

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

Series of Questions Addressed to Eminent Scholar Ata Bin Khalil Abu Al-Rashtah,
Ameer of Hizb ut Tahrir through his “Fiqhi” Facebook Page

Answer to a Question

The Muqalid Mutabi’

To: Imam Annawawy

Question:

Assalamu Alaikum... may Allah protect you my Ameer and brother, I pray that you will find the time to answer this question.

I read in your book, *Taysir Al-Wusul Ila Al-Usul* (p. 273), that: “The question that is raised is: For the imitator, if he imitates a particular issue, may he return to follow another one in the same issue? The answer to this is that the Muqalid must follow the Shar’i ruling which is derived by the Mujtahd whom he follows. This means that it is as follows: If the muqalid implements the ruling on the issue he followed, it is not permissible to turn back from it and imitate another person because he has become committed to a Shariah ruling on the issue and he put it into action.” **End quote.**

So the question that came to my mind: For example, if the illiterate who does not know the Arabic language took a Shariah ruling from Imam Shafi’i, may Allah have mercy on him, (for example in prayer) and he followed it, then he read the rule of prayer in the book of fiqh translated into the Russian language for another Mujtahid (for example Imam Malik, may Allah have mercy on him) this man read it in Russian and wants to leave the view of Imam Shafi’i and take the opinion of Imam Malik... My question here: Is it permissible to do so in Shariah? In other words, can he outweigh the evidence in other language than is Arabic? Since the evidence is not considered Shariah evidence except in Arabic? Why do I ask this question? Because many Muslims in my region leave opinions by a mujtahid that they have followed for other Mujtahid’s opinions on the same issues. At the same time they do not know the Arabic language and Shariah sciences! They read verses and Hadiths in the Russian language and claim that they are Shariah evidences! Please provide me with the answer so that I can understand and others understand too, Jazak Allah Khair.

Wassalamu Alaikum.

Answer:

Wa Alaikum Assalam Wa Rahmatullah Wa Barakatuhu

The issue is as follows:

If a Muslim imitates a particular school of thought in any of the rulings, such as praying according to Abu Hanifa’s school of thought (*math’hab*), and he wanted to change that and pray according to Shafi’i, for example, this is permissible but only after adhering to the following issues:

1. That this matter is based on the Shar’i outweighing of evidences and not because the new rule is convenient or easier or agrees with his desires himself, following the desires is forbidden, Allah (swt) says: ﴿فَلَا تَتَّبِعُوا الْهَوَىٰ﴾ “**So follow not [personal] inclination**” [An-Nisa: 135]. Allah (swt) also says: ﴿فَإِنْ تَنَازَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللَّهِ وَالرَّسُولِ﴾ “**And if you disagree over anything, refer it to Allah and the Messenger**” [An-Nisa: 59].

It is to refer to the criteria of outweighing opinions for the Muqalid that pleases Allah (swt) and the Messenger (saw), and this is far from pursuing the desires, and choosing one of the two schools of thoughts without (Shariah) outweighing is a choice based on desire, which is counter to referring to Allah and the Messenger. The outweighing criteria by which the Muqalid chooses between a Mujtahid and another, a ruling and another are many, the main and most important are: Knowledge, understanding and justice (fairness). The Muqalid can choose the Mujtahid based on his knowledge and justice, because justice is a condition for accepting the testimony of the witness. Giving the Shariah rule when he is learning is a testimony that this is a Shariah rule that must be accepted based on the justice of the teacher who teaches him, the justice of the one who draws it in the first place is therefore more important. Justice is a condition of everyone that we take the Shariah rulings from, either a Mujtahid or a teacher, it is inevitable. Whoever believes that Shafi'i has more knowledge and his school of thought is most correct, it is not permissible for him to take a different school of thought based on desire, but rather he must take what is contrary to his opinion based on outweighing that it is the strongest evidence. So outweighing is inevitable, and that its must not be based on desires or convenience is also inevitable. It is incorrect that Muqalid chooses from the schools of thought the opinion in every issue according to his preference!

2. There are two types of acquiring the knowledge of the Islamic ruling, the Mujtahid and the Muqalid, there is no third. Because in reality either one can take knowledge through his Ijtihad, or what others reached by Ijtihad, and this is limited to these two cases. Therefore, everyone who is not a Mujtahid is a Muqalid (imitator), of any kind, the issue in Taqleed (imitation) is to take the ruling from others regardless of whether the one taking it is a Mujtahid or not. It is permissible for the Mujtahid to imitate other Mujtahids in one issue, even if he is capable of Ijtihad. He will be a Muqalid in this issue. Therefore, the opinion can be adopted by a Mujtahid or by the one who is not a Mujtahid.

3. The Mujtahid is the one is qualified to do Ijtihad, by having sufficient knowledge in Arabic and enough knowledge of the sections of the Qur'an and Sunnah and enough knowledge of the method to equate, gather, and outweigh the evidence and the ability to draw rulings. If the Mujtahid spends effort in the issue and reaches the rule, it is not permissible for him to imitate other Mujtahids in contrary opinions to his Ijtihad. He may not leave his opinion or leave following it in this issue except in certain cases, the most important is if he finds that the evidence he used for his Ijtihad is weak, and the opinion of another Mujtahid has stronger evidence than his evidence. In this case, he must leave his opinion based on his Ijtihad immediately and take the opinion with the strongest evidence. It is forbidden for him to stay on the first opinion according to his Ijtihad.

This is regarding the Mujtahid if he reached his own Ijtihad and his Ijtihad led him to the opinion on the issue. However, if the Mujtahid did not do Ijtihad on the issue, it is permissible for him to follow other Mujtahids and he does not have to do Ijtihad on the issue, because Ijtihad is Fard Kifayah (sufficiency) and not Fard Ain (individual), so if he knows the Shariah ruling on the issue, the Mujtahid is not obliged to do Ijtihad on it, but it is permissible for him, and it is permissible for him to follow other mujtahids on the issue. In other words, **that is the Mujtahid moves from one opinion to the other with the outweighing criteria, which is the strength of the evidence, whether he was the one who performed Ijtihad to reach the ruling or it was the Ijtihad of another Mujtahid.**

4. This is the reality of the imitation of the Mujtahid. As for the non-Mujtahid, they are two types: Mutabi' and A'mmi and each of them has conditions when moving from one school of

thought to another, and this transition in all cases is not based on desire, convenience, or ease, but by following the Shariah criteria of outweighing for the Mutabi' and for the A'mmi,

- The Mutabi' is who has some of the science considered in the legislation, the most important of which:

a. A proper knowledge of Arabic, he can understand Arabic to a certain extent, and he can read Qur'an in Arabic. And he can understand Hadiths in Arabic, this does not mean that he understands every word in it, but he can ask about the Arabic word and look for its meaning...

b. To have appropriate knowledge even through translation to understand the Mutawatir, Sahih, Hassan, Weak Hadiths, and to have the knowledge of the Sahih (Authentic) books. For example, when he sees the Hadith in Bukhari or Muslim, he knows that it is Sahih, and if he recites a Hadith in Tirmidhi, and Tirmidhi says that it is a Hassan Hadith, he knows the meaning of that. ... thus realizing the meaning of Sahih, Hassan, weak... and so on.

And the Mutabi' moves from one opinion to another by knowing the evidence. He will follow the ruling that that he knows its evidence it is more stronger (by outweighing criteria) than the ruling that he does not know its evidence, If he follows a school of thought. He is more likely than the one who does not know his evidence. If he imitates a doctrine without knowledge of his evidence, and he is aware of another doctrine, follow his doctrine. Without knowing its evidence, and he sees another school of thought that he knows its evidence, he follows the one he knows its evidence and leaves the one that he does not know its evidence.

In other words, the Mutabi' moves from one opinion to another by outweighing criteria. Which is here, to follows the rule, that he knows its evidence and leaves the one who does not know its evidence.

- The A'mmi is the one who lacks science considered in the legislation, his knowledge of Arabic is almost non-existent and he has no knowledge of the evidences of the Qur'an and the Sunna ... and he worships Allah (swt) as the Sheikh says in the school of thought. Such person does not move from the school of thought to another in any issue, weather by an outweighing method or not. He bases his trust on the one he follows and in terms of understanding and piety and good treatment, so he imitates the imam of the mosque or his father or the one who teaches people in the mosque the recitation of the Qur'an. So he will pray like them according to Shafi'i school of thought, for example. In this case he does not move from one opinion to another, except by an outweighing criteria, which is by getting to know a man with more knowledge than those he trusts, and to have more trust in his piety and justice, that the ones he trusts. If this man who he trusts is praying according to Abu Hanifa, so he sees that he most knowledgeable and he trusts him more and is reassured by his knowledge, especially when he attends his lessons in prayer according to Abu Hanifa, so he becomes the place of his trust and reassurance. In this case he may move in his prayer from the Shafi'i to Hanafi school of thought, through outweighing trust and reassurance...

In other words, the A'mmi is moving from one opinion to the next with outweighing criteria. When the A'mmi knows a man who he trust in his piety and justice, and reassured of his knowledge and understanding, he can change to this person's school of thought.

5. This is in the case when he follows a Mujtahid or wants to change to another Mujtahid, he needs an outweighing criteria, whether it is with the knowledge of the evidence, if he followed a Mujatahid or without the knowledge of the evidence. Or he learned from someone

he trusts the evidences of the Mujtahid are stronger than the one he follows. But if he did not follow a Mujtahid in the first place in an issue and wanted to be an imitator from the onset, he can follow a Mujtahid that he is reassured by his guidance and knowledge. It is worth mentioning that imitation in one issue must be from one Mujtahid in that issue with its conditions and elements ... For example, prayer must be taken from one Mujtahid with its conditions and elements ... such as wudu, standing and Ruku' ... all taken from one Mujtahid, and not to take the prayer from Abu Haneefah and doing wudu from Shafa'i, but all must be from one Mujtahid. But in different issues, such as prayer, fasting, and Hajj, it is permissible for him to take all of them from the same Mujtahid or to take the prayer from one Mujtahid and fasting from another Mujtahid, and so on.

6. Based on the above, the answer to your question about the brothers who do not know the Arabic and consider themselves as Mutabi' and therefore read the translation of the evidence, and accordingly move from their former school of thought to another as Mutabi' followers who are sufficed by knowing the evidence ... Their reality does not indicate that, because they do not know Arabic, so the translation is not enough to leave the school of thought and change to another! But they need another outweighing criteria like knowing a man they have trust in who knows Arabic, who can read the evidences to them in Arabic and explains it and shows them which school is stronger... If they are reassured with his knowledge and understanding then it is permissible to move to the school of thought based on trust ... **That is those brothers if they wanted to move from a previous school of thought to another, it is not enough to read the translation as long as they do not know Arabic, but they must have one of the outweighing criteria of the A'mmi in addition to the translation**

This is what I see in this matter and Allah knows best.

Your brother,

Ata Bin Khalil Abu Al-Rashtah

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The link to the answer from the Ameer's Facebook page:

<https://web.facebook.com/AmeerhtAtabinKhalil/photos/a.122855544578192.1073741828.122848424578904/764289010434839/?type=3&theater>

The link to the answer from the Ameer's page on Google Plus:

<https://plus.google.com/u/0/b/100431756357007517653/100431756357007517653/posts/7nm67jcH7r>

The link to the answer from the Ameer's page on Twitter:

<https://twitter.com/ataabualrashtah/status/960574595353972736>