

Answer to Question

The Situational Cases of Muqallids and Their Preponderances

To: Osama Samman

(Translated)

Question:

Assalamu Alaikum wa Rahmatullah wa Barakatahu.

May Allah bless you, our Sheikh, and reward you with the best reward. We ask Allah to support you with His victory, to hasten the establishment of the Khilafah (Caliphate) state, and to decree for you reward and steadfastness.

I have a question and kindly request you to answer it, if it is appropriate:

It is mentioned in the book, Al-Shakhsiyyah Al-Islamiyyah (The Islamic Personality) Volume One, in the section on the strength of evidence, the following:

“This is the summary of the criteria for preponderance (al-murajjihaat), and through it, the stronger evidence can be identified so that the Shariah ruling may be given preponderance based on it. This can occur in two situational cases: The first is for the pursuer (al-muttabi) of evidence when he evaluates the two evidences without being capable of Shariah deduction (al-istinbaat) due to not exerting his effort in seeking the preponderant opinion of least amount of doubt. The second is for the mujtahid when two evidences conflict before him. In both cases, if two evidences are presented to him, he must give preponderance to one of them, and if he gives preponderance to one, he must adopt the ruling whose evidence is stronger and act upon it, and abandon the ruling whose evidence has been established as weak.”

As stated in the Answer to Question titled “Is there a Clear Statement Where Taqleed for more than One Mujtahed is Forbidden”, following more than one mujtahid on a single issue is the following:

“This is as long as the person is a Muqaled (a learned follower), but whenever he has the capability to judge the evidences, it is permissible for him to abandon the Mujtahed that he followed and follow the strongest evidence.”

Do the boundaries of the issue differ for the blind follower (مقلد عامي muqallid ‘aami) from those for the pursuing follower (مقلد متبع muqallid mutabi) who pursues the evidence? And if the boundaries of the issue are the same, is it permissible for a follower (muqallid) who has the ability to outweigh between evidences according to the Shariah criteria to outweigh between evidences and the opinions of the mujtahids in the subsidiary aspects of a single issue, such as the issue of prayer, for example? Or is the weighing only to be done between independent issues, not the subsidiary aspects of a single issue?

And may Allah reward you with goodness, bless you, and we ask Allah to grant you success and guidance, to support you with His victory, and to place this in the scales of your good deeds. Wasalaamu Alaikum wa Rahamtullah wa Barakatahu.

Answer:

Wa alaikum assalam wa Rahmatullah wa Barakatahu,

My brother, regarding knowing the Shariah ruling, Muslims are of two types: one is the mujtahid, and the other is the muqallid; there is no third category. For in reality, a person either takes what he himself has reached through his own ijtihaad, or what someone else has reached through their ijtihaad, and the matter does not go beyond these two situational cases. Therefore, everyone who is not a mujtahid is a muqallid, regardless of his type. The issue with taqlid is taking the Shariah ruling from someone else.

1- As for the mujtahid, he is the one who possesses the qualification for ijtihaad; meaning he has sufficient knowledge of the Arabic language, sufficient knowledge of the divisions of the Noble Quran and the Prophetic Sunnah, sufficient knowledge of how to evaluate evidence in terms of reconciliation, combination, and preponderance, and consequently, the ability to deduce rulings.

And when he performs ijtihaad on an issue, the Shariah ruling for him is to follow his ijtihaad, and he must not undertake transition (tannaqul) from this opinion to another except with a preponderant factor, which is the strength of the evidence.

2- As for the non-mujtahid, he is of two types: the pursuer (muttabi') of evidence and the blind or layman (aammi). Each of them has conditions for undertaking transition (tannaqul) from one madhhab to another. This transition, in all situational cases, is not based on whim, desire, or because it is easier, but rather on a Shariah preponderating factor for both the pursuing follower and the blind follower.

a. As for the pursuing follower, he is one who possesses some of the knowledge considered in Shariah legislation... a suitable knowledge of the Arabic language... and a suitable knowledge of the meaning of mutawaatir, sahih, hasan, and da'eef in the ahaadith, and he must have knowledge of the authentic books of hadith...

That is, the pursuing follower transitions from one opinion to another based on a preponderant factor (murjih), which for the pursuing follower is to follow the Shariah ruling whose evidence he knows and to abandon the one whose evidence he does not know.

b. As for the blind follower (aami), he is the one who does not possess some of the knowledge considered in Shariah legislation, like the pursuing follower... He worships Allah (swt) in accord to what the Sheikh of his school of Shariah jurisprudence (madhhab) informs him. Such a person does not transition from his school to another school in any issue except with a preponderant factor (murjih). The preponderant factor for the blind follower is his trust in the one he follows regarding understanding (fahm), piety (taqwaa), and good conduct (husn al-mu'aamalah). So, he follows the Sheikh of the masjid, or his father, or the one who teaches people to recite the Quran in the masjid... In this situational case, he does not transition from this school to another except as we said: with a preponderant factor, which is that he becomes acquainted with a man more knowledgeable than those and whom he trusts more than those in terms of piety and justice.

That is, the blind follower (aami) transfers from one opinion to another with a preponderant factor (murjih), and this factor, for the blind follower, is to identify a man he trusts for his piety (taqwaa) and uprightness ('adaalah), and is reassured about his knowledge and understanding, and who guides him to the school (madhhab) to which he is transferring. If he is reassured, it is permissible for him to transfer...

In summary: the mujtahid has the ability to identify the strongest evidence and the ability to deduce Shariah rulings from their detailed evidences according to the strength of the evidence. Therefore, the preponderant factor for him is the strength of the evidence.

As for the pursuing follower (muttabi') he takes the ruling based on the evidence of the mujtahid whom he follows... but he cannot perform ijtihaad and identify the strongest evidence from others... The preponderant factor for him is knowing the evidence of the mujtahid... So, if he was following a mujtahid without full knowledge of that mujtahid's evidences, and then he came to know the evidences of another mujtahid, he would follow the other mujtahid.

As for the blind follower (aami), he does not have the ability to know the evidence; instead, he imitates the sheikh whom he trusts and whose knowledge he relies on, or he follows the people in the masjid where he prays, etc.

Therefore, his criterion for preference is his trust in his sheikh or the imam of the mosque.

Therefore, what was mentioned in the question: "Is it permissible for a follower (muqallid) who has the ability to outweigh between evidences according to the Shariah criteria to outweigh between evidences?" is not accurate, because the follower does not have the capability to weigh between evidences to deduce the ruling from them. What is mentioned concerning the pursuing follower is to know the evidence in terms of it being sound, good, weak, etc. However, this is not sufficient for outweighing between evidences and Shariah deduction; rather, it is necessary to know other issues from the conditions of ijtihaad: mastery of the language, the specific and the

general, the absolute and the restricted, etc., from the knowledge of the fundamentals of jurisprudence (usul al-fiqh). And it has been mentioned in the definition of the follower:

1- It is stated in "The Islamic Personality, Volume 1" regarding the situational cases of the followers (muqallids) and their preponderances (marajihat):

"Because the evaluation of the evidence and the derivation of the ruling from it is only for the mujtahid, as it depends on knowing its soundness from contradiction based on the obligation to investigate it, and this is dependent on the exhaustive judicial review (istiqraa') of the evidences, and none is capable of that except the mujtahid.

Based on this, the non-mujtahid is a muqallid (follower), and people, in relation to the Shari'ah ruling, are either a mujtahid or a muqallid, and there is no third category... This includes the blind ('aammī) follower and the pursuing (muttabi) follower. However, the pursuing follower performs taqlid on the condition that he knows the evidence of the mujtahid, whereas the blind follower performs taqlid without any condition or restriction."

2 - The Islamic Personality, Volume 1, Chapter on Taqlid:

"Thus, the pursuing follower is a muqallid. Also, following (ittiba') is when you follow the opinion of the mujtahid based on what has become clear to you from the evidence, without judging that evidence, i.e., without being convinced by that evidencing argument. However, if you were to judge the evidence, and understand the method of deriving the ruling from it and agree with the derivation of the ruling, and with the Shariah ruling itself, then the Shariah evidencing argument upon which the ruling is based also becomes binding upon you, and your opinion becomes the same as the mujtahid's opinion. In this situational case alone, you are a mujtahid, not a pursuing follower. From all this, it becomes clear that following is taqlid, and the pursuing follower is a muqallid, even if he knows the evidence alone."

It is clear from this that the follower does not have the ability to weigh between different pieces of evidence and then perform ijtihad (derivation); instead, he can distinguish the correct evidence from the incorrect. However, the ability to gather evidence, weigh it against each other, and perform istinbaat (Shariah deduction rulings) is not present in him, otherwise he would be a mujtahid.

It appears that what has caused you confusion is what is mentioned in Al-Shakhsiyyah 3 (The Islamic Personality, Volume 3), in the chapter "The Strength of Evidence," on page 294, where it states:

"This is the summary of the criteria for preponderance (al-murajjihaat), and by them, the stronger evidence can be known so that the Shariah ruling can be given preponderance. This is possible in two situational cases: The first is when it is with the pursuing follower in his evaluation of two evidences without him having the ability to undertake deduction (istinbaat) due to not exerting his effort in seeking the preponderant opinion of least doubt. The second is with the mujtahid when two conflicting evidences appear before him. In both cases, if two evidences come to him, he must give preponderance to one of them, and if he gives preponderance to one, he must take the Shariah ruling whose evidence is stronger, act upon it, and abandon the ruling for which the weakness of its evidence has been established."

It seems you assumed that the phrase "The first is when it is with the pursuing follower in his evaluation of two evidences without him having the ability to undertake deduction (istinbaat)" means the ability to give preponderance and perform ijtihad, but it is not so. Instead, the "evaluation" (muhaakamah) here refers to knowing the sound (sahih), good (hasan), and weak (da'eef) [evidences], and this is not sufficient for giving preponderance (tarjih). Instead, for preponderance, other matters are necessary, such as distinguishing between the specific (al-khaas) and the general (al-'aamm), the absolute (al-mutlaq) and the restricted (al-muqayyad), the abrogating (al-naasikh) and the abrogated (al-mansukh)... etc. The matter is clear from the end of the phrase "without him having the ability to deduce."

In summary, the muqallid muttabi' (pursuing follower) does not have the ability to preponderately outweigh between evidences and deduce the Shariah ruling from them for themselves; otherwise, he would be a mujtahid.

This is regarding the invalidity of the statement you mentioned in your question—that the pursuing follower can preponderate between evidences and deduce the ruling.

As for the second part of your question, which is: “So, is it permissible for the pursuing follower who has the ability to preponderately outweigh between evidences according to the Shariah preponderances (al-murajjihaat al-shar’iyyah) to preponderate between the evidences and the opinions of the mujtahids in the particulars of a single issue, like the issue of Salah (prayer), for example? Or is preponderation only between independent issues, not the particulars of a single issue?” this is inaccurate for two reasons:

First: the muqallid muttabi’ (pursuing follower) is not a mujtahid, meaning he does not have the ability to preponderate between evidences and deduce the Shariah ruling from them.

Second: the issue is an indivisible whole. Its pillars, conditions, validity, and invalidity are inseparable from the core of the issue itself. The Shariah ruling must encompass all of it. Therefore, it is not permissible to follow Imam al-Shafi’i’s school regarding the pillars of prayer and Imam Malik’s school regarding its conditions for validity; rather, it must be treated as a single unit.

And we have clarified and detailed the matter sufficiently and adequately in the book, Taysir al-Wusul ila al-Usul in the chapter on taqlid (following), (Arabic pages 275 and 276) as follows:

“Definition of the Shariah Issue (Mas’alah): The intended meaning of “mas’alah” here is every action or set of actions whose correctness does not depend on anything else.

As for the component of the issue (Mas’alah), it is every action that is indispensable for achieving its correctness, such as the conditions and pillars.

Examples:

Wudu (Ablution): Acts upon which the validity of other acts depends, because the validity of the Salah (prayer) depends on wudu. Therefore, wudu is not a separate issue (mas’ala) according to the definition, but is considered an indispensable part of the Salah for achieving its validity.

Salah (Prayer): Acts whose validity does not depend on other acts; therefore, it is an issue (mas’ala). Every indispensable element required to achieve its validity is considered a part of it, such as its pillars (arkan) and conditions for validity (shurut as-sihhah) like purification (taharah) and facing the Qiblah.

Intention (Niyyah) in Fasting (Sawm): An act whose validity is dependent on another act; for the validity of the fast depends on the intention. Therefore, the intention is not an independent issue (mas’ala) but rather a part of another issue.

Fasting (Sawm): An act whose validity is not dependent on the validity of another act; it is an independent issue (mas’ala). Everything that is necessary to achieve its validity is considered a part of it, such as the intention (niyyah) and abstaining from things that break the fast (muftiraat). Therefore, if a person follows a mujtahid in prayer (Salah), he must follow him in all its parts, such as ablution (wudu), the ritual bath for major impurity (ghusl al-janaabah), dry ablution (tayammum), facing the direction of prayer (qiblah), and the pillars (arkan) of the prayer. And if he follows a mujtahid in fasting (sawm), he must follow him in all its parts, such as the intention—whether it is obligatory to make it specific for each day or for the whole month, and whether it is valid if made during the day or if it must be made at night—as well as the things that break the fast and the concessions for breaking it. However, he is permitted to follow a different mujtahid on another issue.” (End)

And in conclusion, I send you greetings of peace, and I hope this is sufficient. And Allah Knows Best and is the Most Wise.

Your brother,

Ata bin Khalil Abu al-Rashtah

3 Jumada al-Awwal 1448 AH

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The Link to the Answer from the Ameer’s Facebook Page:

<https://www.facebook.com/AtaAboAlrashtah/posts/122156111331129051>