū Hanīfah, otherwise he would not have adopted a view against it based purely on analogy.

In some other cases, the jurists felt that it is the requirement of the collective expedience of the Ummah to act upon the view of some other Imām, which is an equally possible interpretation of Shari'ah, and they adopted it not in persuasion of their personal desires, but to meet the collective needs of Ummah and in view of the changed circumstances prevailing in the time.

These examples are more than enough to show that the followers of a particular madhhab have never taken it as a substitute of Shari'ah or as its sole version to the exclusion of every other madhhab. In fact, they have never given a juristic madhhab a higher place than it actually deserved within the framework of Shari'ah.

Before parting from this question I would like to clarify another
point which is extremely important in this context: Some people having no systematic knowledge of Islamic disciplines often become deluded by their superficial information based on self-study, and that too, in most cases, through translations of the Holy Qur'ān and Hadīth. By virtue of this kind of cursory study, they presume themselves to the masters of the Islamic learning, and start criticizing the former Muslim jurists. This attitude is totally wrong and devoid of any justification. The inference of juristic rules from the Holy Qur'ān and Sunnah is a very meticulous exercise which cannot be carried out on the basis of a superficial study. While studying a particular juristic subject one has to collect all the relevant material from the Holy Qur'ān and from the Hadīth found in different chapters and different books, and to undertake a combined study of this scattered material. He has to examine the veracity of the relevant ahādīth in the light of the well settled principles of the sciences of Hadīth. He has to discover the historical background of the relevant verses and traditions. In short, he has to resolve a number of complicated issues involved. All this exercise requires very intensive and extensive knowledge which is seldom found in the contemporary 'Ulama' who have specialized themselves in the subject, let alone the common people who have no direct access
to the original sources of Shari'ah.

The upshot of the above discussion is that all the four madhāhib being based on solid grounds, it is permissible for a competent Hanafi 'Ālim to adopt another juristic view, if he has the required knowledge and ability to go into the merits of each madhhab on the basis of adequate academic research without indulging in the pursuit of personal desires. But the people who do not fulfil these conditions should not dare do so, because it can lead to a dangerous state of anarchy in the matters of Shari'ah. 17

7.3.2. The view of Mufti Māhmūd Gangohī (haţīżahullāh) on the issue of the necessity of Taqlīd-Shakhṣī

Another leading present-day scholar of academic ability and great Fiqhī acumen, Mufti Māhmūd Gangohī (haţīżahullāh) views on this matter are as follows:

"The question is raised as to why is it necessary to follow a particular Imām only? What is wrong if one mas'alah (jurisdical ruling) is taken from one Imām and another from another Imām, as was done in the era of the Ṣaḥābah and Tābi‘īn (raḍiyallāhu-‘anhum). In those times the whole Madhhab was not confined to one person.

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The answer to this question is that in those times good was prevalent. Generally the lowly desires did not have any influence in the matters of Din. Whoever used to refer to any of his elders regarding any mas’alah, used to do so sincerely; and he also used to act upon the verdict given to him whether it be to his benefit or not. Later on, sincerity to that degree and piety did not remain amongst the people. Such was the urge in the people to ask one ʿAlim (scholar) a mas’alah, and if it did not suit them, then they referred that mas’alah to another ʿAlim until they found a verdict that suited their desires. Gradually, for every mas’alah they had the urge to look for a suitable reply. It is obvious that such people are not seeking the truth. Sometimes the consequence of this is very serious. e.g. A person in the state of Wudu touches his wife. A person following the Shafi’i Madhab tells him that his wudu is broken, therefore he has to remake his wudu. He replies that he is the Muqallid (follower) of Imam Abī Ḥanīfah (rahimahullah). According to him this does not cause the wudu to break, he can thus read ṣalāh with this wudu. Then the same person happens to vomit a mouthful. A person following the Hanafi Madhab advises him to make wudu as his wudu has broken according to Imam Abī Ḥanīfah’ view. This person now replies that he is making Taqlid of Imam al-Shafi’i
(raḥimahullāh) in this matter as according to him vomiting does
not cause the wudu’ to break. A person can thus read salah with
such a wudu’. If this person reads salah with this wudu’, then his
salah will not be valid according to Imām al-Shafī‘ī, nor
according to Imām Abū Hanīfah. This is called Taḥfīq (flirting
with Madhāhib) and there is ījmā’ (consensus of opinion) that
taḥfīq is bātil (invalid). In reality, by doing so, a person does not
make taqlīd of either of the two Imāms; but is actually following
his desires, and the Shari‘ah has prohibited us from following our
desires as it results in going astray from the path of Allāh. The
Qur‘ān says:

"And do not follow your desires, for it will lead you astray from
the path of Allāh."\(^{18}\)

Therefore it is necessary to make taqlīd of one Imām only.

Generally some person feels according to his strong presumption
that Imām Abū Hanīfah is most probably correct in his verdicts
that conform more to the Qur‘ān and Sunnah. For this reason,
he opts to make taqlīd of Imām Abū Hanīfah (raḥimahullāh).
Another person has a similar feeling with regard to Imām Mālik’s
ijtihād, therefore he makes Taqlīd of him and so on and so forth.
Therefore Taḥfīq (changing of madhhab in sport and jest) is not

\(^{18}\) al-Qur‘ān ch.38/v.26

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permissible. It is not permissible to leave taqlid of one Imam and follow another Imam whenever one wishes to do so. When this is done without permission from the Shari'ah it results in going far away from the truth and being lead astray.

Maulana Muhammad Husayn Batalwi who opposed the concept of taqlid for many years, finally realized the harm of this and honestly expressed his fears as follows in his monthly Risalah Ishā'at al-Sunnah (v.11/issue.2/p.53):

"After twenty five years of experience, we have come to know that those who leave making making taqlid of a Mujtahid out of ignorance, they finally bid farewell to Islam. Some of these people have converted to Christianity and some remain without following any faith or religion at all. The least effect of this are the habits of violating the commandments of Shari'ah, trangression and irreligiousness."19

8.1. Why only four schools of thought?

When the reality of Taqlid-Shakhshi and the background factors leading to its compulsion has been explained, then one further question that arises needs to be studied and answered suitably. The question revolves around the point of

why only four particular schools of thought have been singled out for following and other schools excluded. What unique privilege or factor of differentiation is enjoyed by these schools which other schools do not enjoy? This question holds even more relevance when it is viewed in the light of a well-known, undisputed historical fact that many dozens of Mujtahidīn have passed in Islamic history such as Sufyān al-Thaurī, Imām Auzā‘ī, ‘Abdullāh bin Mubārak, Ibn Shubrumah, Isḥāq bin Rāhway, Imām al-Bukhari, Ibn Abī Layla, Hasan bin Šāliḥ and scores of others (raḥimahumullāh).

8.2. Reply to above question

The famous scholar and commentator of Hadīth, ‘Allāmah ‘Abd al-Raūf al-Munāwī suggests a satisfactory reply to this question as follows:

"It is compulsory upon us to believe that all of the four Imāms (Abū Ḥanīfah, al-Shāfi‘ī, Mālik and Aḥmad bin Ḥambal (raḥimahumullāh) as well as the two Sufyāns (al-Thaurī and Ibn-U‘aynah) and all other mujtahidīn are totally on the path of Hidayah (rectitude); and further, that he who is not a qualified Mujtahid in his own right has to follow a particular school of thought by compulsion of wujūb. At the same time, it is not permissible to follow the verdict of Sahābah and Tābi‘īn directly and that of all other mujtahidīn whose schools of thought have not been completely codified and preserved according to the view
of Imām al-Haramain. In the matters of *Iftā* (verdicts) and *Qadḥā* (legal judgements) it would not be permissible to make *Taqlīd* of any other than the four schools of thought because these are the only *Madḥāhib* which have been properly codified, preserved and became well established over the centuries; In contrast to the rest of the *Madḥāhib* which had become extinct over the ravages of time and none of their scholars or followers are to be found anymore. Imam al-Rāzi (raḥimahullāh) has actually transmitted the *ijmaʿ* (unanimous view) of the experts on the fact that the unlearned masses must not be allowed to make direct *Taqlīd* (follow) the verdicts of the Ṣaḥābah and other seniors. 20

From the discussion above it becomes clear that the real basis of not prescribing to or promoting the other schools of thought other than the four is based not upon any bias or prejudice but merely because they do not exist anymore in the world.

8.2.1. **Imām al-Nawawi’s and Shāh Waḥiyyullāh’s view on this matter**

Imām al-Nawawi (raḥimahullāh) throws more light on the subject in the following words:

"It is not permissible to directly adopt the madhhab of any of the Ṣaḥābāh on their immediate successors even though they are far superior in rank and knowledge to those scholars who came after them, simply because they did not have sufficient opportunity to codify and classify their schools of thought into Uṣūl and Furu' (Principles and by-laws) the task of carrying out the above responsibility fell to the lot of the A'immah-Mujtabidin, who built upon the legacy they inherited from the Ṣaḥābah and Tābi‘īn (ra'diyallāhu-‘anhum) and who laid out a system of catering for jurisdical solutions to problems even before they had occured in the light of their well-established principles - such as the Imāms Mālik and Abū-Ḥanīfah."  

The views of many other scholars could be presented here but let it suffice by studying the view of a great authority whom even the anti-Taqlīd group cherish to be one of their leaders, Shāh Walīyullāh. Shāh Walīyullāh writes in his work 'Iqd al Fīd under a dedicated chapter on this subject, entitled: Chapter on the emphasis of holding fast to these four madhāhib and reprisal of those discarding it. He commences the chapter with the following words:

"Know and understand that in the conformation to these four madhāhib is a great wisdom and discarded it leads to great

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21 al-Nawawī. al-Majmū‘ Sharh al-Muhadhdhab. v.1/p.91
anarchy (in religious affairs) which we will know elucidate here."

The elucidation of Shāh Wāliyullah (raḥimahullāh) is rather lengthy for the scope of this treatise. Hereunder follows a synopsis of his thoughts on this particular subject in two brief points:

1. In order to understand the reality of Shari'ah and its injunctions, it is compulsory to rely upon the aslāf (pious predecesors) by the ījmāʿ (unanimous verdict) of the Ummah. The views of the aslāf are transmitted to us either by chain of authentic narrators or by means of their works. However, even after the verdicts of the aslāf have reached us with authenticity, there are many verdicts which require qualifications and great explanation, as those involved in this field of research will know. Unless this momentuous task is not undertaken, it is virtually impossible to derive direct solutions from the works of the scholars. At the present moment in time, besides the four schools of thought, and the Zaidiyyah and Imāmiyyah (two Shi'ah schools of thought) no other codified and systematic schools of thought exist in the world. It means therefore, that only these schools could be followed. However, since the latter two schools belong to the Shi'ah's and are based on concoction, they are unacceptable to the Ahl al-Sunnah (the majority people of Islam).

2. If permission is granted to follow any verdicts other than that of the four

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22 Dehlawi, Shāh Wāliyullah. Ḥad al-ṣīlah. p.31. Mujtabai Press, Delhi. 1344 A.H.
school of thought, then this would open an avenue for unscrupulous persons to falsely attribute their personal verdicts to any one of the past scholars and gain credibility for their views. Since there are no scholars of those schools any more to testify to the authenticity of such a view, it would be difficult to detect the veracity or falsehood of such a view. Whereas, no such possibility exists in accepting a verdict from within the popular four schools of thought as the views here are well known to a large body of Ulama' and scholars in every era of history. Any discrepancy would very easily be detected in this instance. These four schools of thought actually act as a bulwark against the introduction of new-fangled ideas or un-founded interpretations of Islamic Law being introduced into the religion of Islam.

8.2.2. The view of Mufti Mahmud (hafizahullah) in this regards
Mufti Mahmud Gangohi (hafizahullah) writes in regard to the reasons why only four schools of thought have remained:

"A question arises here that there were many Mujtabidin among the Sahabah, Tabi’in and Tab al-Tabi’in (radiyallahu-anhum); then why should anyone make Taqlid of one of the four Imams only. What is wrong with making Taqlid of one of the Sahabah directly as many virtues of the Sahabah have been related in the Ahadith."
The reply to this question is that the Șaḥābah are definitely far more superior to the four Imāms. *Taqlīd* is made of the four Imāms, not because they are superior to the Șaḥābah but because it is necessary for us to have knowledge of those masā'īl (rulings) in which *Taqlīd* is made. The minute details with which the masā'īl of the madhāhib of the four Imāms have been formulated in a regulated and compiled form, the madhhab of any of the Șaḥābah, Tābi‘īn and Tab al-Tābi‘īn (rādiyallāhu-'anhum) is not found. *Masā’īl* from *Kitāb al-Ṭahārah* till *Kitāb al-Farāidh* have been collected in the madhāhib of the four Imāms covering all the aspects of life in principle and in detail whether it be in terms of Beliefs, worship, business dealings or community life.

In short every mas'alah regarding all the aspects of life has been recorded. Answers to all questions could be obtained either in a specific form or a deduced form based on principles, thereby obliterating the need to refer to any external source. This all-embracing quality of encompassing all of the above is found existing in only the four Madhāhib by an act of Allāh. How can we then leave out making *Taqlīd* of one of the four Imāms and undertake *Taqlīd* of someone else?

Allāh Ta‘ālā had given in detail the knowledge of the Qur‘ān and *Ahādīth* to the four Imāms. They had also acquired the necessary
qualifications and ability to make *ijtihad*. They had knowledge of all the *Aḥādīth* of Rasūlullāh (ṣallallāhu-‘alaihi-wa-sallam) that spread throughout the world through the efforts of Ṣaḥābah (raḍiyallāhu-‘anhum).

It is possible that one Imām may not have knowledge of a certain *Hadīth* which another has knowledge of, but it is not possible that none among the four Imāms did not have knowledge of a particular *Hadīth*. Shāh Waliyullāh’s opinion on this matter is as follows: "The four Imāms are such that their (Islamic Jurisprudential) knowledge has encompassed the knowledge of the whole world."24


CHAPTER SIX: AN ANALYSIS OF ARGUMENTS
FORWARDED IN OPPOSITION TO THE TAQLID AND
ITTIBÃ’ BY THE ANTI-TAQLID GROUP

Various arguments are forwarded in opposition to the concept of Taqlid by the anti-Taqlid group. A superficial and cursory study of these arguments may result in misconceptions arising regarding the reality of Taqlid. It is therefore imperative that an impartial study be undertaken of the said arguments. It is possible that a deeper and more profound study of the said arguments may reveal other perspectives. Hereby follows a study of some of the arguments of the opponents of Taqlid and Ittibã’:

1.1. Taqlid as a blind following of ignorant predecessors

Frequently a verse from the Qur'an which apparently condemns the practice of Taqlid as blind following of ignorant predecessors is cited as an argument against the validity of Taqlid and Ittibã’:

"And when it is said unto them: Follow that which Allah had revealed, they say: Nay, but we follow that way upon which we found our predecessors. What if their predecessors have no
intelligence nor are rightly guided?"1

It is thus intimated that Taqlid in all forms and aspects is prohibited by this Qur'ānic verse, including Taqlid of the learned scholars. It is argued that Taqlid is the anti-thesis of this Divine Verse from the Holy Qur'ān and is to be shunned.

1.2. Analysis of above argument

The above argument could warrant merit if the verse is understood purely in its literal sense in a superficial manner. However, a proper and careful study of the said verse (as indeed is the case with all verses) is required here. This verse refers to the Taqlid of ignorant predecessors, particularly with reference to their corrupt belief systems. To apply the same ruling to the Taqlid of the learned scholars as that to ignorant predecessors is without doubt an unfair generalization, which is unacceptable. This verse is totally unrelated to the Taqlid of the learned scholars of Islam which is beyond the scope of discussion of this verse. This verse really refers to making Taqlid of others in matters of faith and belief, rather than issues relating to the legalities and injunctions derived by way of a complicated process of Ijtihād.

1 al-Qur'ān; ch.2/v.170
This fact is supported by the views of learned authorities. Hence, 'Allāmah Amīr Badshah Bukhārī (raḥimahullāh) writes:

"The issues wherein following or Ittiba' is permitted relates to the by-laws of Islam and not to those issues relating to I'tiqād or beliefs. The correct view therefore is that Taqlīd is not permitted in basic beliefs such as the existence of Allāh, the Life Hereafter, etc."²

Khaṣīb Baghdādi intimates that Taqlīd is not permissible regarding beliefs and cites this very verse in substantiation.³

It is clear from the aforesaid that the Taqlīd of the scholars is not in matters of basic belief and faith which is what is really condemned by the said Qur'ānic verse, but is really a totally separate issue, quite unrelated to what is the intent of this verse.

Viewing the matter from another perspective, the Taqlīd referred to in this verse of the Qur'ān, speaks of the blind and stubborn following of such predecessors who are bereft of sense and intelligence and secondly that such Taqlīd is in diametric

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² al-Bukhari, Amīr Badshah. Taysīr al-Tahārī. v.4/p.243
³ al-Baghdādi, Khaṣīb. al-Faqīḥ wa al-Muttaqūqīb. v.2/p.66

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opposition to that which Allāh had revealed upon His Messengers. If an impartial and honest survey is undertaken of Taqlīd of the learned scholars of Islam, none of the above two-mentioned points hold true in their case. Taqlīd of the Scholars is certainly not equitable in anyway to the blind following of senseless and foolish predecessors. The erudition, learning, scholarship, piety, wisdom and integrity of the A'immah-Mujtahidin (Learned Masters of Islamic Jurisprudence), is a fact established beyond any doubt as is reflected in the many works written around their biographies. It would be a gross injustice to equate Taqlīd of the scholars to that of ignorant predecessors. The learned scholars are followed not in the sense of being authorities in their own right or as being the original law makers. This is certainly not the case. The office of law making is the sole prerogative of Almighty Allāh Himself. His Laws are propagated via the agency of His Messengers as was pointed out in somewhat detail in Chapter Two of this treatise. The learned scholars are mere expounders of this Divine Law which they do in accordance with their many years of scholarship, erudition, deep-studies coupled with their natural propensities of insight and wisdom of commentating on the Law. Viewed in this light, Taqlīd and following is really being undertaken of Divine Revelation and not of the scholars expounding such revelation per se. To use such verses then in refutation of Taqlīd of the scholars is unfair and far removed from the purport of the said verses.
2.1. *Taqlīd* is akin to ascribing divinity to the learned scholars

Another common argument employed against the validity of *Taqlīd* is that it is akin to elevating the learned scholars onto the pedestal of Divinity in this sense that they enjoy a position of legislating over issues of permissibility/prohibition.

In this regard, an incident involving a Ṣaḥābī, ‘Adī bin Hātim (rādiyallāhu-‘anh) is extensively quoted in refutation of *Taqlīd*. The *Ḥadīth* in question is on the authority of *Tirmidhī*.

‘Adī bin Hātim (rādiyallāhu-‘anh) reports that once he came in the presence of Rasūlullāh (sallallāhu-‘alaihi-wa-sallam) with a cross made of gold on his neck. Rasūlullāh (sallallāhu-‘alaihi-wa-sallam) said to me: O ‘Adī! throw off this idol from yourself; I then heard him recite the following verse of Surah Bara’ah:

"They took their scholars and priests as gods other than Allah ..." 4

He then explained this verse in this way that these people did not worship their scholars in the strict sense of worship, but they followed all of their verdicts; if these people declared anything as *ḥalāl* (lawful), they would accept it as lawful and if they declared

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4 *al-Qur'ān*; ch.9/v.31

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anything as *barām* (unlawful), they would regard it as such."\(^5\)

On the basis of this verse quoted within this prophetic tradition, it is claimed that the following of the learned scholars and making *Taqlīd* of them is similar to the practice of the Jews and Christians blindly following their religious leaders; there is no difference between the "*Taqlīd*" of the Jews, the Christians and that of Muslims. *Taqlīd* is hence an abominable practice they claim, contradictory to the teachings of Islam and rather a Christian or Jewish practice.

2.2. Analysis of above objection

The above argument is quite convincing and does cast a doubt on the validity of the practice of *Taqlīd*, provided that it could be substantiated beyond doubt that the learned scholars of Islam hold the same independent authority of legislating in religious matters like the religious authorities of the Jewish and Christian faiths possess. In order to understand this issue more clearly, it would be necessary to understand the position and role of the religious authorities in other faiths in comparison to the position occupied by the learned scholars of Islam. If it could be established that both their positions are equal, then it would have to be conceded that the *Hadīth* in question has relevance to the learned scholars of Islam and that

\(^5\) al-Tirmidhī, Imām. *Jāmī Tirmidhī*. v.5/p.278

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the position of Taqlid would then have to be seriously reviewed. However, if the comparative study reveals that the above does not hold true, then it would be unrealistic to apply the ruling of the said Hadith to the Taqlid of the learned ʿUlamā.

For the purposes of relevant discussion and the maintaining of brevity in this dissertation, a study of the of the status of the Pope as being the supreme religious head of a well-established Christian denomination will suffice.

2.2.1. The authority of the pope

Under the heading of "The Papal Office", The Encyclopaedia Britannica states:

"In the Annuario Pontificio, the official Vatican Directory, the pope is described as bishop of Rome, vicar of Jesus Christ, successor of the prince of the apostles, supreme pontiff of the universal church, patriarch of the West, primate of Italy, archbishop and metropolitan of the Roman province, sovereign of the state of Vatican City, servant of the servants of God. What differentiates his particular jurisdiction from these others and renders his office unique is the Roman Catholic teaching that the bishop of Rome is at the same time successor to St.Peter, prince of the Apostles."

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The full impact of this unique position occupied by the Papal Office can be understood from the following passage:

"...that Christ intended this primacy to be one not merely of honour but of true jurisdiction, and one exercised not merely by Peter himself but also by his successors down the through the ages of the end of time; and that the bishops of Rome are to be recognized as his successors. Because of the development of this belief, the popes have come over the course of time to wield supreme legislative, executive and judicial powers (jurisdictional functions) in the church - issuing authoritative statements on matters of doctrine (the magisterial or teaching function), creating and suppressing church laws, establishing dioceses, appointing bishops, controlling missions, acting as a court of first instance as well as of appeal and performing, either by deputy or in person, a host of other functions."6

2.2.2. The Papal Office and infallibility

Commenting on the issue of Papal infallibility, the Encyclopaedia further reads:

"In Roman Catholic theology, the doctrine that the Pope, acting as supreme teacher and under certain conditions, cannot err when he

teaches in matters of faith and morals. As an element of the broader understanding of infallibility of the church, this doctrine is based on the belief that the church has been entrusted with the teaching mission of Jesus Christ and that, in view of its mandate from Christ, it will remain faithful to that teaching through the assistance of the Holy Spirit. The term infallibility was rarely mentioned in the early and medieval church, but confidence in the fidelity of the notion to revelation is reflected in theological writings and in the prerogatives claimed by various popes. 7

The underlined text clearly reveals the enormous powers that are vested with the Papal Office. These among others include the theory of infallibility, the fact that no errors can ever be committed, supreme legislative, executive and judicial powers, creating and suppressing church laws, issuing authoritative statements on matters of doctrine, etc.

2.2.3. Synopsis of Papal Authority

A synopsis of the above passages clearly reveal the following glaring disparities between the Christian mode of "Taqlid" and that propogated by Islam.

7 ibid.

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1. The Papal Office possess legislative powers in the sense of Divine Authority. The *Mujtahid* possess no independent legislative authority whatsoever; he merely acts as an expounding intermediary between man and the Divine Revelations. This forms an integral component of the Islamic definition of *Taqlīd*.

2. The Papal Office's authority extends even into the fundamentals of belief and doctrine. A *Mujtahid* enjoys no such authority. It is a known fact that *Taqlīd* plays no role in the matter of *'Aqīdah* (Belief) nor is it correct to make *Taqlīd* in this regards.

3. The Papal Office the privilege of unreserved infallibility. It holds the ultimate say in all matters and none may attribute fault or error to its judgements. The *Mujtabideen* have never arrogated the right of infallibility to themselves ever nor have their followers regarded them to be so. Numerous quotations of the *Mujtabideen* would be encountered in the ensuing pages wherein they have made their position of being mere mortals, prone to error and fallability amply clear. If after the errors of the Mujtahid had been made evident in the light of alternative evidence, it would be regarded as sinful to follow this erroneous view of the *Mujtahid*.

2.2.4. Position of Muslim Jurists in comparison to Papal authority

The foregoing reinforces what has been repeatedly emphasized regarding the role
of the *A’immah Mujtahideen* as being merely one of exposition of the Divine Texts, but having no kind of authority of legislation themselves. This is amply borne out by the testimony of various scholars and by historical evidence of the position occupied by the *A’immah* themselves throughout the ages of History.

Only a singular passage will be quoted here by way of example; *’Allamah Ibni Taymiyyah* explains this reality with great lucidity when he writes:

"Thus obedience to Allah and His Rasul and regarding *balāl* that which Allah and His Rasul had declared as *balāl* and as *barām* what Allah and His Rasul have declared as *barām* is compulsory upon the entire creation of *jinn* and mankind in all conditions; private or public. However, since there are many of Allah’s regulations which are not known to the majority of people, the people require someone who is well learned in the sciences of *Shari’ah* (Divine Law) to educate them in this regard. Thus the following of the *A’immah-Mujtahidin* (learned scholars who apply their *Ijtihād*; their total efforts and energy in trying to expound the Divine Law) by ordinary persons is in the sense of the learned scholars being a means and a medium whereby ordinary folk could render obedience unto Allah and His Rasul. It is a unanimous observation that certain
people have been blessed with abilities which others do not possess."\(^8\)

Ibn-Taymiyyah (raḥīmahullāh) has beautifully summed up the essence of Taqlīd and the role of the Aʾīmmah in this brief and concise passage.

In the face of this reality, it would be completely unfair to contend that the verse quoted in the tradition narrated by ʿAdī bin Ḥātim (radiyallāhu-‘anhu) applies to the Taqlīd that has been so clearly defined in the works of Shariāh. If at any given time, Taqlīd was to exceed the perimeters of its Shariā definition and assumes the forms of Papal legislative authority or the likes thereof, then it would be appropriate to classify it within the category of "Christian Taqlīd"; blind, unquestioning allegiance to the Papal Office and it would then be fair to apply the ruling of the said Ḥadīth in such a case.

\[\text{3.1. Hadīrat ʿAbdullāh bin Māsūd (raḍīyallāhu-‘anhu) opposed to Taqlīd}\]

A narration of ʿAbdullāh bin Māsūd (raḍīyallāhu-‘anhu) is cited in opposition to Taqlīd as he had once stated:

"Let no person make Taqlīd of another in religious matters; if he brings Iman (faith) the other follows him and if he commits kufr  

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\(^8\) Ibn-Taymiyyah, ʿAllāmah; Fatawā Ibn-Taymiyyah; v.2/p.239

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(disbelief) the other follows suit." 9

It is intimated from the above that Taqlid is not permissible. If it was, then a senior Šaḥābi such as 'Abdullāh bin Maš'ūd (raḍiyallāhu-anh) would not have taken objection to it.

3.2. Analysis of above objection

In reply to the above objection, it is necessary to carefully study the wording of 'Abdullāh bin Maš'ūd's (raḍiyallāhu-anh) narration. Here he is referring specifically to Taqlid in matters of faith and disbelief. This is why he has singled out this particular issue clearly in his wording and has not left it as an unqualified negation of any form of Taqlid but rather a specific form of it i.e. in religious beliefs and faith. This being the reality of the matter, it would be inappropriate to infer the condemnation of Taqlid in matters other than belief on the basis of this narration as none of the proponents of Taqlid have ever espoused Taqlid in the matters of Belief.

9 Refer Ḥaqqīqat-Taqlid; p.84; Naṣhr al-Sunnah Press, Multan

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3.2.1. Ibn Mas'ud (ra'diyallahu-anh) promotes Taqlid

Furthermore, it cannot be claimed that 'Abdulläh bin Mas'ūd (ra'diyallahu-anh) was opposed to the concept of Taqlid in principle, as he himself has encouraged people to adopt Taqlid. This can be substantiated by his narration wherein he states:

"He who desires to make ittibâ' (to follow), then let him follow those who have passed away for the living are prone to fitnah (corruption) at any time. Those who deserve to be truly followed are the Sahâbah - Companions of Muḥammad (ṣallallahu-'alaihi-wa-sallam) who are the best persons in this Ummah (Nation). Recognise their status, follow in their footsteps and hold fast onto their character for verily they were on the Straight Path".¹⁰

If Taqlid was totally impermissible, then surely Ibn Mas'ūd (ra'diyallahu-anh) would not have allowed people to follow the predecessors in the first place, let alone exhorting them to make Taqlid of anyone. The fact that he so strongly advocates the practice of Taqlid of the pious predecessors of his era is itself evidence that he was not opposed to the concept of Taqlid in all respects except for Taqlid in matters of faith and belief.

¹⁰ Tabrīzī, Khaṭīb; Mishkât al-Mashâbiḥ, v.1/p.32
4.1.1. The opposition of the great Mujtahidin (scholars) to Taqlid

The quotations of the learned Mujtahidin (scholars) are often forwarded as evidence that the scholars whose Taqlid is undertaken were themselves opposed to the idea of Taqlid. How could Taqlid then still be regarded as a valid practice? In this regard, many statements of these learned scholars are quoted, the gist whereof is:
If any of their rulings are found to contradict the Divine Texts, they should not be followed and that such a ruling should be rejected in favour of the Nusus (Divine Texts).

4.1.2. Citation of a few quotations of the learned A'immah in this regard by way of example

The citations below are quoted from the work "Haqiqat-Taqlid-wa-Ijtihad" by Tayyib Shahin Lodhi which states as follows: "The prohibition of Taqlid has been declared by the four leading A'immah Mujtahidin themselves. This prohibition is narrated from them by various chains of narration."

A. Imam Abu Hanifah (rabimahull@)

The author of Hidayah states in his work, Raudat al-Ulam' that Imam Abu Hanifah was once asked what was to be done if any of his views were found to be contradictory to Qur'an? He replied that his view was to be discarded and rejected

in such a case. Similar questions were posed with regard to Sunnah and the verdicts of the Sahabah and he replied in a similar strain.

B. Imam Malik (ra'limahullah)

A similar view is expressed regarding Imam Malik. Ibn Madini writes in his work al-Mamsak that Imam Malik (ra'limahullah) once said: I am but a mortal. At times, my opinions may be correct and at times I may err. Therefore, ponder deeply upon my views and accept that which is in accordance with Qur'an and Sunnah and reject that which is contradictory to Qur'an and Sunnah.

C. Imam al-Shafi'i (ra'limahullah)

Imam al-Baihaqi (ra'limahullah) narrates from Imam al-Shafi'i (ra'limahullah): If you find any view in my works that contradict the Sunnah of Rasulullah (sallallahu-'alaihi-wa-sallam), then do not accept my views.

'Allamah Ibn al-Qayyim (ra'limahullah) writes in his renowned work Tilam al-Mutwaqqi'in that Imam al-Shafi'i used to say: Any of my verdict that is found to oppose an authentic Hadith, I retract from such a verdict now, whether it be discovered during my lifetime or after my demise.

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Hafiz Ibn Hajr al-Asqalānī (raḥimahullāh) writes in his work *Tawālī al-Taṣīs* that it is a renowned quotation of Imām al-Shāfīī that any authentic *Hadīth* (that is found contrary to his views), then (such a *Hadīth*) must be regarded as his correct opinion.

**D. Imām Ahmad bin Hambal (raḥimahullāh)**

His opposition to Rai (personal verdicts) is too well-known to require further elucidation.

‘Allāmah al-Sha‘rānī (raḥimahullāh) writes in his work *al-Mīzān* that it is the unanimous view of the four great Imāms that when a correct, authentic *Hadīth* is found (contrary to their own views), then that (*Hadīth*) is to be regarded as their correct verdict.

**4.2. Analysis of the above claim**

The sayings of the learned scholars in this regard are quite correct and authentic. However, these sayings are to be understood within their correct context. It should be understood that the quotations of the learned scholars here are really directed to those persons who themselves are capable of exercising *Ijtihād* and independent scholarship, yet follow the verdicts of other scholars. Such scholars need to look
at the rulings of other scholars in an independent light and follow their own verdicts in case they find any of the rulings of fellow Mujtahidīn to be contrary to the *Nusūṣ* (Divine Texts) in their understanding. This is the correct contextual intent of their sayings in this regards.

This view is corroborated by a leading scholar such as Shāh Waliyullāh (rahimahullāh) when he writes:

"The sayings of the *Mujtahidīn* are really intended for those persons who possess a degree of *Ijtihād* ability themselves, even though this be in regard to a singular ruling only. For such a (scholarly) person who is convinced beyond doubt that such is the teaching of the Holy Prophet (ṣallallāhu-ālaihi-wa-sallam); either by way of personal research by studying the various aspects and dimensions of the issue at hand, having full knowledge of the matter of abrogation if any in this regards or by observing the inclinations of an overwhelming majority of other qualified scholars (such as himself) in the matter at hand. It then becomes evident unto him that the basis of the *Mujtahid*'s contradictory ruling against a Divine Text is either due to the *Mujtahid*'s employing of *Qiyās* and *Istinbāt* (analogy and inference) in opposition to a clear-cut text of the Qur’ān and Sunnah."
For such a person to follow the ruling of an errant Mujtahid in the face of convincing evidence otherwise (in the form of a clear-cut text) would then be tantamount to sheer irreligiousness or outright stupidity (which are far removed from the hallmark of a worthy scholar)". 12

It is in the context and perspective of Shāh Waliyullāh’s scholarly explanation that the sayings of the Mujtahidīn have to be understood. If these sayings are taken out of this context and generalised so as to apply to all categories of persons, including the common masses, then an unacceptable contradiction of gigantic proportions would come into being. The essence of this contradiction being that the Mujtahidīn themselves have issued thousands of rulings without providing full substantiations to each and single ruling, simply because of the lack of ability by the questioner to comprehend these. This action is a practical manifestation of the definition of Taqlīd. Now it cannot be envisaged that the learned scholars would be condoning the practice of Taqlīd at one time in thousands of instances, and condemning it at another time (as is wrongly construed from their quotations). It has to be then conceded that the sayings of the learned scholars need to be studied in the context of logical explanations such as those espoused by scholars of a high standing and calibre as Shāh Waliyullāh (raḥimahullāh) himself.

12 Waliyullāh, Shāh. Ḥujjat Allāh al-Balīgah. v.1/p.155.
4.2.1. Further point for consideration

Furthermore, if it has to be hypothetically believed that the learned mujtahidin were really opposed to the concept of Taqlid per se, then it would be necessary to believe that these learned scholars were ignorant or chose to ignore all those explicit verses of Qur'an and texts of the Sunnah that promulgate the validity of Taqlid and Ittiba', as discussed earlier on in this dissertation. It is not ever conceivable that such a situation could truly exist for that would entail ignorance of basic truths and fundamental essentials of the Shari'ah by a Mujtahid which even common Muslims are well aware of. Such a person could never be considered fit to occupy the lofty station of Ijtibād. It has to be necessarily conceded that the Mujtahidin had never opposed the concept of Taqlid per se but under a particular circumstance only.

4.2.2. The Mujtahidin actually encouraged the practice of Taqlid and Ittiba'

Far from opposing the validity and obligation of Taqlid as has wrongly been understood from the sayings of the great scholars, they have encouraged it for those incapable of exercising the requisite degree of Ijtibād. Numerous sayings of the Mujtahidin themselves testify to this reality regarding the importance of Taqlid for the ignorant and unlearned. It is recorded in Kifayah Sharb al-Hidayah:

"And when a Mufti is of the said description (i.e. possessing the
ability of *Ijtihād*), then it is compulsory upon an unlearned person to make *Taqlīd* of such a scholar even though he may err in his judgements and rulings, irrespective of any other considerations. This is what has been narrated by Hasan from Abū Ḥanīfah and narrated by Bashīr bin Walīd from Abū Yūsuf*.

It has also been narrated from *Imām* Abū Yūsuf (raḥimahullāh) thus:

"It is obligatory upon a layman to make *Iqtīdā* (follow) the rulings of the *Fuqahā* (Jurists) because of his inability to grasp the subtleties relating to the science of *Hadīth*."

‘Allāmah Ibn Taymiyyah (raḥimahullāh) narrates from Imām Ahmad bin Ḥambal (raḥimahullāh) the following:

"Imām Ahmad used to instruct the common public to enquire from *Mujtahid* scholars of the calibre of Imāms Ishaq, Abū ’Ubaid, Abū Thaur and Abū Mus‘ab. As for his *‘Ulamā*’ students (that had acquired the station of *Ijtihād* by their scholarly efforts) such as Imāms Abū Dāwūd, Uthmān bin Sa‘īd, Ibrahim al-Harbi, Abū Bakr al-Athram, Abū Zur‘ah, Abū Hatim Sahistānī and Muslim; he prohibited them from making *Taqlīd* of any scholar but used to

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13 *‘Alāmah al-Marghinānī; al-Ḥidayah; v.1/p226*
exhort them to refer to the Qur‘ān and Sunnah directly (i.e. make independent Ijtihād)”. 14

In the light of the texts quoted afore, the intent of the previous quotations of the learned Imāms becomes clearly manifest. Their intention was to merely discourage their scholarly and learned compatriots and subordinates from resorting to Taqlīd once they had themselves acquired the desired level of Ijtihād. Never was it their intention to discourage the practice of Taqlīd in toto as has been wrongly understood.

The concept of Taqlīd by a non-mujtahid of a mujtahid was such an apparent and clear matter that besides a handful of Mu‘tazilis, the entire Ummah was unanimous on this matter throughout the annals of Islamic History.

Hence, ‘Allāmah Amidi (raḥimahullāh) writes in this regard:

"An unlearned commoner as well as those who do not possess the qualification of Ijtihād even though such a person possesses partial Ijtihād in certain branches of knowledge, it is compulsory upon him to follow the rulings of a qualified Mujtahid and to abide by the

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14 Ibn-Taymiyyah, Fatawā, v.2/p.240

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fatwā (legal verdicts) of such a person. This is according to the experts of the principles of Shari'ah and it is a small (splinter) group of Baghdādi Mu'tazilites who have differed on this viewpoint.”¹⁵

‘Allāmah Khāṭīb al-Baghdādi, commenting on this unconventional view of the Mu'tazilites, writes:

“It is reported regarding certain Mu’tazilites who contend that it is not permissible for a commoner to follow the verdicts of a learned scholar until he has been furnished with proof regarding such a ruling... This view is evidently erroneous because there are no means available to a commoner to understand the proofs and substantiations that a learned scholar will present, as this in itself requires years of scholarship and erudition and would require years of association with the Fuqābā (qualified experts) for a lengthy period of time and research in the branches of Qiṣṣās in its minute details. By compelling a layman to acquire such a level of learning is to place an undue burden on him.”¹⁶

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¹⁵ al-Āmīdī; Ḥikam al-Āhkām; v.4/p.197 and al-Ghazzālī; al-Mustafaḍā; v.2/p.124

¹⁶ al-Baghdādi, Khāṭīb; al-Faqih wa al-Muṭafaqqih; v.2/p.69; Dār al-Iftā, Riyad
However, it is accepted that there does exist a certain degree of difference of opinion amongst the scholars with regards to the Taqlīd of a mujtahid of another mujtahid. Is it permissible for a mujtahid to follow and make Taqlīd of another mujtahid? Since this issue forms a peripheral discussion of the core topic of Taqlīd, it would not be unappropriate to briefly discuss the above question.

5. Is it permissible for a mujtahid to follow and make Taqlīd of another mujtahid?

Khaṭīb al-Baghdādī’s findings in this regards are as follows:

"Sufyān al-Thaurī (raḥimahullāh) is of the opinion that it is quite permissible for one mujtahid to make Taqlīd of another. Imām Muhammad is of the opinion that it is permissible for one mujtahid to follow another mujtahid who maybe more learned than him."

'Allāmah Ibn Taymiyyah’s (raḥimahullāh) findings in this regards are as follows:

"It is another view of Imām Muḥammad just as it is the view of Sufyān Thaurī that it is permissible for one mujtahid to follow another mujtahid unconditionally. According to Imām Shāfī’ī and

17 al-Baghdādī; al-Faqīh wa al-Mutafaqqih; v.2/p.69
Ahmad (rahimahumullāh) it is not permissible.\(^{18}\)

This lengthy discussion on the differences regarding Taqlīd of one mujtahid of another have been covered in details in the works on Usūl al-Fiqh (Principles of Jurisprudence). However, in so far as the Taqlīd of a commoner of a learned scholar is concerned, there has been no differences of opinion that it is compulsory except for a splinter group among the Muʿtazilahs of Baghdad.

6.1. Taqlīd and modern day problems: are the doors of Ijtihād completely shut?

If Taqlīd is to be accepted as a valid practice, how would modern day jurisprudential problems be solved? The solving of modern day problems of this nature, just like problems in the past, requires a certain degree of Ijtihād (independent thought) to be exercised. Taqlīd is the anti-thesis of Ijtihād, therefore, no modern day problems could ever be solved by persons who cling to the institution of Taqlīd.

6.2. Response to above question

It has to be understood that all persons do not prescribe to a single level of Taqlīd only but that the Taqlīd has differing levels in accordance to the erudition and

\(^{18}\) Ibn-Taymiyyah; Fatāwā; v.2/p.240

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Ijtihad abilities of individuals. The Taqlid of scholars differs from the Taqlid of the ordinary public in that such scholars are allowed a limited scope of exercising Ijtihad in modern day problems where no clear ruling could be found in the works of the former Jurists. This has been an on-going procedure throughout the latter centuries of Islam. It is therefore unfair to condemn Taqlid on the above grounds. It is quite evident that Sharī'ah allows a restricted form of Ijtihad, as a measure of necessity, as is the case with all necessities in Sharī'ah, to be exercised only by those qualified to do so and these being the Mutabakhtin 'Ulamā (expert scholars of Islam) who may have not acquired the ability of complete and total Ijtihad, as it has been pointed out repeatedly that such a thing borders on the impossible in our times. This they carry out, despite their prescribing to the concept of Taqlid. There is no conflict between the two.

6.2.1. Practical approach to modern-day problems of a Fiqh nature
Whenever a new problem of magnitude arises in the Muslim world, which may not have been catered for directly in the teachings of any one madhhab (school of thought), a panel of Mutabakhtin 'Ulamā (leading scholars) may issue a fatwā on the verdict of another madhhab (school of thought) within the perimeters of certain conditions and clauses which are clearly mentioned and defined in the works of Fiqh and Fatāwā (Islamic Jurisprudence). It is on the basis of such a leeway that a
number of rulings have been amended in the various madhāhib to accommodate for the requirements of modern problems.

Numerous examples of such amendments could be cited. An example of this is found in the Hanafī Madhhab, the rulings regarding a missing husband or an impotent husband are relatively strict. With the rapid changes in the industrialised world and swift modes of transport to various parts of the world, a husband could desert his wife and disappear indefinitely. Under the present circumstances prevailing in the world, a wife would be placed under great difficulty under the Hanafī school ruling on this matter.

The leading scholars of the Hanafī school passed a verdict in such a case which conformed to the ruling of the Malikī school of thought which is relatively easier for a woman finding herself under such circumstances. A detailed account of this jurisdical exercise could be found in the work al-Hilat al-Najizah li al-Halilat al-Ājizah of Maulana Ashraf 'Alī Thanwī (rahimahullāh). Even today if a necessity of such proportions arises, the Muqallid Mutabakhir Ulamā' may pass a verdict in accordance with the findings of any one of the four different schools of thought that exist today.
However, as it has been stated previously, that this exercise has to be carried out within the framework of the "host" madhhab so as not to reduce the entire concept of Taqlīd into a futile, trifling matter of unwarranted expediences and conveniences. The ideal methodology to adopt in such matters would be to approach a panel of expert 'Ulama' from the other school of thought and chalk out a ruling under their expert guidance and suggestions as was the case in the compilation of the verdicts pronounced in al-Hilat al-Nājizah li al-Halīlat al-Ājizah.

Another matter for consideration here is that it would be of greater precaution and prudence that such verdicts be decided upon by a process of Shura (mutual consultation and discussion) of a panel of qualified and expert 'Ulamā' rather than individual scholars. By way of information, it should be noted that such bodies have been formed in the Islamic world at Jeddah, India, Pakistan, etc.

From the foregoing, it is clear that Taqlīd has not placed any barriers on the exercising of Ijtihād as a matter of need and necessity to address the requirements of present day problems, nor have the doors of Ijtihād been closed and shut forever by the advent of the institutionalisation of Taqlīd, but rather that Taqlīd has merely regulated the reckless and irresponsible use of Ijtihād that could have resulted in a complete distortion of Islamic Law.
CHAPTER SEVEN: CONCLUSION

1. Summary of basic ideas regarding *Taqlid* and *Ittibā‘*

It is compulsory for all Muslims to render total obedience to the Law of Allāh, the *Shari‘ah*. The *Shari‘ah* is embodied in the revelation of Allāh’s word, al-Qur‘ān and its authentic commentary in the words of the Holy Messenger (ṣallallāhu‘alaihi-wa-sallam) known as the *Sunnah*. A detailed knowledge of the *Shari‘ah*, which comprises of thousands of *Uṣūl* and *Furū‘* (principles and by-laws), is not within the grasp of a common person engaged in his normal mundane pursuits as it requires a lifetime of deep study and erudition and total dedication to this particular field to acquire expertise. In the face of this reality, the unlearned, unqualified person has recourse to one of two situations; either to make a perfunctory self-study of the Law and chalk out a path of practice for himself or to repose trust in the research of expert scholars of high calibre and integrity and follow their verdicts. It is clear that the former choice is fraught with dangers as it could very easily lead to deviation from the Truth and the Straight Path, while the latter choice is a much more reasonable and sensible course of following. This latter choice is what is referred to as *Taqlid* or *Ittibā‘*.

It is only but natural that the opinion of an expert is followed in virtually all facets of human life. There is no reason why this sensible principle would not apply in the matter of Islamic Law and Jurisprudence. In fact, not only is it established within the principles of common-sense and sound reasoning, but the
sources of Islam, the Qur'ān and Sunnah and the views of leading scholars throughout the centuries of Islam clearly indicate toward it’s validity. It has to be understood that it is necessary for one who does not have the ability to make "ijtihād" to accept the verdicts of a mujtahid.

There are basically two categories of rulings:

1. Those mentioned directly in the Qur'ān and the Hadīth.

2. Those not directly in the Qur'ān and the Hadīth.

Now every person can claim to form an opinion regarding the understanding of Islamic rulings immaterial of whether such an opinion be correct or not; but Islamic Law has only recognised the opinions of expert scholars - Mujtahidīn as valid and acceptable because of the necessary degree of ability and erudition they possess to carry out this responsibility, known as the power of Ijtihād. Those who have not acquired the desired level of qualification in this regards, their opinions are not valid and acceptable in Islamic Law. Persons who are incapable of Ijtihād and opt to follow the verdicts of an expert scholar are known as Muqallidīn. Those who despite being unlearned refuse to accept the verdict of an expert scholar, but prefer to exercise their own interpretation of Islamic Law are referred to as Ghair-Muqallidīn - Anti-Taqlīd persons.

Though it is possible for a Mujtahid to err in view of his being a mortal being, the possibility of error is very remote in his case than when compared to a non-
Mujtahid. It is on this very basis that Islam has acceded to this fact and has conferred validity to even the erroneous verdict of a qualified Mujtahid in a manner that even his error in judgement has been regarded as a matter of Divine reward and recompense. "If a mujtahid has to err then (too) he will be rewarded and if his ijtihad is correct then, he will receive a double reward."!

Furthermore, it is not correct to make Taqlid of any personality or institution in the matters of Fiqh (Islamic Jurisprudence) except of the four authentic schools of thought, simply because none have been formulated and arranged in such extensive detail as the Madhâbih the four Imâms have been.

Among the four Madhâbih, Taqlid must be rendered in respect of only one school of thought. This is known as Taqlid-Shakhsi. Flirting from the verdicts of one madhab to another is not allowed, which is referred to as Talfiq is not allowed, as it leads to trifling with the laws of the Shari'ah and leads to the following of base desires, which has been strongly condemned in the Qur'ân and the Sunnah.

Furthermore, a strong motivating factor of rendering Taqlid in respect of the four great Imâms is by virtue of the fact that the entire Ummah have unanimously accepted them as the leaders in Islamic Jurisprudence. Not only

1 al-Bukhârî; al-Jâmi', al-Sahîh; v.2/p.1092
had they acquired expertise in the field of knowledge and erudition in the texts and interpretations of the Qur’ān and Sunnah; but were also renowned for their lofty standing in the sterling qualities of piety, trustworthiness, intuition, abstinence, integrity, devoutness in worship and sincerity.

The discarding of Taqlīd bears dangerous consequences and the stubborn attitude of pursuing self-opinionation in a delicate and serious matter such as Shari‘ah and Islamic Jurisprudence could lead to a deflection from the Truth and ultimately, total deviation from the religion of Islam. This fact is attested to by a leading figure in the anti-Taqlīd circles, who honestly proclaimed his observations in the following words:

"After twenty five years of experience, it has dawned upon me that those presumptuous ones who lay claim to unqualified ijtihād and decry the concept of Taqlīd, eventually leave the fold of Islam. There are other causes of people renegading from Islam, but the primary cause for a religiously inclined person to do so is the discarding of Taqlīd. The people of the Aḥl al-Hadīth (viz. the anti-Taqlīd) group that are hasty in abandoning Taqlīd should beware of the consequences of their rash actions. There is a dangerous but common tendency amongst the lay public of this group towards liberalism and self-opinionation..."

- Maulana Muḥammad Ḥusain Baṭalwī
2. The road ahead: A practical approach towards finding solutions to modern-day problems of a jurisprudential nature

It would appear that ascribing to Taqlid would seem incongruous in the context of modern-day developments and the complexities of changing circumstances in today's world. It has to be accepted that some degree of Ijtihad has to be practised in order to provide solutions to present-day issues. What is the most practical approach in this matter?

The thoughts of some leading present-day scholars in this regard follow.

Maulana Minnatullah Rahmani (rahimahullah) writes:

"Even though the position of Qiyas (analogy) is inferior in status to the other sources of Islamic Jurisprudence viz, Qur'an, Sunnah and Ijmá; it is responsible for the extraction of many general principles that are gleaned via it from the Qur'an and Sunnah. It is through the power of Qiyas that the Shari'ah become a live and flexible system of law that can cater for the needs of its followers for all times. It is observed that in this modern age of scientific and technological developments, particularly in the twentieth century new and perplexing problems (from a fiqhi perspective) are arising with great frequency. Solutions need to be provided for these problems. For this, the tools of Ijtihād and Qiyās have to be employed effectively and correctly. In this way
a solution could be provided for all jurisprudential problems right up to the Day of Judgement. If the door of (this type of) of Qiyās and Ijtihād is to be closed for ever, then it will have to be conceded that the Qurʾān does not provide a solution for the requirements of mankind for all times and ages, nor is the prophethood of Muḥammad (ṣallallāhu-ʿalaihi-wa-sallam) intended for all of the eras (a matter that is totally unacceptable in Islām). It is for this reason that it has to be ensured that the practice of Ijtihād and Qiyās are to remain alive for all times. In the same breath it has to be pointed out clearly that Ijtihād and the employment of Qiyās is no trifling matter that can be dabbled in by unqualified persons, whose limited knowledge of Islām may be restricted to mere superficial reading of Qurʾān translations and a cursory study of Ḥadīth translations. Islāmic Law has clearly defined the parameters of Ijtihād and the qualifications of a Mujtahid. None can dare challenge these norms. As the requirements and qualifications for exercising Ijtihād became more and more difficult to acquire for almost all people, the jurists declared the doors of (general) Ijtihād to be closed by the fourth century of Islām, in order to save and prevent this delicate office from falling into the hands of irresponsible or unqualified persons. However, history bears ample testimony to the fact that
whenever a necessity arose to address a juridical problem with a suitable solution, the Fuqahā have successfully employed the agency of Ijtihād and Qiyās to solve these. As it is an accepted fact that it is a near impossibility to find any individual in this day and age who could successfully encompass the requirements of Ijtihād and attain the position of a qualified mujtahid. A need therefore arises that instead of vesting a single individual with the power of performing Ijtihād, this task should rather devolve upon and entire panel of highly qualified, expert 'Ulamā'. Some kind of council should be formed comprising of pious, upright 'Ulamā' who are well-versed in Shari'ah and well-aware of the requirements in the present-day world, as well as the impact of scientific developments on current social norms, customs and traditions. This panel of scholars need to keep the teachings of Qur'ān, Sunnah, Ijmā' and Qiyās before them and work diligently, honestly and sincerely at providing solutions to the juridical problems that plague the Ummah presently."

Another scholar, Maulānā Shihābuddīn Nadwī writes:

"There are many problems which require to be solved in the
present day in accordance with the principles of Sharī'ah.

However, this is not within the capability of a single individual, because the conditions of qualifications are extremely difficult to attain. It is therefore of paramount importance that an entire committee or panel of highly qualified scholars should collectively undertake this responsibility. In this manner, the possibility of error in judgement too is minimised. This is also the view of the leading Ulama' of today. For example, the scholar Dr. Yusuf al-Qaradāwī writes in this regards in his work al-Ijtihād fi Sharī'at al-Īslām on page 107:

"In our times, the office of Ijtihād should be vested with an entire body of scholars who possess a high level of Fiqhi acumen and who are able to exercise independent judgement without being influenced or prejudiced by political pressures of any sort."

In short, the establishment of an "Ijtihād Board" or a "Fiqhi Academy"3 is an urgent requisite of our times.

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3 As a matter of information, several such bodies of qualified Muslim Jurists exist in various parts of the world, diligently fulfilling their task of providing jurisprudential solutions for the problems of the Muslim Ummah. An example of such a body is the Islamic Fiqh Academy of India, operating under the able leadership of a leading Islamic Scholar and Jurist of our times, Qadi Mujahid al-Īslām Qasimī (hafizahullah). This institution is doing sterling work on modern jurisprudential problems which are deliberated and discussed at great length at special Fiqhi seminars or conferences called specifically for this purpose. After exhausting all debate on the matters-at-hand, clear-cut solutions ultimately crystallise and are then accepted unanimously by all participants at the seminar for adoption. The deliberations and proceedings of the Academy at its seminars are then published fully in a dedicated journal of the Academy entitled Bahs-wa-Nazar. To date, close onto two dozen such journals have been already published by the Academy. Another international Islamic organisation that is doing
3. Final observations

In the light of the above passages it is clear that the scholars of Islām, even in the present age, are awake to the requirements of the time. Acting strictly in accordance with the principles of Islāmic Jurisprudence, they constantly exercise a limited form of *Ijtihād* to provide substantiated solutions to present-day jurisprudential problems. At the same time, their conformance to *Taqlīd* has never interfered in their exercising of *Ijtihād* whenever necessity dictated so, as is wrongly believed in certain quarters. It would thus be grossly unfair to attribute stagnation of thought to the practice of *taqlīd* at any time.

*Taqlīd* has merely checked and regulated the reckless, irresponsible and unqualified employment of *Ijtihād* by unqualified persons. It was not responsible for closing the door of *Ijtihād* totally so as never to be opened again. Even today, if a group of learned scholars possessing the requisite qualification exercise *Ijtihād* by way of necessity, it will be totally permissible for them to do so.

Instead of clamouring for the demolition of the entire edifice of *Taqlīd* which has developed over centuries of Islamic history, as they are presently doing, the

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anti-Taqlid lobby would be better advised to redirect their misdirected energies towards the establishing of Ijtihādī processes within the framework of the existing madhāhib which have undeniably bequeated a legacy of an invaluable source material that could suitably be adapted and adjusted to meet the requirements of modern problems for all times. This would be far better and more sensible than commencing with a totally independent procedure of reproducing work which has already been accomplished and completed centuries before. Surely, even a person of average intelligence would regard it as imprudent to "re-invent the wheel" after it had been invented centuries before! Turning a blind eye to the rich legacy of the past, as the anti-Taqlid scholars are so vigourously propagating is tantamount to none other than this.

By way of conclusion, it could be tendered that Taqlīd and Ittibā’ is not an alien concept at all in the sources of the Shari‘ah. A modest attempt has been made to reveal the validity of Taqlīd and Ijtihād, in the light of the Qur‘ān and the Sunnah and it’s authentic explications, and from the writings of eminent Muslim scholars across the centuries of Islām.
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