

Non-Madhhabs: Understanding Potential Ramifications

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Abstract. The author of this article underscores the pivotal role of Islamic schools of law in safeguarding the unity and diversity within the Muslim community. The emergence of non-madhhabism among constituents of Central Asian governments necessitates a comprehensive elucidation of this disruptive concept, concurrently elucidating the authentic essence and invaluable significance of madhhabs. Through the utilization of historical evidence, the author endeavors to substantiate her perspectives on this subject matter.

Key words: Schools of Islamic law, Fiqh, Shari'a, non-madhhabism.

The contemporary advocacy of non-madhhabism among young Muslims represents a concerning trend that impedes the accurate understanding of Shari'a. To comprehend the pivotal role of madhhabs in interpreting Shari'a correctly, it is essential to first delve into the definitions of Shari'a and fiqh.

In the Arabic language, the term 'Shari'a' holds dual significance. Primarily, it denotes a path leading to water. The literal translation of the verb 'shara'a' is 'to chalk out or mark out a clear road to water' [1, p.100]. In this context, an Arab proverb asserts, 'The easy way of drinking water is entering through Shari'a,' emphasizing the accessibility and guidance inherent in the term. Additionally, the second connotation of 'Shari'a' denotes 'a right way.' This meaning is specified in verse 18 of the al-Jathiah chapter of the Qur'an: **"Then We put you, (O Muhammad), on an ordained way concerning the matter (of religion); so follow it and do not follow the inclinations of those who do not know"**¹.

In Islamic jurisprudence, the term "Shari'a" encompasses a collection of divine instructions (commands) delineated in the Qur'an and the traditions of the Prophet Muhammad. However, within legal contexts, it denotes an entire system of Islamic law.

The term "fiqh" in Arabic translates to "deep understanding" or "full comprehension." Alongside "fiqh," words like "fahm" (understanding), "ma'rifa" (enlightenment), and "ilm" (knowledge) also share similar meanings denoting understanding, comprehension, and perception. However, "fiqh" specifically denotes a comprehensive understanding that encompasses grasping the essence of the subject matter [7, p.35]. This distinction is underscored in the hadith "rubba hamili fiqhini, ghayr faqihin" which translates to "many carriers of fiqh are not faqih (jurists)." Additionally, in the well-known hadith from the Prophet Muhammad (peace be upon him), it is conveyed that "If Allah wants to do good to a person, He makes him 'faqih' in the religion," emphasizing the profound understanding and comprehension of religious matters associated with being a "faqih"². Indeed, this hadith is frequently cited to honor and recognize scholars who possess deep knowledge and understanding of religious matters. It serves as a testament to the esteemed status of those who

¹ This article cites verses of the Qur'an in English as per www.quran.com.

² Sahih Buhari, hadith 71.

have attained expertise in religious scholarship.

As a terminology, 'fiqh' encapsulates the study of Shari'a regulations, encompassing a comprehensive understanding of Shari'a rules across all sections. It involves grasping the objectives behind these rules and effectively applying acquired knowledge into practical implementation [2, p.52].

It would be accurate to assert that the establishment of Islamic jurisprudence as a distinct discipline, along with the evolution of schools of legal thought (madhhabs of fiqh), represents a significant stride toward the proper comprehension and application of Shari'a. The emergence and maturation of these schools within Sunni Islam have fostered conducive environments for the correct implementation of Shari'a provisions within societal relations.

According to the ideology of certain literalists, the categorizations devised by the madhhabs of fiqh are not deemed as a valid approach to understanding Shari'a. They advocate for the direct application of Shari'a provisions in practice as the most appropriate method.

The notion of non-madhabism advocated by literalists undermines the extensive work of countless scholars and the invaluable sources painstakingly developed over lifetimes. It implies that for centuries, Muslims have been adhering to erroneous traditions. Most regrettably, this ideology jeopardizes the unified path that has historically united Muslims, leading to discord within the Muslim community. Such advocacy for non-madhabism stems from a profound ignorance regarding the significance and merit of madhhabs. Despite the existence of four madhhabs of fiqh, they are regarded as factions within the unified Ahl al-Sunna wal Jama'a, which serves to unite and consolidate the Muslim Ummah. Ultimately, as the Prophet Muhammad (peace be upon him) declared: "Allah does not lead my ummah (community) astray"³. In another hadith, it is narrated: "What Muslims deem as good is also considered good in the sight of God." This hadith emphasizes the alignment between the perceptions of goodness among Muslims and the divine perspective⁴.

Toward the end of the Prophet's (peace be upon him) life, individuals from various tribes and local communities embraced Islam. These new Muslims faced the monumental task of familiarizing themselves with the verses revealed over a span of more than twenty years and integrating the provisions of Shari'a into their lives. Consequently, younger Companions sought guidance from their elders, while recent converts embarked on the journey of studying Shari'a under the tutelage of earlier Muslims [3, p.87].

During the latter half of the first century AH and into the second century AH, Islam expanded into diverse regions across the globe, with numerous non-Arab nations embracing the faith. However, these newly converted communities faced the challenge of establishing Shari'a provisions and regulations derived from the Quran and the Sunnah of the Prophet Muhammad (peace be upon him).

Consequently, there arose a pressing demand for individuals possessing specialized knowledge to systematically educate newly converted members of various societies about religious provisions and to address their inquiries.

Henceforth, scholars began to emerge in various regions. Figures such as Imam Abu Hanifa, Imam

³ Imam Naysaburi, Al-Mustadrak, hadith 363.

⁴ Imam Naysaburi, Al-Mustadrak, hadith 4465.

Malik, Imam Shafi'i, and Imam Ahmad laid the groundwork for four schools of fiqh that have maintained their relevance to this day. They derived specific regulations concerning prayer and various other matters from the Quran and Sunnah. The abundance of sources, variations in the Prophet's (peace be upon him) actions, and the extensive body of hadiths, narrations, and reports resulted in differing approaches among these scholars. Moreover, the diverse conditions prevailing in different regions naturally led to variations in matters of Shari'a. For instance, in the Shafi'i madhhab, it is preferable not to wipe the hands and face after ablution, whereas the Hanafi madhhab favors the opposite. Climate conditions in the regions where these madhhabs spread were taken into consideration. Furthermore, there exist narrations from the Prophet (peace be upon him) that validate both practices.

It is noteworthy that Imam al-Shafi'i modified certain provisions of his school of thought in response to evolving societal customs. While the precise moment when he abandoned the "old doctrine" remains uncertain, it is widely speculated that this occurred during his time in Egypt approximately six years prior to his passing. For instance, in cases where two disputants fail to reconcile due to insufficient documentation, judgment may favor the party supported by prevailing customs. Similarly, disagreements between spouses regarding pre- and post-wedding stipulations are resolved based on customary practices. Additionally, if an individual pledges to abstain from meat but consumes fish instead, customary practices dictate that no donation (kaffarah) is required. As mentioned earlier, despite variances in minor matters, there is a remarkable consensus among the four Sunni madhhabs on fundamental issues of Islam. Each founder of a madhhab substantiated their rulings with reliable evidence. Differences between madhhabs are predominantly observed in ritual worship, such as the manner of tying hands while standing for prayer, the act of raising hands during takbir, and the recitation or omission of Surah Al-Fatiha while following the imam [8, p.177], etc.

For instance, the diverse rules regarding the positioning of hands during prayer—whether to place them on the chest, lower chest, below the navel, or by the sides—are all rooted in hadiths. These narrations were meticulously studied by the founders of the madhhabs, and each madhhab arrived at distinct rulings based on particular criteria. Such discrepancies in fiqh issues are commonly observed in the interpretations of hadiths by scholars of different madhhabs, as each adopts varying approaches in selecting and prioritizing hadiths. Abu Hanifa, the founder of the Hanafi school, adopted a distinct methodology in this regard. The encounter between Imam Abu Hanifa (may Allah be pleased with him) and Imam al-Awzai⁵ (may Allah have mercy on him) in Makkah is a notable example. Imam al-Awzai queried Imam Abu Hanifa, "Why do you not raise your hands during ruku'?" Imam Abu Hanifa responded, "Because we do not have a reliable hadith from our Prophet (peace be upon him) regarding this matter." Imam al-Awzai then narrated a hadith from Zuhri, from Salim, from his father Abdullah ibn Umar, stating that the Prophet (peace be upon him) used to raise his hands at the beginning of prayer and before and after ruku'. Imam Abu Hanifa countered by citing a hadith from Hammaad ibn Salama, who heard from Ibrahim Nakhai'i, who heard from Alqama and al-Aswad, and they heard from Abdullah Ibn Masud (may Allah be

⁵ Abu Amr Abdurrahman ibn Muhammad al-Awzai (707-774) was indeed the founder of the Awzai madhhab. Although this madhhab gained some traction in regions like Andalusia (Spain) and Sham (Syria), it ultimately failed to provide comprehensive solutions to the intricate issues of its era. Consequently, it did not achieve widespread dissemination and gradually faded into obscurity.

pleased with him) saying that the Prophet (peace be upon him) raised his hands only at the start of prayer and did not repeat it afterwards. Imam al-Awzai then questioned how Imam Abu Hanifa's hadith could supersede the one he provided. Imam Abu Hanifa explained that Hammaad was more knowledgeable (faqih) than Zuhri, Ibrahim al-Nahkai'i was a greater faqih than Salim, Alqama's understanding of fiqh was comparable to that of Ibn Umar, and Aswad's knowledge surpassed many. Furthermore, Abdullah Ibn Masud's authority in matters of fiqh is unparalleled. After these remarks, Imam al-Awzai fell silent [7, p.39].

Indeed, the encounter illustrates that Imam Abu Hanifa gave considerable weight to the level of knowledge and understanding (fiqh) possessed by the narrators when deriving conclusions from hadiths. This emphasizes the importance he placed on the depth of comprehension and expertise of the scholars transmitting the hadiths.

It's interesting to note that during Hajj, pilgrims from diverse regions around the world adhere to the prayer practices established in their respective countries without encountering objections or discomfort. However, when individuals within the same region, following the same madhhab guidelines, pray in varying manners, it has led to discord. This contrast highlights how adherence to a unified approach within a community can foster cohesion, while divergence from such norms may result in tensions.

It is undeniable that Islam has had a positive impact on the history of the people of Central Asia. Concurrently, the unique regional Islam that has developed in Central Asia has contributed to the broader Muslim culture. Despite the positive influences of madhhabs, proponents of non-madhhabism persist in discrediting the longstanding legal schools practiced by Muslims over centuries. Consequently, various forms of discord have arisen within Muslim societies, threatening the harmony and tranquility that once characterized their way of life.

According to scholars, society has historically been divided into two distinct groups concerning their level of knowledge in Shari'a: religious specialists and laypeople. Religious specialists were dedicated to their specific areas of expertise, honing their knowledge to perfection. On the other hand, ordinary people were occupied with their daily occupations and crafts, seeking guidance from specialists when necessary for solutions to various issues. Similarly, mujtahid jurists were responsible for issuing Shari'a judgments, while common Muslims adhered to these judgments. Consequently, with respect to Shari'a judgments and their evidences, people were categorized into two groups: mujtahidun (qualified jurists) and muqallidun (imitators).

When discussing madhhab and the adherence to a particular madhhab, it's crucial to address the concept of ijtiḥād and the varying levels of individuals in relation to it. Following a madhhab is a prerequisite for those who have not attained the level of ijtiḥād. Madhhabs themselves are the result of ijtiḥād, and ijtiḥād is a complex endeavor that not everyone is capable of undertaking. Apart from a relatively small number of unambiguous statements in the Quran and the Prophetic traditions containing clear and specific normative rulings, the majority of Islamic law was formulated through ijtiḥād [10, p.27]. "Ijtiḥād" is an Arabic term that literally translates to "exerting one's utmost effort in a challenging task using all available capacity." In scholarly contexts, ijtiḥād refers to the process of deducing Shari'a provisions from the divided evidences of Shari'a by a fiqh scholar possessing a specific level of scientific aptitude in Shari'a studies [5, p.306]. The individual engaged in legal reasoning is referred to as a mujtahid. A mujtahid is knowledgeable about the sources prescribing Shari'a judgments and possesses the ability to derive

Shari'a provisions from them. Mujtahids are further categorized into mutlaq (absolute) mujtahids and muqayyad mujtahids. Mutlaq mujtahids have the authority to independently engage in ijtiḥad across all issues without adhering to any particular madhhab. It is widely acknowledged that there are currently no individuals who possess the qualifications and fulfill the conditions for being a mutlaq mujtahid. The founders of the four madhhabs—Abu Hanifah, Imam Malik, Imam Shafi'i, and Imam Ahmad ibn Hanbal—are recognized as mutlaq mujtahids. Muqayyad mujtahids, on the other hand, operate within the framework of a specific madhhab. In contemporary times, matters related to ijtiḥad are addressed by international fatwa councils, fiqh academies, and ulama councils.

The second group of people, known as muqallidun, consists of individuals who lack the knowledge of the sources guiding to Shari'a provisions. They may also lack the understanding of what types of provisions to derive from these sources. Alternatively, they may know the sources but lack the knowledge of how to derive judgments from them. In other words, muqallidun are those who lack the capacity for ijtiḥad and instead follow the rulings of mujtahids. A muqallid is an individual who engages in this process of imitation.

Indeed, "taqlid" in Arabic translates to "to hang something or a necklace on somebody's neck" [5, p.391]. This term metaphorically refers to the act of imitating or blindly following the rulings of a mujtahid without independent reasoning or understanding. As a terminology, "taqlid" denotes the practice of following a legal judgment without possessing knowledge of its underlying evidences or rationale [5, p.390]. According to scholars of the Hanafi school and Maturidi, it is permissible for a Muslim to be a muqallid, and they affirm that lack of knowledge about the evidences behind acts of worship and beliefs does not jeopardize one's religion. In general, many scholars emphasize that imitation (taqlid) is not contrary to Shari'a. They argue that individuals who have not attained the level of ijtiḥad must engage in taqlid, even if they are scholars themselves. They provide evidence from the Quran, ijma' (consensus of scholars), and rational considerations to support this stance.

Evidence in the Qur'an:

According to the Quranic verse cited, an individual lacking knowledge of the provisions and evidences of Shari'a law is mandated to seek guidance from those well-versed in such matters and to adhere to their guidance: **"And We sent not before you except men to whom We revealed (Our Message). So ask the people of the message if you do not know!"** (*Nahl*, 43) [5, p.399; 6, p.97].

Evidence from ijma':

As Ibn Khaldun and other historians have noted, not all of the Sahabas (companions) were qualified to issue fatwas, nor were they universally regarded as authoritative sources for religious instruction. However, the number of Mujtahid companions capable of issuing valid fatwas was considerably lower than that of Muqallid companions who sought such rulings. Mujtahid companions actively encouraged Muqallid companions to seek fatwas, rather than urging them to develop their own capacity for ijtiḥad. Moreover, the Prophet (peace be upon him) himself dispatched knowledgeable companions to regions lacking sufficient Islamic knowledge, where the local populace wholeheartedly adhered to their issued fatwas. Occasionally, companions resorted to ijtiḥad in matters for which they found no explicit evidence in the Quran and Sunnah, and the people followed their judgments. Given the lack of rejection of this practice by the companions

and Tabi'un, imitation is deemed permissible due to a tacit consensus (ijma') [5, p.339; 6, p.98].

A rational argument:

The qualification of ijtiḥād is a specialized skill possessed by only a select few individuals. Therefore, mandating this requirement for all individuals would amount to imposing a burden beyond their capability, which is impermissible in Shari'a: **"...Allah does not charge a soul except (with that within) its capacity..."** (*Baqara*, 286).

Muslims are encouraged to actively engage in daily life pursuits, pursue occupations, and undertake activities that enable them to provide for their families and fulfill their responsibilities. If it were obligatory for every Muslim to possess comprehensive knowledge of the sources and provisions of Shari'a judgments, they would be compelled to set aside all other endeavors in order to dedicate themselves solely to the study of Islamic law. This would result in the breakdown of social life within the community, disruption of life's essential systems, and imposition of undue hardships on people. Such an outcome contradicts the principles of Islam, as Allah states in the Qur'an: **"...He has chosen you and has not placed upon you in the religion any difficulty..."** (*Hajj*, 78). The solution to this problem lies in adhering to the Shari'a judgments derived by mujtahids, namely the madhhabs [5, p.340; 6, p.97-98]. In his work *"Ihya ulum al-din,"* the eminent scholar Imam Ghazzali, known as Hujjat al-Islam, offered the following guidance: "The appropriate path for laypeople is to believe, obey, and diligently engage in their prayers and daily activities, while leaving matters of scholarly inquiry to experts in the field. This is because one who speaks about Allah and His religion without possessing precise knowledge is akin to a person who ventures into a boundless ocean without knowing how to swim, unwittingly committing blasphemy in the process" [5, p.340].

Taqlid (imitation) is a necessary and inherent process. Even individuals who assert that they do not adhere to any particular madhhab and downplay the significance of madhhabs ultimately find themselves following the guidance of someone else.

The evidences provided above underscore the necessity for individuals who have not attained the level of ijtiḥād to follow the guidance of mujtahids in making judgments. As articulated by the renowned scholar Abu Ishaq Ibrahim Shatibi, "The role of mujtahid for laypeople is comparable in importance to the significance of Shari'a sources for mujtahids".

For centuries, Muslims have adhered to one of the four madhhabs—Hanafi, Maliki, Shafi'i, and Hanbali—without any significant questioning of their reliability. Numerous jurists, hadith collectors, as well as scholars of scholastic theology and Sufism, have conducted their activities in accordance with these madhhabs.

The concept of non-madhhabism embodies the peril of regressing and hindering progress within the nation. Should experts across various fields adopt non-madhhabism, they would risk diverting their focus away from enhancing their professional skills or conducting research, instead becoming entangled in intricate religious matters and devoting their lives solely to deriving religious rulings and judgments. Consequently, specialists in diverse fields may find themselves ill-equipped to navigate the swiftly changing conditions of globalization: neither proficient specialists nor seasoned scholars. This deficiency in skilled professionals could precipitate stagnation within the nation, potentially leading to crises. Indeed, dedicating oneself to becoming a proficient expert in their field, capable of contributing to societal progress, enhancing lives, and playing a role in growth, is regarded as an act of worship.

The notion of non-madhabism can be likened to a computer virus, aiming to implant its own detrimental ideologies by swiftly erasing the rich historical heritage of Central Asian countries intertwined with the teachings of the Hanafi madhab.

In contemporary times, the emergence of individuals advocating for non-madhabism within the citizenry of Central Asian governments underscores the necessity for a precise elucidation of the essence of this potentially harmful concept. Concurrently, it becomes imperative to unveil the true essence and invaluable significance of madhabs. Of particular importance is the clarification of the pivotal role played by the Hanafi madhab, a path that has been steadfastly followed by Muslims in Central Asia for centuries.

In conclusion, the discourse surrounding madhabs and non-madhabism underscores a nuanced interplay between tradition and modernity, heritage and innovation. While adhering to a madhab provides a structured framework for religious practice and legal interpretation, the emergence of non-madhabism presents challenges to this established paradigm. However, it is essential to recognize the enduring significance and profound value of madhabs, particularly the Hanafi madhab, which has served as a cornerstone of Islamic identity in Central Asia for centuries. In navigating these complex dynamics, it becomes imperative to strike a balance between preserving tradition and embracing contemporary interpretations, ensuring that religious discourse remains relevant and inclusive in an ever-evolving world.

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