
The Evil Consequences of *Tagleed, Hizbiyyah and Partisanship*



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Contents & Questions

[1] *Im interested in the statement that madhabs were enforced due to partisanship and not due to scholarly foresight or decision, can i gain further information to read up?.....* **[5]**

[2] *Ok the scholars state that the laypeople can take a ruling without understanding the reasoning behind it from a reputable scholar, isnt that similar to what the madhabs have done, ie the pious predecessors with their methodologies have derived rulings for all thinkable and unthinkable topic areas?.....* **[40]**

[3] *Then obviously, the scholars provide the evidence, but if the layperson doesnt have the ability to understand and know, then its fruitless, wont they just take whatever's given to them, on the fact that they dont know? For example, like a doctor who gives a prescription, they can give evidence for the prescription, the patient will take it because they dont know what he is on about. Couldnt this lead to not only confusion, but a fragile deen in the layperson.....* **[62]**

[4] *The scholar always refers back to Imam Abu Hanifa for example, as the one people turn to, however, didnt his as well as other methodologies and schools of thought encompass not one, but hundreds if not thousands of scholars from inception, refining the rulings? So to emphasise the turning to the Imam,*

specifically, isnt correct because it overlooks the contributions that hundreds and thousands of scholars made right..... **[69]**

[5] *How can a layperson tell which hadith is weak and which is strong without blindfollowing?.....* **[108]**

*Alhamdulillahilahi Rabbil A'lamin, Wasalatu Wasalam Ala Rasoolillahil Karim,
Wa, Ba'd*

1. Im interested in the statement that madhabs were enforced due to partisanship and not due to scholarly foresight or decision, can i gain further information to read up??

ANSWER

Sure, although it can be said madhabs and their taqleed was enforced due to partisanship and at times staunch and bigoted as they may have been it would also at the same instance be unfair to say madhabs were enforced due to this reason alone. It may be said or argued that this enforcing was a cause for the partisanship and also similarly and equally the partisanship was a means and a reason for the enforcing and this is how this dynamic should be understood.

This has also lead to some fanatics in their fanaticism in giving Ahlul Bidah a field day and not saying anything about them but rather using petty personal egotistical concepts to attack the salafis under various garbs and fabrications. These individuals are not to be excluded from such categories below.

The intelligent individuals who known the truth should walk away from them without being scared from them, especially when they very well known that Allaahs dhillah is upon him because he cant even lead the people in the jumuah prayer because he cant recite the Quraan. This is Allaahs wrath on this individual (more to come)

in addition by accepting and acknowledging wherein at times madhabs were enforced due to partisanship it should also be understood scholarly foresight, islamic intellectualism and orthodox learning did have a role.

This discussion and in particular this point also needs to be also understood from a different reverse perspective and that is, madhabs and their affects were rampant and enforced on the masses by eliminating and reprimanded those who called to and propagated the ideology of just sticking to the clear manifest ahadeeth. In addition whilst extending the scope of this discussion this enforcing was done in a number of ways, some were

The state enforcing a particular madhab by either enforcing it due to fear of institutional punishment, incarceration, exiling or boycotting and other times it was by offering financial incentives to those who adopted a particular madhab

- Fear of reprisal from the general public, social boycotting and public censure
- Alienation from community, odd one out
- Public pressure, hounding and pestering to follow a particular madhab
- Following the majority or someone well known following a particular madhab
- A school of thought being famous or gaining popularity due to more schools
- Fabricating narrations and ahadeeth in support and veneration of a particular madhab and also in disparagement and censure of other madhabs based purely on partisanship and factionalism.

These are just some of the cases and what follows are some examples of the the reasons and means why madhabs may have been enforced on the people.

Let us now look at examples of how at times throughout the centuries in the Islamic Kingdom madhabs were enforced due to partisanship based on some of the reasons above.

Imaam Baqee Ibn Mukhlad 273H

He was a great Imaam of Ahlus Sunnah and travelled to Andalus where he began to deliver lectures and open circles on Hadeeth so much so that knowledge of the prophets statement became widespread. During this time the Maliki Jurists made life very difficult for Imaam Baqee.

From such jurists were the likes of Muhammad Ibn Haarith, Ahmad Ibn Khalid and Abu Zaid (Most probably Maliki) and so they complained to the ruler of Andalus at the time. Allaah aided this blessed call and Imaam Baqee's call overpowered with the Aid of Allaah and hence the teaching and knowledge of Hadeeth spread in Andalus.

Similarlry Imaam Ibn Hazm mentions Imaam Baqee would teach Musannaf Ibn Abee Shaybah and some people of Rayy ie the people of opinion who historically have been adjoined and considered to be hanafis complained to the ruler at the time. Similarly such Hanafis or Ahlur Rayy caused dissent and discord amongst the people against Imaam Baqee.

The ruler at the time was a learned man ie Muhammad bin Abdur Rahman who told to people to leave Imaam Baqee also and then instructed him to continue teaching and preaching the Prophetic Ahadeeth, thereafter Ahlur Rayy stopped pestering and bothering

him.(refer to *Taareekh Ulama Andalus (1/92)*, *Siyar al-A'laam an-Nabula (12/286)* onwards of Imaam Dhahabee)

So this example illustrates how the Maliki and Hanafi Ahlur Rayy madhab were enforced and heavily propagated by scaring the people and those who preached anything contrary. Non madhabis would be hounded, pestered and complained about, to the government.

Imaam Baqee Ibn Mukhlad did not follow a particular or specific madhab and his methodology was a universal one which still exists today ie just following the a Quraan and Hadeeth without being limited by a madhab. For example Qaasim Ibn Asbag who was a Maliki narrates that Asbag bin Khaleel who was an extremely bigoted Maliki and severely engrossed in madhabee partisanship would warn Qaasim bin Asbag not to listen to Hadeeth from Baqee Ibn Mukhlad.

He would also say that it would be more beneficial for a pig to be placed on his bier than *Musannaf Ibn Abee Shaybah* be placed in it. The reason for this was because *the Musannaf of Ibn Shaybah* contained narrations that rendered some Maliki (and Hanafi) views and juristic decisions to be futile, null and void. (*Siyar al-A'laam an-Nabula (13/302)* *al-Ei'tisaam (2/348)*)

Both Haafidh Ibn Katheer and his teacher Imaam Dhahabee mention the ruler of Misr at one time was Afdhal bin Salaah ud deen Azeez and just before his death in around 595H he intended to banish and expel the Hanaabillah and the followers of the other madhaahib from Misr. Some historian have cited this was due to Afdhal bin Salaah ud deen Azeez having Hanafi roots. (*Refer to al-Bidaayah Wan-Nihaayah (13/218) and Siyar al-A'laam an-Nabula (21/463)*)

Haafidh Ibn Katheer and Imaam Dhahabee also mention the trial and tribulation that befell Haafidh Abdul Ghaneer al-Maqdisee. In and around 595H again The grand masjid in Damascus known as Jaam'ee Amawee had 4 Musallahs, one for each Madhab. Haafidh Abdul Ghaneer al-Maqdisee would deliver his lectures at the Hanbalee Musallah on the issue of Asmaa Was Sifaat of Allaah and Aqeedah in general.

Some of the followers of the other madhabs like Qadhee Ibn at-Turkee and Dhiyaa ud deen Khateeb ad-Daula'ee could not fathom this because they differed with him on Aqeedah as well as Fiqh as they were from different madhabs. In light of this they went to the see the ruler at the time who was Saarim ud deen Barghash.

A debate on the issues of Aqeedah was organised and Haafidh Abdul Ghaneer al-Maqdisee debated all of them ferociously. No doubt the

opposers were followers of the other madhabs and were Asharee in Aqeedah.

When Haafidh Abdul Ghanee al-Maqdisee defeated them and the Asharees and followers of the other madhabs pushed Ameer Saarim ud deen Barghash further who in the end expelled and forced Haafidh Abdul Ghanee al-Maqdisee into exile. The people were ordered to destroy the Minbar of the Hanbalis, their books and literature were thrown out and on the same day there was no Dhuhr prayer for the Hanbalis.

Likewise and similarly they were banned and prohibited from teaching in Jaam'e Amwae and a lot of discord and dissention occurred as a result of this argumentative and quarrelsome period. (*Refer to al-Bidaayah Wan-Nihaayah (13/218) and Siyar al-A'laam an-Nabula (21/463)*)

Some historians mention Haafidh Dhiyaa al-Maqdisi, the author of the book of Hadeeth known as al-Mukhtarah was once going through and reading Imaam Uqailee's *adh-Dhu'afah* to the public in Mosul, which is in present day Iraq. The people of Mosul captured Dhiyaa al-Maqdisi and put him in jail and wanted to eventually kill him.

The reason for this was because Imaam Uqailee's *adh-Dhu'afah* had some statements disparaging the integrity of Imaam Abu Haneefah. Such was the case that whilst in jail the executioner was about to kill

Dhiyaa al-Maqdisi when at the last minute he was told to stop. Later it transpired that Haafidh Barnee had ripped the pages in question disparaging Imaam Abu Hanfeeah from Imaam Uqailee's book and therefore in this Haafidh Dhiyaa al-Maqdisi was spared.

Ahmad Ibn Dawood was the Chief Justice of his era ie the Qadhee tul-Qadhaa. Ahmad Ibn Dawood was well known for his animosity against Imaam Ahmad Ibn Hanbal in being the chief proponent and opposition to Imaam Ahmad on the issue of the creation of the Quraan. Imaam Ahmad had to suffer greatly at the injustice and partisanship of Ahmad Ibn Dawud who was a mutazilee Jahmee yet a Hanafi in jurisprudence.

He has spearheaded a vehement onslaught on the Aqeedah of Ahlus Sunnah Wal Jama'ah regarding the creation of the Quraan and negation of the Sifaat. Yet he was a Hanafi, later historians and islamic intellectual authors have cited Ahmad Ibn Dawud was a staunch bigoted Hanafi and further opposed Imaam Ahmad Ibn Hanbal due to his jurisprudence and Imaam Ahmad's firm stance on taking ahadeeth over opinion and staunch partisanship madhabism.

As mentioned Qadhee Ahmad Ibn Dawud was the chief Qadhi of his era and in addition to promoting Aqeedah contradicting Ahlus Sunnahs he would also forcefully impose Hanafi jurisprudence throughout

the era he was the Chief Justice off. (*Refer to ad-Daleel A'la Butlan at-Tahleel Wa Manaazil al-Ai'mah tul-Arba'a of Shaikh Silmaasee*)

Shaikh Ibn Khalkaan mentions when Yahyaa Ibn Yahyaa al-Laithee al-Masmoodee came to Andalus the state gave him immense respect and honour in that he was made head of the scholars and the Islamic affairs, so much so that he established and spread the Maliki madhab. (*Refer to Wafyaat al-A'yaan (6/144)*)

Shaikh Ibn Khalkaan has also cited that Imaam Ibn Hazm has very clearly and manifestly stated that 2 madhabs were spread by state imposition and those in authority or in leadership, the Hanafi and Maliki Madhab.

(1) Imam Abu Yoosuf was one of the main student of Imam Abu Haneefah who during his time was made the chief Judge. During his era all judgements would come via him and no doubt they would be based on the Hanafi madhab. Such a state existed from the Far East all the way to the furthest frontiers of Africa and Imam Abu Yoosuf would give positions to his students, companions and those associated to the Hanafi madhab in local law courts and as judges.

(2) The Maliki madhab spread in Andalus and what is current day Spain which is colloquially known as Maghrib which also includes

some of the North African States. As already mentioned Yahyaa Ibn Yahyaa al-Laithee spread the Maliki madhab in those regions as he was close and favoured by the ruler of his era.

All judgements would go through him and his word would be final in such religious affairs. In addition no judge would be appointed in the whole of Andalus without his permission and he would also only advise that his students, companions and those belonging to his madhab be appointed at such positions as judges etc.

Many people wanting to achieve success and benefit in this world and would therefore flee and rush towards the Maliki madhab to gain this benefit. However it must be noted Yahyaa Ibn Yahyaa al-Laithee did not himself accept the position of being a judge and this is also the reason why he was respected and revered more by the government of Arbab. (*Refer to Wafyaat al-A'yaan (6/144)*)

Imaam Ibn Hazm discusses this in great depth and detail monumental book '*al-Ahkhaam Fee Usool al-Ahkaam*' (1/575-576) so please refer to it.

Shaikh Ibn Humaam, the well known Hanafi jurist said, "Abul Yasr said it is impermissible for a Hanafi to pray behind a Shafiee and the reason for this is due to what Makhool an-Nasafee wrote in his book 'ash-

Sha'aa'a' that raising the hands whilst going into ruku and rising from it invalidates the prayer because this is an excessive action. Qadhee Khan only allows its permissibility on the condition that the Shafiee is not staunch bigot and that he does not doubt his eemaan. (Refer to *Ibn Humaams Fath ul-Qadeer* (1/31))

We ask is this not imposing and scaremongering the people in saying that that prayer is not valid behind a Shafiee, who in their right mind would want to be a Shafiee or even contemplate being one, knowing very well any prayer behind him would be invalid. Is this not a type of enforcing a madhab on the people by instilling the fear of consequence and reprimand? Of course it is.

On the other end of the spectrum Imaam al-Haramain al-Juwainee who was a Shafiee would vehemently oppose and talk about imam Abu Haneefah and he would say if the prayer which Abu Haneefah held to be permissible was ever shown to a normal person he would never accept it. Whereas the prayer is a pillar of the deen and as their Aqeedah with regards to the prayer is null and void this clarifies and makes the futility of their madhab manifest. (Refer to *Mugeeth al-Khalq* (pg.59))

So now who would want to be a Hanafi when the Imaam of the Haram, Imaam al-Juwainee is effectively saying the prayer of the hanafis is invalid and because this is the case their belief regarding the prayer which

is a pillar of the deen is defective, it in turn leads to the notion of the whole hanafi madhab being futile!!! Is this not partisanship being imposed and propagated as the only right way and also being enforced on the people as to show only the Shafiees prayer correctly.

Imaam Bukhaari's *Saheeh al-Bukhaari* is the most authentic book after the book of Allaah in fact numerous scholars of Hadeeth have cited and mentioned unanimous agreement ie Ijmaa that all of the Hadeeth in Bukhaari are all authentic.

Despite this, look at what a staunch and bigoted Hanafi by the name of Abu Yoosuf bin Moosaa bin Muhammad bin Abee Takeen al-Maltee and then Halabee famously said, "Whoever looks at (ie reads) Bukhaari has become a zindeeq (ie a heretic)" (*Ambaa al-Ghamr Ba Ambaa al-Umar* (4/448).

Is this also not scaring the people from reading Bukhaari? Who would want to become a zindeeq ie heretic? No one. This is enforcing partisanship in reversing the understanding ie the one who looks at the prophets hadeeth is a zindeeq therefore remain a Hanafi!!!

From the later scholars Mulla Ali Qari Hanafi cited what the author of *Kaidaani* said that the 10th haram or unlawful thing to do in the prayer like the Ahlul Hadeeth do is the moving and pointing of the finger.

This is the practise of those who follow the Hadeeth. *(Cited by Shaikh Rasheed Ridha in his introduction to the al-Mughni (1/20).*

Is this not enforcing a madhab based on partisanship and sheer neglect and disregard of scholarly foresight and differences. How unfair and unjust is it to say following any of the madhabs is correct yet at the same instance we have such confrontational bigoted statements that indicate that only one madhab is actually really correct according to them.

Shaikh Abdul Hayy Lucknowi 1307H mentions another a reason of bigoted partisanship was fabrication of Hadeeth to promote ones madhab. He mentions about Mamoon al-Harawi, who was Hanafi) fabricated a Hadeeth which allegedly mentioned the invalidation of the prayer of the individual who raised his (before and after ruku) and reciting Fatihah behind the Imaam. He also fabricated ahadeeth in the censure and disparagement of Imaam Shaafi'ee and in praise and veneration of Imam Abu Haneefah. *(Refer to at-Tawaam al-Mar'ashah (pg.67)*

The well known and hugely followed Hanafi madhab was enforced and spread via the state and in this regard also imposed on the masses. The government of that time was mutazili and Jahmi in belief and manifested itself at the state level in around after the second century. The state was under the rulership of Mamoon Rashid who began is rulership

around 198H but manifested and propagated his mutazili and Jahmi beliefs around 212H.

This mutazili and jahmi government lasted and ruled for approximately 40 years and during this period it's heads and leaders worked emphatically and vigorously to spread their beliefs and madhab in terms of Aqeedah.

Allaah the Mighty and Majestic said,

وَلَا تَكُونُوا كَالَّذِينَ تَفَرَّقُوا وَاخْتَلَفُوا مِنْ بَعْدِ مَا جَاءَهُمُ الْبَيِّنَاتُ
وَأُولَئِكَ لَهُمْ عَذَابٌ عَظِيمٌ ﴿١٠٥﴾

“And do not be like the ones who became divided and differed after the clear proofs had come to them. And those will have a great punishment.” (Soorah Ale-Imran:105)

Such obstinance understanding of the madhabs and this staunchness led to further problems with the madhabs, in that there were more extreme and grave differences. This lead to some serious consequences and the following can only but show the fruits and affects of taqlid and blind following.

For example Yaqut Hamawi whilst writing his description and notes about the area of Rayy, he says first the hanafis and shafis joined forces and expelled and refuted the shia, thereafter he adds, "Then the hanafis and the shafis began fighting, the shafis despite being less in number would always be victorious to the extent that the hanafis of ar-Rustaq would come to aid their fellow hanafis but to no avail. In the end only those from amongst the hanafis and shafis were saved who hid their madhab and turned their houses into places of shelter and if they had not done this then no one would have been saved." (*Mu'ajam al-Buldan* 3/117 and *Dhuhr al-Islam* 1/80)

Likewise and similarly he writes about Isbahan, "During this era and the time before around Isbahan and the surrounding areas due to the bigotry and partisanship of the shafis and hanafis, discord and dissension spread. A battle between them waged for 8 continuous days, when one would overpower the other they would destroy and demolish their houses and burn them and in doing so they would not feel any remorse or sorrow and this calamity befell a large group of people." (*Mu'ajam al-Buldan* 1/209, *al-Kamil* 11/319, *Dhuhr al-Islam* 1/80)

Allamah Ibn Athir said concerning the events of 323H, "The status of the Hanabillah grew, so wherever they saw fermented alcohol they would spill it and wherever they saw a singer they would hit him and also brake the musical instrument. If they would see a man with a woman or children they would ask him who they were? If he replied correctly they would let him go and if

not they would severely beat both of them and declare her to be a fahishah and then hand her over to the government officers.

In the end Badr al-Kharshani made a public disorder announcement in Baghdad and said no two hanbalis can get together nor should anyone debate or quarrel with them and the Imams should recite Bismillah loudly. This then fulfilled the situation even more and if the hanbalis found a shafi they would severely beat him, rendering him unconscious." (*al-Kamil* 8/307-308 and *Dhuhr al-Islam* 1/79-80).

Allamah Ibn Athir also wrote concerning the events of 447H, he says? "The shafis and the hanbalis had severe standoffs and argumentations in Baghdad under the leadership of Abu Ali bin Fura and Ibn Tamimi both hanbalis. The hanbalis began to severely warn against reciting Bismillaah loudly in the prayer, from reciting the qunoot in the fajr prayer and the secondary Adnan. At one masjid they prohibited the imam from reciting Bismillaah loudly in the prayer. So the imam bought the Quran to them and told them to erase the words of Bismillaah from the Quran so that he does not have recite it loudly." (*al-Kamil* 9/614)

And in the events leading upto 475H he wrote that the Shaikh Sharif Abul Qasim al-Bakri al-Maghribi came to Baghdad and he was an Asha'ari Shafi. He delivered lectures in Madrassah Nizamiyyah and he said whilst addressing the Hanabillah whilst reciting the ayah

(Soorah al-Baqarah:102), “Sulaiman (Alayhis Salam) did not commit kufr but shaytan did and by Allaah I do not say (Imam) Ahmad committed kufr but his followers are kafirs!!!” (*Siyar A’laam an-Nabula* 18/562, *al-Kamil* 10/134)

In the same Madrassah of Nizamiyyah when the son of Shaikh Abdul Karim Abul Qasim al-Qushairi, Abu Nasr came to Baghdad in 469H he delivered lectures and admonitions in the Madrassah. He was Asha’ari and hence had a vehement difference with the Hanbalis. So this dissention and extreme animosity between the two became so propelled and violent that a group of them died in the fighting and killing that pursue. (*Wafyat al-A’yan* 3/208, *Dhail Tabaqat al-Hanabillah* 1/19-21, *Siyar al-A’lam an-Nabula* 18/319)

And when Imam Ibn Jarir at-Tabari died the Hanabillah refused and stopped him from being buried in the graveyard of the Muslims!!! So he had to be buried during the darkness of the night. (*al-Bidayah Wan-Nihayah* 11/146, *Zuhr al-Islam* 2/40)

Shaikh Muhammad bin Muhammad, who was a Shafi also came to the Madrasaah Nizamiyyah and started to deliver lectures and sermons. One day he started to have bad stomach pains and then eventually died. Then a whole group of people in the gathering also died. Later it was revealed that the Hanabillah had poisoned the food. (*al-Kamil* 11/376), *Mir’atul Janan* 3/382)

Allamah Ibn Athir writes, "In the year 317H a major tribulation took place, Imam Abu Bakr al-Marwazi al-Hanbali and his student and the other people disagreed and differed with regards to the explanation and tafsir of the statement of Allah, ***"it is expected that your Lord will resurrect you to a praised station."*** (Soorah al-Isra:79). So they differed so much with each other that they started fighting and killing one another, that a large number of people were killed on both sides." (*al-Bidayah Wan-Nihayah* 11/162, *al-Kamil* 8/213)

And in Egypt which was known as the hub and home of the shafis and they considered it to be their homeland because Imam Shafi migrated there. When the ruler at the time died, they said this was punishment for him because he had allowed jurists and judges of the other madhabs to issue edicts and verdicts. (*Tabaqat Shafiyyah* 1/174, *The laste Indian Hanafi Scholar Shaikh Abul Hasan Ali Nadwi also cited this in his book. Tarikh Dawat Wa Azimat* 2/34)

Muhammad bin Musa who died in the year 506H, was a Hanafi and the Qadhi of Damascus. He would say, "If I was the ruler I would take jizyah from the Shafis." (*al-Jauhar al-Mudhiyyah* 2/136 and *Meezan ul-Ei'tidaal* 4/52)

And the jizyah is like a tax the Muslim government takes from the non Muslims residing in the Muslim lands and here a Hanafi Qadhi is saying if he was in authority or power he would take this tax from the Shafi Muslims. What does this say about Muhammad bin Musa's opinion about the Shafis when the jizyah is taken from the disbelievers?

And some of them went on further to say, it was impermissible for Hanafis and Shafis to get married. Hence Shaikh Safkardi Hanafi said, *"It is not possible (or appropriate) for a Hanafi to wed his daughter to a person who is upon the Shafi madhab however a Hanafi man can marry a Shafi girl." (Fatawa al-Bazaziyyah 4/112 printed on the margins of al-Hidayah and also refer to al-Bahr ur-Raiq 2/51).*

And here Shaikh Safkardi Hanafi likened the situation to a Muslim man marrying a woman of the book and we also know a Muslim woman cannot marry a man from amongst the people of the book. Also note that he falls short of actually declaring it unlawful.

Also the hanafis, namely the hanafi jurist Abu Laith as-Samarqandi would say praying behind the Shafis is only permissible if the Shafi is not staunch or bigoted and he does not say concerning his Imam that he is inshallah a believer, that he does not majorly change the direction of Qiblah, if he does wudu if anything liquid is discharged other than his privates, if he has done wudu from a container that has 2

qullas of water and has impurities in it and that he does not raise his hands whilst going into ruku and rising from it. (*Fatawa an-Nawazil* pg.48-49, similar ideads have also been cited in *Qadhi Khan* 1/43, *Radd al-Mukhtar* 1/563-564, *Fatawa Alamghiri with Qadhi Khan* 1/84, *Fatawa Tatarikhaniyyah* 1/652 and also *Fath ul-Qadir* 1/313)

The Shafis during their eras were also vehemently ferocious against the Hanafis and would also prohibit and declare it to be unlawful to pray behind the Hanafis just on the basis of differences in Fiqh. For example if the hanafi imam touched his wife whilst being in a state of wudu or if he did not pray in a clam manner. Imam Nawawi went onto say praying behind them under such circumstances was impermissible according to Shaikh Ibn Qaffal and this was also the position of the majority (of the scholars of the shafis) and this is what is correct.

He goes onto say Shaikh Abu Ishaq Isfaraini said that a Shafi should never pray behind a hanafi, also they say if a Hanafi did wudu according to Shafi way then according to the majority (of the shafi) scholars praying behind such an Imam is correct. Shaikh Ibn Qaffal said his prayer is incorrect. Etc. Also statements of this kind have been cited from Shaikh al-Awdani and Shaikh al-Halimi who were from the major Shafi scholars. (*The details of which can be seen in Sharh al-Muhazab of Imam Nawawi* 1/203 and 4/289)

The Hanbalis and Shafis argued and debated on issues of belief and this reached such heights that it was said by the Hanbalis, “Whoever is not a Hanbali is not a muslim.” (*Siyar A’lam an-Nabula* 18/508, *Dhail Tabaqat al-Hanabillah* 1/52)

The Hanbalis would say on the minbar, “I have been a Hanbali all of my life and so if I die I advise you, oh people become Hanbalis.” (*Dhail Tabaqat al-Hanabillah* 1/53 and *Tabaqat ash-shafiyyah* 3/117)

The results of such fighting and argumentation led to the likes of Imam Juwaini writing his book against the Hanafi madhab ie his *Mugith al-Khalq*. He wrote numerous accounts of examples and incidences of partisanship and extreme bigotry which cannot be understood even in light of history.

Then Imam Ghazali followed suit and any remaining scope or possibilities he fulfilled and completed, thereby authoring his ‘*al-Makhul*’. Thereafter he presented it to his teacher Imam Juwaini, who after seeing it said, “You have buried me alive, you should have at least waited after my death.” (*al-Munthazam* 9/169)

This shows the level of differences and disagreements that occurred between the madhabs and the level and extent this was

rampant throughout the Muslim Kingdom. This also the reason why Imam Juwaini said all the Muslims should do taqlid of Imam Shafi (*refer to Imam Juwainis Mugith al-Khalq*) and this is why Zahid al-Kawthari, the arch Hanafi in his ta'assub and bigoted staunchness wrote a book refuting Imams Juwaini's book.

In the western Muslim Kingdom like Spain the Maliki Madhab was widespread and we have already mentioned in Part 1 how the Muslims of the area behaved with Imam Baqi Ibn Mukhlad. The Maliks were not innocent of the shenanigans of the fight of the Madhabs.

One head of the Malikis fabricated a hadith and attributed it to Abdullah Ibn Masood (RadhiAllahu Anhu) that he allegedly said he prayed behind all of the 4 Khaliphs and none of them raised their hands except for the first time!!! When it is known that Abdullah Ibn Masood (RadhiAllahu Anhu) died in 32H and hence therefore could not have prayed behind Ali (RadhiAllahu Anhu) and all of the years behind Uthman (RadhiAllahu Anhu)!!! Is this not extreme partisanship and staunch bigotry. (*For more details refer to Tartib al-Madarik 3/143, Lisan al-Mizaan 1/458, Dhail al-La'ie pg.180*)

The affair continued and they said if a Hanafi became a Shafi his testimony or him being a witness will not be accepted. (*Refer to Durr al-Mukhtar, the Chapter of Testimony*).

In its explanation they said, "The individual who changes his madhab without a reason will be punished and the reason for this is the sin in his testimony being rejected. This is because it is not permissible for a lay person to change his madhab to a different one and the Hanafi and Shafi madhab are agreed upon this. It has also been mentioned if someone (ie a Hanafi) was to change his madhab to become a Shafi in order to get married, then we fear that if he was to die his iman would leave him." (*Radd al-Mukhtar 7/147, also refer to Fatawa Alamghiri 2/169 and Durr al-Mukhtar with Radd al-Mukhtar 4/80*)

The famous explainer of *Hidayah*, Amir Khatib al-Itqani who died in the year 758H. He mentions that in the year 747H he went to Damascus and one day the people were gathered to pray the Maghrib Salah and so they prayed. He says the Imam whilst going into ruku and whilst rising from it raised his hands, so I repeated my prayer and I said to the Imam. "Are you a Maliki or Shafi?" He replied that he was a Shafi.

So I said to him what harm was there if you did not do Raf ul-Yadain ie raise your hands so that the prayer of the congregation would

not be null and void because when you raised your hands our prayers became null and void. (*Taliqat as-Suniyyah Ala Fawaid al-Bahiyyah* pg.50)

Although Shaikh Abdul Hayy Lucknowi did rebuke Amir al-Itqani for this horrendous opinion but in reality the hanafis over later years realised the Sunnah was overwhelming and have since had a more placid attitude. However this was not an isolated opinion as many other Hanafi scholars of that era, later and before also held similar opinions.

For example the author of *Khulasatul Kaidani* mentions, if someone does Raf ul-Yadain, says Bismillah loudly in the prayer, says Amin loudly in the prayer and points his finger in the tashahud, then all of these affairs are from those which are haram ie unlawful (ie invalidate the prayer.). (*Khulasatul Kaidani* pg.15-16).

It must also be noted on the title page of *Khulasatul Kaidani* it says, "How do you know how to pray if you do not know *Khulasatul Kaidani*."

Similarly others have said raising the hands ie Raf ul-Yadain is makruh in the prayer ie is it prohibitively disliked (*refer to Radd ul-Mukhtar* 1/654 and *at-Tatarkhaniyyah* 1/562).

Other said it is makruh tahrimi and according to the Hanafi principles this means it is haram, ie it is haram to do raise your hands in

the prayer ie Raf ul-Yadain whilst going and rising from ruku. (*Refer to Badai as-Sanai 1/548 and Sharh al-Muniyyah pg.347 and Faidh al-Bari 2/257*)

During the time of Shaikh Abu Hafs Kabeer the well known Hanafi scholar, a Hanafi man prayed behind someone and recited the Fatihah (in opposition to the hanafi madhab) behind the imam and he also raised his hands ie Raf ul-Yadain. When Shaikh Abu Hafs found out he went and complained to the ruler of the time, who in turn ruled for the Hanafi man to be publicly lashed.

Some people feeling sympathy for the Hanafi man approached Shaikh Abu Hafs and intervened and plead on his behalf. The Hanafi man eventually repented and hence was spared the publish lashing. (*at-Tatarkhaniyyah 5/145*)

Raising the hands was also the reason why the hanafis had animosity and hatred for Imam Bukhari. Imam Dhahabi mentions when Imam Bukhari began teaching the people, they would come to him and say the takbir for the iqamah once and also raise their hands ie Raf ul-Yadain according to the way of Ahlul Hadeeth. One of the Hanafi jurists Hareeth bin Abee al-Warqa thought this was causing discord and dissension in the community and hence began to oppose Imam Bukhari. (*For more details refer to Siyar A'lam an-Nabula 12/465*)

Then we have Isa bin Abu Bakr bin Ayub who died in the year 624H, he was considered to be a scholar and prolific orator, he was also the ruler of Damascus for 8 years. Shaikh Mulla Ali Qari Hanafi said about him that he was of virtuous faith and a blessing upon the deen. Isa bin Abu Bakr was also responsible for writing a refutation of Imam Khatib al-Baghdadi and he falsely attempted to prove that Imam Ibn al-Jawzi was a Hanafi.

It is said about him that he was so staunch and bigoted that his father said to him one day, *"How have you adopted and accepted the madhab of Abu Haneefah when all of your family are Shafis. He replied, "Do you not wish that at least one member of your family becomes a Muslim!!!!" (al-Fawa'id al-Bahiyah pg.152) of Shaikh Abdul Hayy Lucknowi)*

And how about the scholar of the sub continent, Muhiy ud deen Muhammad bin Muhammad who died in the year 789H who was a staunch and bigoted Hanafi. It has been said about him that when he went on Hajj, he would do an umrah daily and finish the recitation of the whole Quran on a daily basis. However he would shun, criticise and abuse Imam Shafi and he would consider this to be a form of worship. *(Shudhrat udh-Dhahab 6/310)*

All of these disgareements, quarrelling, argumentation, bigotry, staunchness, animosity and enmity all in the name of madhabs and blindly following them. It is these traits that led to the 4 separate musallahs in the first house of Allaah ie Ka'aba. Dear Muslims how is it conceivable that based on our pristine and beautiful religion about which the people of the book would envy us led to such sects and factions in the first house of Allaah whilst making the most important aspect of worship ie the prayer.

There are also other differences in which they have shown extreme bigotry and scare monging tactics and thereby strongly refuting and rebuking the opinions of the other madhabs.

For instance the one Hanafi elder and scholar, ie Shaikh Abdullah Balkhi said, “*Whoever recites Fatihah behind the Imam, force soil into his mouth, and if not then break his teeth.*” He also issued an edict that the one who recites fatihah behind the Imam then his is a fasiq and someone who does something haram. (*Refer to Darr al-Mukhtar 1/544 and Fath ul-Qadeer 1/240*)

What impression and understanding does this give to the hanafi muqallid with regards to the other madhabs and people who believe one must recite fatihah behind the Imam, how comfortable would they feel if they prayed in their masjid!!!

Also what do we do about the positions of the other Imams and madhabs like for example Imams Shafi, Ibn Mubarak, Ishaq ibn Rahawaihah, Awzai, Abu Thawr, Bukhari and many others who heled the opinion that Fatihah should be recited behind the Imam. Are they worthy of soil being put in their mouths, their teeth being broken and fire put into their mouths??? Subhanallah, The Imams Bukhari and Baihaqi even wrote books on this topic obligating the reciting Fatihah behind the Imam.

Unfortunately this is the result of blind bigoted partisanship and such opinions lead to this level of sectarianism which ultimately lead to discord, chaos and dissention in the Ummah and the end goal of all of this is that a Muslim is prohibited and restricted from following and obeying the Book and the Sunnah. May Allaah keep us upon the Quran and Hadeeth. Ameen.

The well known historian and traveller of Spain ie Andalus Ibn Jubair who died in the year 614H. In the year 579H he travelled to Makkah and said, *"From the Imams of Ahlus Sunnah (meaning some people were not from Ahlus Sunnah) the Shafis would pray first and they were the followers of the Abasid Imams and their place was at Muqam Karim, thereafter the Malikis would pray. However at the time of Maghrib due to the constraints*

of time all of them would pray with their own perspective Imams all at the same time (ie 4 imams all leading the Maghrib prayer.)

This was very difficult as each individual would be very attentive to the sound and voice of their own mu'adhain and Imam. This is because they would hear 4 takbirs from the 4 Imams and the worshippers would get very confused and lost. Sometimes they would do ruku and sujud according to the takbirs of the hanafis, malikis, shafis and hanbalis and sometimes their own imam and sometimes they would say the Salam at the end according to another imams salutation etc." (End of Ibn Jubairs words) (*Rihlah Ibn Jubair 78*)

Dear readers can you imagine what confusion and disorientation there would have been whilst trying to pray in such an atmosphere. In our daily lives it becomes difficult enough based on the background noise can you imagine what the atmosphere would have been like. What can be more of an example of partisanship and bigotry than this in the house of Allaah, this is what sectarianism and madhabism always eventually leads to and this is also the situation in our times.

What is even more disturbing and worrying can you imagine what level of Khushu, Khudhu and concentration some of these worshippers must have had when they were praying in such an

atmosphere, knowing very well the prayer would be the first thing to be judged on the day of judgement.

In part of this series in relation to question no.4 where the questioner asks about hundreds and thousands of scholars refining and correcting a madhab from within. Indeed then this is nothing but a fallacy as most often the scholars continued to defend their madhab irrespective of the positions.

For example the issue of 4 imams leading prayers in a single masjid, an eminent Hanafi scholar Shaikh Mulla Ali Qari said in defence of this, *“If there is an Imam for every madhab like there is in our time, then it is better to pray behind the Imam of your Madhab (only) whether he prays earlier or later. This is because the general Muslims and the majority of the believers from the Harmain, Quds, Misr and Sham have adopted and preferred this way and no attention is paid to those who oppose this.”* (*Radd al-Mukhtar 1/564*) and Allamah Shami even goes onto give evidence for the permissibility of numerous jamahs in the Haram. (*Radd al-Mukhtar 1/553*)

And we have not even began to talk about the current day issues of bigotry and staunchness and if this was the case we would run into volumes. There have been cases of severe physical abuse upon people who changed from hanafis to Ahlul Hadeeth, masjids being

destroyed and burnt, scholars being shot and injured, houses being burnt and destroyed.

Masjids banning the Ahlul Hadeeth, washing the places where an Ahlul Hadeeth prayed Salah, breaking the Ahlul Hadeeths fingers whilst they supplicated with them in the tashahud etc.

In Egypt an Imam did not recite the Bismillah loudly so someone during the prayer said your prayer is Baatil, so repeat your prayer. So the prayer was started again. Similarly the Shafis once prayed the fajr prayer behind the Hanafis and Malikis on jumuah and then they repeated the prayer only because the Hanafi imam did not recite Soorah Sajdah in the prayer. (*Refer to the monthly journal al-Furqan April issue no.44 pg.55, 1994*)

Likewise Allamah Rashid Ridha mentions that, “A *Hanafi from Afghanistan heard that a man whilst praying recited the Fatihah behind the Imam, so a person punched him so hard in this chest or stomach that he fell down in sheer agony, pain and nearly died from it. I have also been informed that someone broke a persons finger just because he was moving it during tashahud.*

In the last century the people of Tarbulus were engrossed in so much partisanship and sectarianism to such an extreme level that some of the Shafis

went to the main mufti and asked him to divide the masjid into 2 halves one for us and one for the Hanafis because their jurists (ie the Hanafi faqihs) consider us to be Ahludh-Dhimmah.

The issue of a Hanafi man marrying a Shafi woman also arose. Some argued that he cannot marry her because the Shafi woman says I am believer inshallah therefore she doubts her imam and others said he can marry her by reasoning and say she can be understood to be from the people of Dhimmah.” (End of his words) (*Refer to Muqaddimah al-Mughni 1/18*)

The late indian Hanafi scholar, Sayyid Abul Hasan Ali Nadwi has also cited the breaking of the finger whilst moving it during Tashahud by some the afghani tribes and he concludes the people only did this because this what they were taught ie that *Khulasatul Kaidani* teaches that is haram to move the finger in tashahud. (*When The Waves of Iman Came pg.213-214 in the footnotes.*)

Shaikh Sha’arani said, “Most of the Muqallideen have very evil thoughts about the other Imams. It has been relayed to us that the Hanafis and Shafis of Wara Nahr abandon fasting in the month of Ramadhan so that they maintain their energy whilst refuting each others evidences and proofs.” (*Meezan al-Kubra 1/43*)

Shaikh Taj ud din Subki (771H) said, “It is unacceptable to Allaah, the forcing of people to accept one madhab and the associated partisanship (tahazzub) in the subsidiary issues of the deen and nothing pushes this fervour and zealously except partisanship and jealousy. If Abu Haneefah, Shafi, Malik and Ahmad were alive they would severely censure these people and they would disassociate themselves from them.” (*Mu’eed an-Na’am Wa Mubeed an-Naqam* pg.76)

This way of bigoted staunchness was not the way of the salaf, they still had mutual respect for each other and differing opinions. There are numerous examples from during the times of the companions who despite differences would still respect, listen and pray behind each other. Likewise and similarly if they saw or found someone from amongst their companions they would advise them by giving them evidences from the Quran and Sunnah.

To mention a few examples are for example Abu Talha (RadhiAllaahu Anhu) did not believe that eating ice broke the fast (*refer to Musnad Ahmad 3/279 and al-Ahkam 6/83 of Imam Ibn Hazm*)

and Abdullah Ibn Masood (RadhiAllahu Anhu) would place his hands between his knees during the ruku (*Sahih Muslim 1/202*).

Ibn Umar (RadhiAllahu Anhuma) believed that the eyes should be open during the Ghusl of Janabah (*refer to Zarkanis explanation of the Muwatta 1/92*) and many many more.

However they still had that respect and prayed behind each other. Shaikh ul-Islam Ibn Taymiyyah mentions despite the differences between the companions and the successors they would still pray behind each other. (*Refer to al-Fatawa al-Kubra 2/380*).

The same applied to the scholars and Imams of this Ummah. For example Imam Ahmad's opinion regarding normal bleeding was that it invalidate a persons wudhu and so he was asked if an Imam, the one leading the prayer started to bleed and he did not repeat his wudhu, would you pray behind him? Imam Ahmad replied, "How can I not pray behind Imam Malik and Sa'eed ibn al-Musayyab (who believed normal bleeding did not invalidate the wudhu)." (*al-Fatawa al-Kubra 2/381 of Ibn Taymiyyah and Hujjatullah al-Balighah 1/159 of Shah Waliullah Dehlawi*).

And also For example Qadhi Abu Yusuf once bathed in such a bath area and led the prayer in the Friday prayer, later he found out the the well the water was supplied from a well that had a dead mouse in it, upon this he said, "So we take the statement of our brothers from the people of Madinah that when the water is equal to 2 qullas it is not impure." (*Fatawa al-Bazaziyyah cited from Hujjatullah al-Balighah 1/159*)

Liewise Qadhi Abu Yusuf once prayed behind the Khaliph Harun Rashid who had hijama cups attached to him and he lead the prayer and he did not repeat his wudhu according to the opinion of Imam Malik. Qadhi Abu Yusuf did not repeat the prayer. (*al-Fatawa al-Kubra* 2/380)

This has also led to various scholars of the differend madhabs belittling and hurling abuse to the Scholars who they thought belonged to other madhabs. Citing examples would lengthen this discourse which beyond the scope of it, One such example is when Shaikh Anwar Shah Kashmiri Hanafi Deobandi refers to Imam Baihaqi as a mutassub ie abigoted individual. (*Refer to his Faidh al-Bari* 1/58, 301)

These are some of the consequences and means by which certain madhabs were forced amongst the communitites. We pray that Allaah saves us from such staunch blind bigotedness. Ameen

2) Ok the scholars state that the laypeople can take a ruling without understanding the reasoning behind it from a reputable scholar, isnt that similar to what the madhabs have done, ie the pious predecessors with their methodologies have derived rulings for all thinkable and unthinkable topic areas?

ANSWER

I think there seems to be an incorrect understanding with regards to this discussion. We say a normal lay or average person can ask Ahlul ilm or a scholar pertaining to any issue which the lay person then goes and acts upon. With regards to this the scholars have differed whether this is taqlid or not. Some have classed this as ittiba and they use the ayah which states ask the people of knowledge if you do not know.

This is more accurate as this what the earlier Muslims did and no one use the word Taqlid and hence this is the reason you will not find the usage of this word in the first three generation. That a single pne said to another go and do taqlid of so and so in all of their affairs.

It could be argued the normal lay person does not need to know the reasoning behind the legal edict but this does not in anyway

or form suggest the scholar does not provide evidence. It would be sufficient alone if he said Allaah says or The Messenger of Allaah (Sallallahu Alayhi Wasallam) said...

This no longer remains taqlid, in this situation it is not necessary the for lay person to understand the intricacies of the evidence ie the Asbab an-Nuzool, Qate ud-Dalalah Aam, Khaas Raje Wal-Marjoo etc but what suffices and what is important is that he knows and comprehends there is evidence from Allaahs book or the Sunnah.

The madhabs evolved in different ways, each very different from the next. What is also important to note these madhabs were not formulated during the eras of the Imams but years later, in fact 3 to 4 centuries later.

The Imams themselves would derive rulings from the Book and the Sunnah and this is an undeniable fact. However in the same instance these Imams applied their own individual ijtihaad. In doing so they also applied and formulated some of their own principles and rule, each differing from the next.

Therefore they based their rulings on some of these principles and rules. So now with all of these different rules and principles they differed with each other and so it is very possible they also made

mistakes. So due to these principles and rules their understanding and attempting to reconcile the ahadeeth may have led them to err and make mistakes in their rulings. Numerous examples can be highlighted here and this would lengthen the discussion.

The main point is that the Imams as great and revered they were in terms of their knowledge and comprehension, were at the end of the day humans and made errors. We have not been obligated to follow their mistakes or errors.

Some of the principles they differed over include did the statement of a companion constitute evidence (*Refer to alAhkam 4/210 of al-Amadi, Kashf ul-Asrar 2/100-10 of Nasafi, Minhaj al-Wasool (3/143 of Baidhawi)*)

An example of this is the difference in how long a woman can remain pregnant for (ie the child remains in the mothers womb). For example Imam Abu Hanifah said a woman can remain pregnant only for 2 years and they use the narration of Aishah (RadhiAllahu Anha) in which she said the child only remains in the womb for 2 years (*refer to Hidayah 2/32*)

When Imams, Malik, Shafi and Ahmad ibn Hanbal said this can last till 4 years. Walid ibn Muslim mentions that he narrated to

Malik that Jamilah bint Sa'ad narrates from A'ishah (Radhi Allahu Anha), "A woman does not exceed 2 years of pregnancy." Imam Malik said Subhanallah, who says this? The wife of Muhammad bin Ejlan remained in her mothers womb for 4 years. Shafi said Muhammad bin Ejlan remained 4 years in his mothers womb. Ahmad said the women of Banu Ejlan would remain pregnant for 4 years." (*al-Mughni 8/84-85 of Ibn Qudamah*). And there are numerous examples.

The most comprehensive point in rebutting and expanding on this point is that if all the madhabs took from the Quran and Sunnah, why are there so many differences amongst them in these issues and we know this is a clear reality.

We will not go into the different usools the madhabs formulated for themselves and then differed with each other based on their understanding of the texts. The main problem here is that we accept the Imams took from the Book and the Sunnah, but what is obligated upon us is the normal lay Muslims.

Then in later years their respective students modified the rulings of their respective teachers, and then they presented their own fiqh with the modifications. Then their students did the same and this continued over the years.

Some of the scholars preserved the rulings of the imams so for example in the Hanafi madhab you might have three opinions ie one of Imam Abu Hanifah, one of Shaikh Muhammad Shaybani and another of Qadhi Abu Yusuf but the questions is what is the actual ruling and whose ruling was it and what evidence did they use.

Therefore it is possible the madhabs in their own way derived the necessary rulings for a whole host of issues based on their formulated principles. So firstly they differed with each other.

Secondly who exactly made these principles and rules.

Thirdly when we say the madhabs did this ie formulated or derived the rulings, yet again what is exactly meant by this? Is this not following a way other than the Book and Sunnah even though they may have used the same sources for their extraction and interpretation.

Fourthly what does an individual do when he knows their madhab is going against the authentic hadeeth. This indeed is a burning question!!!

With regards to the rulings from the judge or Qadhis perspective the judgements of Qadhi Abu Yusuf are given more precedence over the verdicts of Imam Abu Haneefah because Qadhi

Abu Yusuf studied with him as well as others before him. (*Refer to Rasm al-Mufti pg.35 and Radd al-Mukhtar 1/71*)

Kawthari the defender of the Hanafi madhab in his brief summary in answer to a point raised by Imam Juwainee essentially argued that the 4 Imams were not infallible or entirely certain with regards to the rulings. He said Imam Abu Haneefah remained silent and did not pass judgement on many issues. Imam Malik said regarding many issues that he did not know.

Imam Shafi has 2 conflicting statements regarding one issue and he often also said the authentic Hadeeth was his position. None of these realities take away the status or rank of these Imams and this is because none of the Imams had all of the knowledge pertaining to the deen. (*Summarised from Kawthari Hanafis Ahqaq al-Haq pg.22*)

It is well known and famous about Imam Malik that whenever he did not know the ruling on an issue or topic ie he was unable to derive a ruling he would say I don't know, la adri. The two well known scholars of the west, Imam Ibn Abdul Barr and Allamah Shatibi opined that if all of these instances were collated and compiled it would amount to a short treatise. (*al-Muwafiqat 4/288*).

So when we know and accept and even the staunchest of the muqallideen or muqallids and there is no one more deserving of this title than Kawthari Hanafi, that even he admits and accepts that the Imams did not have all the knowledge and they would clearly say I don't know and then centuries later we are hell bent in trying to prove and establish the 4 Imams had enough knowledge to derive all the rulings even today. This is especially so when the modern world has thrown us more challenges.

Another important angle or aspect to consider and this is again another pivotal point, how many books did each of the 4 respected Imams leave. What books did Imam Abu Haneefah leave on Fiqh? Is *Fiqh ul-Akbar* or *Fiqh ul-Absat* really his books and if so were they on aqidah or Fiqh. Imam Malik left his *Muwatta* but is this a book of Hadeeth or is this a book of Fiqh?

How many did Imam Shafi and Imam Ahmad bin Hanbal leave, can it be argued his book *al-Musnad* is a book of Fiqh or Hadeeth. How accurate and correct would it be to include the issues ie the 'al-Masails' his sons and students compiled by asking him questions as part of the Hanbali madhab.

We have already mentioned for example Imam Abu Haneefahs students who differed with him extensively but can we

classify and add the books of his students within the rulings of Imam Abu Haneefah or the Hanafi madhab. For example Imam Shaybani's *al-Jami as-Saghir, al-Kabir, Kitab al-Asal* and many more.

Similarly Qadhi Abu Yusuf's *'al-Amwal'* and what do we say about his book *'Ikhtilaf Abi Haneefah Wa Ibn Abi Layla'* can such a book highlighting Ibn Abi Layla's differences with Imam Abu Haneefah be classed and included in the books of the Hanafi madhab.

Furthermore, these Imams were indeed illustrious and pivotal in the derivation of issues of Fiqh but this alone was not sufficient as other sciences were not completed or were still on the early stages of formulation or progressive for example the sciences of Hadeeth, the biographical notes and science of praise and criticism. So therefore it is possible not all rulings were entirely accurate at the time they were made or they were made on weak narrations etc.

In addition to this not all knowledge is just contained in Fiqh but rather also in other sciences and the Scholars and their students were possibly not proficient in all the sciences. This is what the late Deobandi Hanafi scholar Anwar Shah Kashmiri said, "*Whoever thinks all the knowledge is contained within Fiqh and there is nothing outside of it, then he is far away from the truth.*" (*Faidh al-Bari* 2/10).

So in light of this when we know there were many differences between the scholars and the scholars themselves admit to not knowing all the answers to some of the issues and when we know that not all the knowledge was contained just in Fiqh. How is it possible or feasible to hold on to a particular madhab or to say all the rulings contained within a madhab are correct and worthy to be followed.

Another interesting point here and it is to be noted very well, that when the madhab of Imam Abu Haneefah was formulated, which was the first madhab and this students who differed with him in numerous issues contributed to the madhab, then if this was the case why was there a need for other madhabs to be established.

In addition to the four main madhabs we also had the madhab of Imam Laith Ibn Sad, Imam Awzai, Imam Sufyan at-Thawri and Imam Sufyan, why were all of these madhabs formulated if they are also doing the same thing is deriving and establishing rulings from the book and Sunnah.

We have also previously mentioned what does a madhab actually entail, whose madhab is a madhab? Let's take the Hanafi madhab for example. The rulings that we have in the Hanafi madhab whose rulings are they exactly?

The people claim they are following the Hanafi madhab however the rulings and their derivation was not carried out by a single person say for instance only Imam Abu Haneefah but Imam Shaybani, Qadhi Abu Yusuf and Shaikh Zafar also contributed, in fact the common understanding is that a committee of 40 scholars was set up and they all collectively contributed towards the formulation and derivation of the legal rulings and edicts.

Allamah Shami for instance says the Hanafi madhab issued a fatwa 17 times based on the statement and derivation of Shaikh Zafar in opposition to the statements, derivation and ijtihaad of Imam Abu Haneefah, Imam Shaybani and Qadhi Abu Yusuf. *(Refer to Shami 1/71)*

Did not the Hanafi madhab abandon the established position of the madhab in certain issues, for example the issue of the lack of information of the lost husband in which the Hanafi madhab issued a ruling based on the Maliki madhab and at times the Hanafi madhab left their own madhab for the statement and ijtihaad of Ibn Abi Layla.

It is also know that Imam Abu Haneefah very clearly said, "It is unlawful for anyone to give a fatwa based on my statement if they do not know my evidence." *(Meezan al-Kubra 1/58, Rasm al-Mufti 1/29,32)*

Abu Laith Samarqandi Hanafi cites that Qadhi Abu Yusuf and Shaikh Zafar also said the same, ie "It is not *halal* for anyone to give a *fatwa* based on our statements if they do not know where we got this from (ie the evidence)" (*Fatawa an-Nawazil* pg.381)

The Imam himself, Abu Haneefah said, "It is unlawful for a person to issue a verdict based on my statement if he does not know my evidence." (*al-Mizaan al-Kubra* 1/58 of Sha'arani) Therefore when the evidence becomes known, how is this taqlid???

For example Qadhi Abu Yusuf once bathed in such a bath area and led the Friday prayer, later he found out the the well the water was supplied from had a dead mouse in it, upon this he said, "So we take the statement of our brothers from the people of Madinah that when the water is equal to 2 qullas it is not impure." (*Fatawa al-Bazaziyyah* cited from *Hujjatullah al-Balighah* 1/159 of Shaikh Shah Waliullah Dehalwi)

Some of the eminent Hanafi personalities have differed with this. For example they said, if a muqallid Qadhi (judge) issues a verdict in opposition to the fatwa of the imam of the madhab, it is unworthy to be acted upon. Similarly when the Qadhi issues a verdict based on a weak statement of the madhab it will still not be worthy to be acted upon, so therefore how is it correct to act upon a statement of another madhab. (*Refer to Durr ul-Mukhtar with Radd al-Mukhtar* 1/76)

Others however on the other hand have shown some leniency and said if the Qadhi is a Mujtahid then his verdict which opposes the madhab can be acted upon based on ijtihaad. (*Refer to Durr al-Mukhtar 1/85 and 5/404*)

Allamah Tahawi Hanafi also discusses this and brings the statement of Shaikh Kamal who said that an individual referring to another madhab based on evidence and ijtihaad is sinful and worthy to be reprimanded, then how about the individual who refers to another madhab without evidence or ijtihaad then he will be more worthy of sin and punishment. (*Refer to Tahawi 2/417*)

So even if an individual wanted to do Taqlid and the evidence came to him according to some of the statements and principles outlined above, he will still be sinful and liable for punishment. How fair and sane is this? Is this not pushing people away from following the Quran and the Sunnah.

This obligation of following the book and the Sunnah is a great obligation which has been ordained and commanded in the Quraan. It is also in the core aspect and root of a Muslim to follow the Quran and the Sunnah but here any such chances and options are severed by saying the people are sinning and are likely to be punished.

So it is not sufficient to rely alone on the derivation and interpretation of a madhab and this more so applicable for current day issues. This is why the Deobandi Hanafi scholar Muhammad Yusuf Binnouri said (about his Fiqh), *"Without doubt with regards to the situations encountered and faced in the current day, they cannot be resolved and answered according to our old Fiqh." (refer to the monthly journal Bayyinat vol.3 issue.35)*

We guess the question here is, why is this just limited to the 4 madhabs and not to other scholars. This is essentially one of the main problems, derivation of Fiqh has been restricted and constricted to just 4 madhabs and then on top of that even those rulings are ambiguous, as no one is sure whose ijtihaad it is.

Imam Dhahabi extorts some beneficial points, his profound words are, *"Oh Muqallid and oh you who think ijtihaad has finished and there is no Mujtahid now! Then there is no benefit in your learning and studying the principles of Fiqh as learning the principles of Fiqh only benefits the Mujtahid. When an individual knows the principles of Fiqh and he still abstains from freeing himself from the shackles of taqlid, he does not achieve anything. Rather by studying it further he pushes himself into more difficulty and establishes proofs against himself.. " (cited by Suyuti in Ar-Radd Ala Min Akhlad Ilal Ardh pg.153)*

He also further expounded on this and said, "A person who only follows one specific madhab is the one who is deficient of firm knowledge, just as the situation was with most of the scholars of our times who are mutassab (ie bigoted)" (*Siyar A'lam an-Nabula* 14/491)

We have already mentioned it is not possible for us to know all the evidence the Imams used to issue their verdicts, it's not a case of understanding the evidences or trying to delve into them. It is however important to now there are appropriate evidences from the Quran and Sunnah to support such or any ijtihaad.

The late Hanafi scholar, Muhamamd Hashim Sindhi said, "It is not established from a single person from amongst the Muqallideen who has claimed that our imams had evidence for every issue. Nor do they have an answer for the contradictory issues and we are not aware of this." (*Dhab Dhababat ad-Dirasaat* 1/281)

As already also mentioned Muhammad Hussain Kawthari Hanafi also said something similar in his own words in his book *Ahqaq al-Haq*. Dear readers does this not show us, based on the numerous statement quoted above that the Imams did not know or had all the evidences for all of their rulings and ijtihaad.

So how fair would it be to say that they derived rulings from the Quran and Sunnah when some of the Imams themselves did not know or did not have all evidences for every ruling.

Another example of this is what relates from the well known and famous student of Qadhi Abu Yusuf, ie Asaam bin Yusuf al-Balkhi. He would differ with Imam Abu Haneefah on a numerous issues. In the issue of Raf ul-Yadain ie the raising of the hands, not only did he differ with Abu Haneefah but also with Qadhi Abu Yusuf and adopted the way of the scholars of Hadeeth (ie raising the hands).

When he was asked as to why he differed with the position of Imam Abu Haneefah, he replied we don't have the depth of knowledge and great insight Imam Abu Haneefah had but we do not have the courage to issue verdicts and adopt positions based on a statement which we do not know the evidence for. (*Refer to Iqaaz al-Humam pg.51-52, al-Bahr ur-Raiq 6/293 and Hujjatullah al-Balighah 1/178, Refer also to Fawaid alBahiyah of Lucknowi*)

This lead to certain scholars, Imam Ghazali being one of them, to opine that Shaikh Muhammad Shaybani and Qadhi Abu Yusuf differed with Imam Abu Haneefah in 2/3 of his fatwas and rulings ie ijtehad. Then the later scholars of the same madhab differed with these rulings of the madhab and the earlier Imams.

Hence when they would issue fatwas or verdicts they would say the fatwa is based on the statement of so and so ie other scholars within the madhab or they would say the fatwa of such and such or so and so has precedence or acceptance in the madhab.

It is apparent these changes, within the madhab would and could only come about based on the evidence the later scholars would present. So when there are such strong and powerful inter differences within a madhab and these differences and complications are accentuated between madhabs and then they have own their inter differences, what guarantee is there with regards to the accuracy and preciseness of the legal rulings and fatawa being disseminated from a madhab or the different madhabs, or being derived accurately from the Quran and Sunnah.

Therefore why not take the safer and more accurate - tried and tested method of just asking the people of knowledge who will give you and evidence and you just follow that. If and when something different comes then accept and change according to the evidence. This method is fool proof and this was the method employed during the first three blessed generations.

Shaikh Izz ud deen Ibn Abdus Salam said, "There is great amazement at the blind following (Muqallid) jurists (fuqaha) who know the weak sources of their imams which they can not clarify or rectify, yet they are still adamant and continue to do taqlid of their Imams and they abandon and leave the position which is supported by the Quran and Sunnah. In doing so they formulate and concoct major false interpretations in defence and in promotion of their Imams." (*Qawaid al-Ahkam* 2/135, also cited by Shah Waliullah in his *Hujatullah* 1/155, in his *Ittihaf* pg.110 and in his *Iqd al-Jeed*, Suyuti in his *ar-Radd Min Akhlad* pg.140, and Allamah Fulani in *Iqaz al-Humam* pg.108)

Allamah Muhammad Hayat Sindhi who was declared to be a Hanafi according to the Muqallideen Ahnaf, he said, "You will see the Muqallideen that they will read the books of Hadeeth, consult them and also deliver lesson on them and this is not that they want to act upon them but only to learn about the evidences of their imam and to explain away the ahadeeth which oppose their Imam. And in doing these taweel at they go beyond bounds and exaggerate and when they even fall short in this or are unable to keep this up they say our imam knows more than us." (*Tuhfatul An'aam* pg.16) and Allamah Fulani also cites this about the Muqallideen in his masterpiece *Iqaz al-Humam* pg.71)

We know all of the above restricts and prohibits a person from following and acting upon the Sunnah and therefore we should have the utmost fervour and zealously to act upon the hadeeth.

Shaikh Sha'arani said, *“Some of the muqallideen said to me if we come across a hadeeth from Bukhari or Muslim that our Imam never used or acted upon then we also will not act upon them. This is ignorance of the Shariah and the first person who will free himself from these people will be their Imam.”*
(al-Mizan al-Kubra 1/10)

It is such thoughts that have led the Muslims to be chained endlessly in the shackles of taqlid. Some of the scholars knew what the truth was with ie in other madhabs but because they were forced and obligated to follow their own madhab, this eventually led them to rejecting the truth.

For example the eminent Deobandi Hanafi Scholar Mahmood al-Hasan said about the issue of 2 departing parties of a transaction that, *“The truth and the precedented opinion in this issue is with Imam Shafi but because we are muqallids, the taqlid of our Imam, Abu Haneefah is obligatory upon us.”* *(Taqrir Tirmidhi pg.39)*

So we ask is this not denying and rejecting the truth knowingly when an individual himself admits and knows what the truth

is. The truth is that the later day muqallids are also aware of what the truth is. However they are chained and restricted by these shackles and in this era they cause confusion and attempt to deny taqlid shaksi whereas in reality this is what they really believe in.

Else how is it possible for a scholar who knows the truth but yet he still continues to deny and reject the truth and traverses in his blind taqlid of his Imam. It must also be said the scholars who derived rulings did so based on the general need and not due to the principles and rules of a madhab. They all had their specific principles and if this is the case then this what the non muqallideen and non-madhabi scholars have done and still do.

For example Shaikh Shihab ud deen Hanafi said, “*Every single one of them had their own unique principles (Usool) in which they differed and opposed the principles of Abu Haneefah.*” (*an-Naf'e Kabir pg.99*)

So this shows even though most of the scholars of that era had their own usool and made their own ijtihaad, It does not indicate they concurred and secondly how is this even an argument for taqlid and madhabs.

On the contrary this shows their open mindedness with regards to ijtihaad. Lastly, since they had their own usools and therefore

by default their ijtiḥad was independent. So it would be safe to say this is totally different to what is being propagated today.

However how about all the occasions in which the scholars within the same madhab differed with the official verdict of the madhab after they did their ijtiḥad or derivations. It is very strange here that all the differences, contradictions and oppositions within the madhabs have been overlooked and overshadowed.

So let's look at another example of how the scholars derived these rulings and what principles they had. It is well known and there is Ijma that the most authentic book after the book of Allaah is The Sahih of Imam al-Bukhari and then the Sahih of Imam Muslim.

So when we know a hadeeth is in these books it is taken and readily accepted. We also know the hadeeth is from the Messenger of Allaah (Sallallahu Alayhi Wasallam) and this is a well known, established and an agreed upon principle. All the scholars of Islam and the scholars of usool are agreed the ahadeeth of the Sahihain have precedence and acceptance.

However the ninth century hanafi scholar Allamah Ibn Humam and his student Ibn Amir al-Haj differed with this principle and understanding and said the readiness to accept was incorrect. (*Refer*

to their *Fath ul-Qadir* 1/317-318, 3/183 and *at-Taqrir at-Tahrir Fi Sharh Kitab at-Tahrir* 3/30).

The later day hanafis from the likes of Shaikh Abdul Haq Hanafi Dehlawi also expounded on this in there eras and said that such principles and concepts are good for the hanafi madhab as well as the other madhabs. He explained this is because it readily prohibits and halts the acceptance of hadeeth which contradicts and oppose the hanafi madhab. (*Refer to Sharh Safar as-Sa'adat* pg.15)

Allamah Jaza'airi (*in his Taujeeh an-Nazar* pg.120) has severely refuted and reprimanded this idea and said it was from whims and desires and that accepting the narrations from the sahihain is a well established principles which is solid and only those with desires reject this.

The latter day Hanafi Scholar, Shaikh Abdul Hayy Lucknowi has also rebuked the hanafi elders and said accepting narrations from the Sahihain is the way of the Muhaditheen and in fact there is ijma upon this. Only Ibn Humam and Ibn Amir al-Haj and their followers have opposed this. (*al-Ajwabah al-Fadhilah* pg.56). However these corrections are overlooked and ignored.

So the point here is, how would it be possible to derive the rules and issue fatwa fairly and accurately to the best of the mujtahids ability when this is the affair and situation of the principles and usool. Surely the fatawa would have been biased and void of authentic texts and in the bigger picture how reliable would the fatawa be. In addition to this we would be expected to follow this forever until the rest of our lives as being muqallids we dont have the choice to ask, let alone question.

Why are these opinions and positions not mentioned within the madhab. So we should be fair and mention alongside with the scholars deriving rulings within a madhab then at the same time they have also differed and at times severely at that. A prime example of this is the swearing to the Messenger of Allaah (Sallallahu alayhi Wasallam) and we have cited this in question no.4

3) Then obviously, the scholars provide the evidence, but if the layperson doesnt have the ability to understand and know, then its fruitless, wont they just take whatever's given to them, on the fact that they dont know? For example, like a doctor who gives a prescription, they can give evidence for the prescription, the patient will take it because they dont know what he is on about. Couldnt this lead to not only confusion, but a fragile deen in the layperson.

ANSWER

We ask here, when we are told that when Eesa (Alayhis Salam) will return he will follow and be upon the hanafi madhab as mentioned by Shaikh A'la ud deen al-Haskafi Hanafi and Shaikh Abdul Latif Thathwi (*Refer to Durr al-Mukhtar 1/56 and Dhab Dhababat ad-Dirasat 1/267-268*)

Is this some thing we don't understand no matter what level an individual may be at? Of course we do so this is indeed a method of distracting the people from following the Sunnah. How is it conceivable to think a Prophet of Allah will follow a man made madhab.

Similarly are we advocating that we just take this positons just like that and without questioning it. Also please remember this is just

an example of one such issue and no doubt when a scholar gives a verdict it is his personal verdict but the questions is how does this then become a ruling for the madhab.

The scholars have comprehensively refuted these points and positions of the hanafi madhab. From the likes of Imam Suyuti who authored a specific treatise on this topic titled, '*al-A'lam Bi-Hukm Eesa Alayhis Salam*' (Refer to his *al-Fatawa al-Hawi* 2/155)

Shaikh Lucknowi has also refuted this notion and appauling position of the hanafi madhab and said this statement is rejected and both Imam Mahdi and Eesa (Alayhis Salam) will be mujtahids and will not need to do taqlid of anyone. (*Gayth al-Ghamam* pg.5)

So the lay person knows and has the capability, knowledge and understanding in how to determine which scholar to ask questions and fatawa from - so he has all of this knowledge and comprehension but when some evidence is given to him he will not understand it.

So lets assume there are a few people who are really lay people and have no knowldges of the sciences, then is the obligation upon them to understand the evidences or to only know that Allaah and his Messenger said!!!

The scholars have specified when you hear the fatwa of a mujtahid and it is correct and then acting upon it is permissible, hence Shaikh Bahr al-Uloom writes in his explanation of '*Sharh Mussalim ath-Thabut*',

"If you come across a correct statement of a mujtahid, it is permissible to act upon it, do you not know that the later (Mutakhireen) scholars issued verdicts on the statement (opinion/ijtihad) of Ibn Abi Layla in the instance of taking an oath from a witness." (Fawateh ar-Rahmut Sharh Musallim ath-Thabut 2/407)

Lets overlook the lay person for a minute, the same applies to the mujtahid or the scholar, the shackles of taqlid and blind bigotry have engrossed the people and those within a madhab, with a deep fear that they dont even think they have the capability of ijtihad or comprehension.

Shaikh Shah Waliullah strongly rebukes such thought processes and says, "A scholar who is in agreement with and conforms to the ijtihad of his Imam in most of the issues and at the same instance he is also aware of most of the proofs and evidences alongside with having comprehension of the issues yet still think he is not a mujtahid, this is indeed a futile thought." (*Iqd ul-Jeed pg.9*)

Dear readers this shows the mindset of the scholars and mujtahids from the time of Shah Waliullah Dehlawi. These scholars knew the evidences and understood them well but yet they still chose to do taqlid shaksi and taqlid jamid, ie bigoted and staunch taqlid. So when this was the thought and mindset it shows what kind of passion they must have had to prove and establish their own madhab to be correct in the realm of this partisanship, how trustworthy can this be?

So when this was the situation with the scholars who were following the madhab, what hope would there be with the general masses. The scholars were not always seeking the evidences. The evidences they had were treated in such a way that they were figuratively explained. So based on this do we expect the masses to just accept the opinions of the scholars of a madhab or the position of the madhab itself???

This is also only possible if the madhabs allowed them to ask other scholars. Shah Waliullah Dehlawi said, *“These people (ie muqallids) say it is impermissible to ask a mufti of a different madhab and nor do they allow them to pray behind them. This is against the Ijma of the Salaf.”* (Hujjatullah al-Balighah 1/124)

Imam Ibn Salah (the author of Muqaddimah Uloom al-Hadith) says in summary *“When a lay person seeks a fatwa or asks*

concerning an issue from a scholar, he should emphasis on the answer and say was this the ruling of the Nabi (Sallallahu Alayhi Wasallam). If the mufti says yes, he can act on the fatwa and nothing more is required from in terms of him being a lay person.

However if the mufti says this is my opinion, or the opinion of Malik, Qasim, Abu Haneefah, Abu Yusuf, Shafi, Ahmad or Dawood Zahiri, or if he says it is the statement of a companion or tabi, or if he just remains silent, then it is haram to take the fatwa. Unless it specifies it is from the Nabi Sallallahu Alayhi Wasallam), thereafter it becomes obligatory to take this and it is also obligatory for him to say to you to go and ask other scholars.” (*Kitab al-Fatwa pg.280 of Ibn Salah*)

Ibn Taymiyyah also explains when an issue arises for a muslim, he should seek a fatwa from a person who the people acknowledge will issue a fatwa based on the shariah ie the book and Sunnah. (*refer to Majmo al-Fatawa 20/209*)

Muadh bin Jabal (RadhiAllahu Anhu) said, “Regarding the mistake of a Scholar, even if he is on guidance don't make taqlid of him in deen.” (*Hilyah tul-Awliya 5/97 of Abu Naeem Asbahani, Kitab az-Zuhd of Wakee bin Jarrah 1/299-300 no.1, Kitab az-Zuhd of Imam Abu Dawud pg.177, no.193 Ibn Abdul Barr in Jami Bayan al-Ilm 2/982 no.1872,1873,*

Sharh Usool al E'tiqad Ahlus Sunnah of Lalika'i no.198 and in al-Ilal 6/81 no.992 of Daraqutni)

Those who also authenticated the narration above include Abu Naeem Asbahani, as does Imam Ibn Qayyim in *A'laam*. As do the researchers of *Kitab az-Zuhd* of Abu Dawud, who declared the chain to be Hasan.

Note that there is also a marfu hadith in this chapter narrated by Tabrani where Prophet (Sallallahu Alayhi Wasallam) said regarding the mistake of a Scholar, “Do not Make taqlid of him in your deen even if he is on hidayah (guidance” (*Imam Tabarani's Mu'ajam al-Awsth 9/326-327 no's 8709 and 8710 and Sharh Usool al-Etiqaad Ahlus Sunnah of Lalika'i no.182)*

So even if scholar is on guidance (don't make taqleed of him in deen) Meaning Follow because it is said by Allah or Prophet (Sallallahu Alayhi Wasallam).

How is it difficult to understand the following, Shaikh Ayni Hanafi mentions that according to Imam Abu Hanifah reciting the Quran whilst looking at it nullifies the prayer as this excessive action and the affects the khushu of the prayer.

On the other hand Shaikh Muhammad shaybani and Qadhi Abu Yusuf looking into the Quran is worship ie ibadah, therefore the prayer is valid. However the prayer will be makruh because this resembles the people of the book because they do the same. (*Jam'e as-Saghir pg.15 and Umdatul Qari 2/757*)

So do we really need to understand the texts and even if both sides were to present their arguments, what does a normal muslim do?

Much more can we written in answer to this question, we pray inshaAllah that we shall be able to expand on this at a later time.

4) The scholar always refers back to Imam Abu Hanifa for example, as the one people turn to, however, didnt his as well as other methodologies and schools of thought encompass not one, but hundreds if not thousands of scholars from inception, refining the rulings? So to emphasise the turning to the Imam, specifically, isnt correct because it overlooks the contributions that hundreds and thousands of scholars made right?

ANSWER

This appears as a very weighty point ie that a whole array of scholars refined and perfected a school of thought. However it still needs to be looked at with regards to its exact nature and the practicality of it. It is all very well saying this but we also need to see if this actually happened and what the outcomes were and what the usage of this is today. Also this point is not too different from question number 2.

Also, let not this alleged refining of a madhab by hundreds of scholars, be a means for us to deny and reject the clear manifest proofs that come to us. The virtue and respect of the scholars to one side but the evidences and proofs on the other, as Allaah says,

وَلَا تَكُونُوا كَالَّذِينَ تَفَرَّقُوا وَاخْتَلَفُوا مِنْ بَعْدِ مَا جَاءَهُمُ الْبَيِّنَاتُ
وَأُولَئِكَ لَهُمْ عَذَابٌ عَظِيمٌ ﴿١٠٥﴾

“And do not be like the ones who became divided and differed after the clear proofs had come to them. And those will have a great punishment.” (Soorah Ale-Imran:105)

Likewise Allah has commanded us to establish the truth and to abolish falsehood, the question is, are we doing this based on what the truth is or are we doing this based on what the madhabs say. At the same instance are we being engrossed in madhabi fanaticism all in the name of hundreds or thousand of scholars refining and correcting a madhab.

He the Mighty and Majestic said,

لِيُحِقَّ الْحَقَّ وَيُبْطِلَ الْبَاطِلَ وَلَوْ كَرِهَ الْمُجْرِمُونَ ﴿٨﴾

“That He should establish the truth and abolish falsehood, even if the criminals disliked it.” (Soorah al-Anfal:8)

This understanding also has some major problems, although this may have been practised, it also brought more confusion and more inter madhab opinions, which most of the people are unaware of and this ultimately leads to the conclusion that the final verdict of a madhab is ambiguous.

We don't know who the fatwa is from. If it is argued, as in this case it is hundreds of scholars then this is something that is not legislated, as Allaah has commanded us to ask the people of knowledge ie a scholar and not a whole group.

Is this not setting up a sect within Islam in that we have a whole array of scholars who spent their lives refining and perfecting verdicts and edicts based on the understanding of a certain madhab. At the same instance we are acutely aware that some of the scholars left the shackles of the madhab and issued edicts based on the Quran and Sunnah even though they went against the madhab.

This very same idea led to bigotry, staunchness and partisanship because this idea was enforced in the minds of the people, that we have refined this madhabs so much that it is not possible nor the need to look elsewhere. Did this then not only create more partisanship.

For example Ibn Abidin said concerning the classical manual on Hanafi Fiqh, the *Mabsut*, "Any statement which is in contradiction to the *al-Mabsut* will not be acted upon, it will not be given any attention nor any will there be any legal verdict issued based on it." (*Rasail Ibn Abidin, Risalah Sharh al-Manzoomah al-Musamah Bi-Aqud Rasm al-Mufti* 1/20).

So now the author of *al-Mabsut* Muhammad bin Ahmad bin Abi Sahl died in 499H and is based on the explanations of the works Shaikh Muhammad Shaybani, would it be fair and just to say any fatwas, difference of opinion or REFINING after the *al-Mabsut* be accepted and acted upon by the people who follow the Hanafi madhab.

Of course not but where does this leave the hundreds of scholars who allegedly refined the madhab. As here it is clearly stating any refining or new ijtihaad will be rejected and not given any attention. This very clearly rebuts and renders this argument null and void according to the classical Hanafi scholars themselves.

As we have mentioned a few times there have been numerous instances when the scholars or the founding scholars of a madhab have differed with each other so much, for examples, Imams Abu Haneefah, Shaikh Muhammad and Ibn Abi Layla differed so much that citing all the examples or even most of them would lengthen this treatise.

Also the issue of Waqf (gifting) Shaikh Muhamamd Shaybani very clearly said this was the fatwa and ruling of Imam Abu Haneefah without evidence and said if taqlid was permissible we would do it of the people before him like Hasan al-Basri and Ibrahim an-Nakhai who were more worthy of it. (*Refer to al-Mabsut 12/28 of Sarkhasi*)

Some other examples are when Shaikh Muhammad Shaybani even after citing the evidences of Imam Abu Haneefah in his *Kitab al-Athar*, he fails to accept them and in fact when he differed with Imam Abu Haneefah he would provide evidences for his ruling and differing. Qadhi Abu Yusuf also differed with the fatwas and rulings of Imam Abu Haneefah.

It is therefore not surprising to read and to know in general that Imam Abu Hanifahs student Imam Abu Abdur Rahman Abdullah bin Yazid al-Muqri narrates. “I heard Abu Hanifah say, “What I generally and normally narrate with regards to ahadith are incorrect.” (*Tarikh Baghdad 13/402, al-Kamil 7/2473*)

Sometimes this refining does not change anything and the madhab remains as it was and in essence this so called refining and fine tuning remains only and exists in wording. For example the scholars more specially the Imams with regards to the takbeerat for Eid, Imam

Abu Haneefah said 6 takbirs are to be pronounced where as the rest of the Imams said there should be 12 takbirs.

So *Fatwa Qadhi Khan* and *Hidayah* mention that more than 6 takbirs is an innovation. A current day eminent Hanafi scholar, who is allegedly, supposedly and hypothetically refining the rulings says the same that Imam Abu Haneefah said more than 6 takbirs is an innovation and he rejected any additional takbirs.

The question here is not the evidence for 6 or 12 takbirs neither is the issue in itself important, however what is important is the ruling that more than 6 is an innovation.

So on the basis of this refinement, Abu Bakr, Umar, Abu Hurairah, Ibn Abbas, Ibn Umar, Abu Sa'eed al-Khudri, Aishah, Zaid Ibn Thabit (RadhiAllaahu Anhumaa Ajma'ieen) and from amongst the successors, Umar bin Abdul Aziz, Zuhri, Makhool and in addition to them the seven famous jurists of Madinah and the Imams of Fiqh in general including, Malik, Ahmad, Ishaq and Awzai all opined and help the position that the takbir should be pronounced 12 times.

So are all these people innovators??? All - just in the name of refinement. How about the Hanafi scholars who differed with this opinion. So at what expense based on this array of scholars who helped

refine this madhab, be taken, at everyone else's expense. This does not seem praiseworthy nor acceptable from the angle of respecting the other Scholars, the vastness of knowledge and even from the angle of ijtihad.

We have already mentioned the fruits and results of this bigoted and staunch refinement in parts 1 and 2 so much so that the likes of Imam Shafi, one of the four main Imams was declared to be ignorant, again at what expense, the refinement of the madhab and the deen.

Shaikh Mulla Jiwan the Hanafi declared Imam Shafi ignorant on the issue of issuing edicts based on oaths of the witness and claimant. He goes on to say the first person to do this was Mu'awiyah. *(Refer to his Nur ul-Anwar pg.298, another edn. pg.304).*

Mu'awiyahs (RadhiAllahu Anhu) ijtihad was that if a claimant does not have 2 witnesses then one witness would suffice with the claimant taking an oath. Mu'awiyah (RadhiAllahu Anhu) was not alone in this ijtihad but the rightly guided Khulafa, the 7 jurists of Madinah and also the fatwa of the three imams, namely Malik, Shafi and Ahmad. *(Refer to Nayl al-Awtaar 8/290).*

Imam Nawawi stated, *"The majority of the scholars of islam, the companions and the taboos and the scholars after them in the various lands*

also concluded the same. This is also the fatawa of Abu Bakr, Ali (RadhiAllaahu Anhuma), Umar bin Abdul Azeez, Malik, Shafie, Ahmad, the jurists of madinah and all the scholars of hijaz and most of the scholars of the different lands also agreed with this ijtihaad and verdict.” (Refer to *Sharh Sahih Muslim 2/74*).

However Imam Abu Haneefah and some other jurists differed with this, again the issue is not significantly important here, however what is important and what is worthy to be noted, is the stance and method employed which was ultimately developed due to partisanship, sectarianism, bigotry and staunch rigidity in what the Hanafi madhab concluded and that this was a Bidah which Mu'awiyah (RadhiAllaahu Anhu) started. (*Sharh Waqayah 1/205*).

The words are, “The opinion of getting the claimant to take an oath is an innovation and Mu'awiyah was the first person who did this.” (This is from the *Sharh Waqayah*, in the Book of *ad-Da'wa*, which is a book of Hanafi curriculum, ie it is taught in their institutions)

Again the question arises, okay there may exist a legitimate difference of opinion between the fuqaha but should such refining and fine tuning lead to such beliefs in the first place that Mu'awiyah (RadhiAllaahu Anhu) was an innovator!!! We indeed seek Allaah

protection from such statements and may Allaah be pleased with Mu'awiyah (RadhiAllaahu Anhu), Ameen.

In light of refinement by scholastic academics of the madhab this notion of Mu'awiyah (RadhiAllaahu Anhu) being an innovator should have been deleted and omitted from the books, but was this the case? No. It remains in their classical books of Fiqh till this day. Is this our understanding if our refinement that at its expense we open the doors to shiaism.

And numerous Hanafi scholars of Usool and principles have mentioned numerous such statements concerning the companions throughout the ages. There are so many that it would be so lengthy to mention them here but it is really shocking to see and read so many such similar statements.

What really is more disturbing in light of this question, ie of refinement and correction is what Shaikh Mulla Jiwan says, *“This is what our Salaf (ie the previous Hanafi scholars) have said but we do not have the courage to say this (meaning we believe this but don't have the guts to say this in our time.”* (*Nur ul-Anwar pg.298*)

So is this the refining we are seeking, that some scholars in the past have mentioned such statements in belittlement of the

companions and then after hundred of years later, under this so called refining this is the result and outcome! Is there any censure, reprimand or admonishing for this? No. Rather we find them affirming such statements and they say, we just don't have the courage or guts to say the same. So we ask is this the desired, accepted and expected refinement we seek after centuries.

We ask did the madhab also refine the statements for example Qadhi Khan says about Anas Ibn Malik (RadhiAllaahu Anhu) he would eat a lot of different types of food and fill his stomach so much that he would eventually have to vomit (*Fatawa Qadhi Khan 3/403*). Who would say this about our beloved companions!!! We don't see any of the Hanafi scholars reprimanding this statement.

Qadhi Khan or any other treatises saying this, is a despicable mistake, rather we find all kinds of excuses with regards to what he could have meant or his intended meaning was something different. Imam Ibn al-Jawzi mentioned that Anas (RadhiAllaahu Anhu) was from the Sahabah who had a lot of Zuhd (Abstinence) (*Sifatun Safwah 1/710*).

The arch ardent and staunch Hanafi, Muhammad Zahid Hussain al-Kawthari says about Anas (RadhiAllaahu Anhu) that his memory deteriorated as he got older. (*Tanib al-Khatib pg.117*).

No one from the hanafis reprimanded him for saying this as this was just another way of saying Anas (RadhiAllaahu Anhu) was not a faqih companion, so in essence the point remained the same but just a different way of addressing it.

So we ask where is this refinement of hundreds and hundreds of scholars? So who defended the honour of Anas (RadhiAllahu Anhu) and reprimands Mr Kawthari from amongst the hanafis?

The noble and virtuous scholar of Yemen, Shaikh Muallimi Yamami reprimanded Kawthari and said, "*We don't know anyone before Kawthari who said this.*" (*Tilyah ut-Tankil pg.66*).

This is the sign of a scholar, whose iman comes into play and no matter who the person is, there is reprimand and this is what we call refining, in that any incorrect notion or position is corrected, this is the very basic of our understanding.

The Neo madhabists who believe we all must conform to a madhab then jump in and they attempt to answer such major discrepancies with the rulings of the madhabs, who in essence and in reality have no idea what they are talking about but for the ardent sake of defending their fellow madhabists they feel the need and importance

to do so, this is what we are referring to as ardent and vehement partisanship.

Where is that fervour of our Imam, where is that power of our Imam, that anyone say this about our Sahabah, dishonour them and degrade them but we hide behind the curtains and doors of madhabism, shame on us!!!

Another problem with this idea is that some of the scholars who have been attributed to these madhabs or are well known to be associated with these madhabs were mujtahids in their own right. Therefore their alleged contributions and additions to the said madhab are questionable and controversial to say the least. For example Imam Qurtubi says about Imam Ibn Abdul Barr that he was a Mujtahid (*ar-Radd Ala Min Akhlad pg.190*)

However he is considered to be pivotal Imam in the Maliki madhab. So how can a Mujtahid be refining and following a madhab. Likewise Imam Dhahabi mentions about Imam Abu Bakr Ibn al-Arabi that he was also a Mujtahid (*Tadhkiratul Huffadh 4/1296 and Siyar al-A'lam an-Nabula 20/201*).

The same was said concerning Allamah Ibn Qudamah, that he was a Hanbali but Imam Dhahabi said he was a Mujtahid and he cites

from Ibn Ghuniyyah that he said no one in our times other than him reached the level of a Mujtahid. This also follows on that attributing certain Imams and scholars to be from the Muqallideen of a madhab, is absolutely and entirely incorrect.

From them is Imam Shatibi, there are those who have attempted to restrict him to a madhab, however this is nothing but an imaginative stretch of their wishful thinking. Imam Shatibi for example obliterated and annihilated the arguments and concept of Taqlid in the second volume of his monumental and ground breaking book *al-Ei'tisam* and cited at least 10 harms and dangers of Taqlid.

We have the likes of Imams Zuhri, Sha'bi, A'ta, Tawus, Hasan al-Basri, Ibn Seereen, Makhool, Awzai, Ibrahim an-Nakhi, Hamad, Sufyan Thawri, Ibn Abi Layla, Rabi'a, Laith Ibn Sa'd, Ibn Mubarak, Ishaq ibn Rahawaihah amongst others who were all scholars and Imams in their own right.

We also know there were other madhabs which were less widespread. This also emphasises the point that some madhabs were forced via various means as we have cited in part 1,2 and 3.

So when this was the case it makes sense that other madhabs and the opinions of other mujtahids would diminish. However we know

that there were some scholars who were more knowledgeable and more faqihs than the four Imams but their schools diminished.

For example Imam Shafis said, “Imam Laith ibn Sa’ad was more of a faqih than Imam Malik.” And Imam Ibn Bakir also said the same.” (Refer to *Tahdhib ut-Tahdhib* 8/463)

However, extreme partisanship for one’s madhab led the late Hanafi Deobandi scholar Anwar Shah Kashmiri to declare Imam Laith Ibn Sa’ad a Hanafi. (Refer to his *Faidh al-Bari* 1/178, 301)

This list also includes numerous others and to enumerate all of them here would take an age, from them were the likes of Imams of Ahlus Sunnah, Ibn Ja’ir at-Tabari, Bukhari, Abu Dawud, Ibn Khuzaimah, Abu Thawr and Baqi ibn Mukhlad (refer to the general books of *Tabaqat* like *Tadhkaritaul Huffadh*) and Imam Dhahabi also has composed an extensive long list of the mujtahids in his *Siyar A’lam an-Nabula* (8/81 and 9/52)

Shaikh Sakhawi in ‘*adh-Dhuw al-Laam’e*’ also includes numerous entries of mujtahids and Imam Shawkani’s also cites on many occasions that so and so was not upon taqlid in his ‘*al-Badr al-Taal’e*’

Imam Suyuti has also done the same he establishes the following chapter, “THE MENTIONING THE IMAMS OF IJTIHAD (Mujtahideen).” And then extends a long list of 77 mujtahids from the time of the tabieen to his era. *(Refer to his Hasan al-Mahadhirah 1/161)*

Imam Suyuti further states in his fatawa “Numerous mujtahids have passed through the various eras in addition to the numerous mujtahids after the time of the tabieen. There were 10 madhabs that were prevalent. So in addition to the four madhabs we have the Madhab Sufyan ath-Thawri, Madhab Awzai, Madhab Laith ibn Sa’ad, Madhab Ishaq ibn Rahawaihah, Madhab Ibn Jarir and the Madhab of Dawud. However after thr 5th century due to the lack of fervour, motivation and rejuvenation these other madhabs dimished.” *(al-Hawi Lil-Fatawa 2/156 of Imam Suyuti)*

And the Imam al-Allamah Ibn Hazm authored a specific treatise, a risalah of the names of the scholars who were mujtahids and issued edicts in which he cites from the time of the companions to his era. So he lists 21 such mujtahids in Makkah, 60 in Madinah, 31 in Sham (Ya Allaah destroy the Rafidah Shia, Ameen), 97 in Basrah, 91 of Kufah, 19 of Misr and 44 in other lands and areas. *(This Risalah is published with Imam Hazms book, ‘Jawameh as-Siyar’)*

We also have Allamah Suyuti who himself claimed to be a Mujtahid mutlaq and authored his pivotal awe inspiring book,

elucidating that ijtiḥad exists in every era and this is on going and he titled it, '*ar-Radd Ala Min Akhlad Ilal Ardḥ Wa Jahl Innal Ijtihad Fi Kulli Asr Fardh*', therein he says, "The people who say Mujtahid mutlaqs were only in the olden times and now we only have mujtahids, then they are wrong and they have no knowledge of the clarifications of the scholars."

Shaikh ul-Islam Ibn Taymiyyah said, "Imam Sufyan ath-Thawri who was an Imam of the people of Iraq and according to most of the scholars was greater in rank than the scholars of his era like Ibn Abi Layla, Hasan bin Saleh and Abu Haneefah. His madhab is present today in Khurasan. Likewise the madhab of Imams Ishaq ibn Rahawaihah and Dawud (adh-Dhahiri) is also prevalent today, in fact in the east and the west you will find that most of the followers are of the Dawudi madhab." (*al-Fatawa al-Kubra* 2/374)

Also dear readers bear in mind that Imam Ibn Taymiyyah died in 728H and he is saying that you will find people upon other madhabs, so this shows the people were not confined to these madhabs even in the 8th century of Islam.

There are a numerous reasons as to why some of these madhabs diminished and became extinct and looking at them would lengthen the discussion, if Allah wills we can pen this at a different time InshaAllaah.

Mas'ood bin Shaybah Sindhi, who was a staunch author and from amongst 7th century hanafi scholars mentioned most of the people of Rauzrawar, Yazjard, Juzbazkan (central asia) and some of the people Hamdan are upon the madhab of of Thawri. (*Muqaddimah Kitab at-Ta'lim pg.331*)

Shaikh Abdul Hayy Lucknowi said about Imam Tahawi that, "He had the right to chose in the usool and furoo (in the principles and subsidiairy issues)." (*an-Naf'e al-Kabir pg.100*) and Maulana Anwar Shah Kashmiri said, "Tahawi was a Mujtahid and a Mujaddid." (*al-Urf adh-Shadhi pg.45*)

In a discussion with Qadhi Abu Ubaid bin Jarthumah regarding an issue, Imam Tahawi said, "Not every statement of Abu Haneefah is my statement? (or opinion). So Qadhi Abu Ubaid said, "I thought you were a muqallid." To which Imam Tahawi replied, "Only a sinner and stupid person does taqlid." (*Lisaan ul-Mizaan 1/280*)

So the confusion upon delusion here is the claim that the scholars refined the madhabs. However we find the same eminent hanafi scholars saying the scholars were mujtahids and then they say a mujtahid is not a muqallid but rather he has his ijtihaad and it is therefore haram for him to be a muqallid but at the same time, the

latter day muqallids are saying they refined a madhab!!! How contradictory and confusing is this.

It is also known that Junaid Baghdadi would pass verdicts based on the madhab of Imam Abu Thawr (*Tarikh Baghdad 7/242*).

Now here some will argue and they have been arguing for centuries that some scholars and Imams are Mujtahid Mustaqil ie derive their own principles. However the question that arises here who is a Mujtahid mutlaq, ie the one who derives based on the rules and principles of another imam and likewise who is a Mujtahid Mustaqil.

In essence and in reality all of these are derivations and interpretations of humans and not divine. So therefore how can we now take that the scholars refined and correct rulings within a madhab when we don't know what their status was and we are not denying their knowledge, may Allaah have mercy on all of them. Ameen

Also what shows that the scholars and Imams were capable of making ijtihaad and were not upon the madhabs as we see, was the harm of society and the ill effect it would have on them and likewise they were not refining the madhab as we know it.

The people would go to these scholars hoping they would give them Fatawa based on the madhabs and if the scholars attempted to make their ijtiḥad the people would not take it from them. Also during history and the various times the administration was also at times unfavourable and forceful and hence the scholars would just continue with what they knew.

The student of Shaikh Balqaini asked him what prohibits Shaikh Taqi ud deen as-Subki from doing ijtiḥad (and here it means of the *Mustaqil* or *mutlaq* type) whereas he has the capability and knowledge. The student also thought that Shaikh Balqaini was also of the same level and so whatever answers he gives I will also assume that to be his own reasons also.

However Shaikh Balqaini remained silent. So the student himself said, may be he thought it was inappropriate and this ijtiḥad was restricted to the 4 madhabs and those who left these 4 madhabs and performed ijtiḥad, they would not achieve anything because the people would abandon and not take Fatawa from them and at the same instance label them to be innovators. Then Shaikh Balqaini smiled upon my clarification and agreed with me. *(Refer to Shaikh Shah Waliullahs al-Insaf Fee Bayan Sabab al-Ikhtilaf pg.60-61)*

Sometimes these scholars would learn, follow or sympathise with madhab and then later they would adopt the Quran and Sunnah and abandon the madhab, but yet their name would still be included as one of the refiners of the madhab or its follower.

Allamah Sh'arani mentions some examples of this with regards Shaikh Abdul Qadir Jilani and others who had reached their own level of Ilm but the people would still use the terms of the madhabs for them. (*al-Meezan al-Kubra* 1/47)

Another instance this occurs or when people think there were so many scholars refining a madhab when in reality there were very little and the main reason for people thinking they were followers of a madhab or they helped refine them, was because most often their ijtihaad and their Fatawa coincided and were synonymous with the Fatawa of a particular madhab.

For example it is famous about Imam Ibn Taymiyyah that he was a hanbali, however he said, "*Whatever I take from the madhab of Imam Ahmad I take on the basis of knowing the evidence and not on the basis of Taqlid.*" (*Refer to ar-Radd Ala min Akhlad pg.166 and also A'lam al-Muwaqqi'een*)

The well known scholar and researching scholar of the Ahnaf, Shaikh Abdul Hayy Lucknowi said, "That Abu Bakr al-Qaffal, Abu Ali and Qadhi Hussain were said to be from the Shafis but they themselves said we are not the muqallids of Imam Shafi but rather our opinions (ie ijtiḥad) concur and coincide with Imam Shafis." (*an-Nafe al-Kabir* pg.100).

Adding to this further Imam Nawawi cited from Imam Abu Ishaq Shairazi who said, "Most of the (so called) Shafis ijtiḥad agreed with Imam Shafis ijtiḥad and not because they did Taqlid of him (this is why they were labelled as Shafis)." Then he cites the statement of Shaikh Abu Ali as-Sinji who said, "We follow Shafis and not others because we found his statement to be the most correct and the one that had most precedence and not because we did Taqlid of him." (*Refer to al-Majmoo'a Sharh al-Muhazzab* 1/73).

Shaikh Shah Waliullah said the same concerning Imams Nasai and Baihaqi that their ijtiḥad concurred with that of Imam Shafi and so just because on this basis the people said they were Shafis. (*Hujjatullah al-Balighah* 1/153)

So there we have it, half the times these so called refiners agreed with the verdict of the imam based on the evidences and not because they were Muqallids. This therefore nullifies this notion that all if not half of the scholars refined and correct the rulings.

It is known that the likes of Imams, Muzani, Ibn Khuzaimah, Abu Thawr, Muhammad Nasr al-Marwazi, Abu Ubaid Qasim bin Salam and Imam Ibn Jarir at-Tabari were from amongst the mujtahideen and major scholars in their own right but look they were included in Tabaqaat ash-Shafiyyah as if they were Shaafites, just because most of their rulings and ijtihaad agreed with imam Shafis.

Another example is what Shaikh Abdul Hayy Lucknowi has cited by Imam Tahawi to be in the same situation and this is how he was a Hanafi or known to be a Hanafi, meaning that his his rulings and verdicts coincided with the Hanafi madhab because in reality he differed with Abu Haneefah in numerous issues of usool and furoo. *(Refer to an-Nafe' al-Kabir pg.100, Shaikh Sha'arani has also cited the same about these authorities in his al-Mizan al-Kubra 1/23, as does Shaikh Shah Waliullah in his al-Insaf pg.67 and his masterpiece al-Hujjatullah al-Baalighah 1/153)*

Shaikh Suyuti mentions the same situations with regards to Ibn Sabbagh, Ibn Abdus Salam, Ibn Daqiq, Subki and Balqaini and said the people knew they were mujtahids but were attributed to the Shafi madhab and likewise they would teach in Shafi institutes of learning. So because all of them were mujtahids they would not see any harm in being attributed to a particular madhab. *(ar-Radd Ala Akhlad pg.167-168).*

The readers might at this instance say, well how about the Tabaqaat fro each madhab, like Tabaqaat Hanafiyyah, Tabaqat Malikiyyah, Tabaqat Shafiyyah and Tabaqat Hanabillah and the scholars have been cited in them and so how can you say the madhabs were just attributed to them. Well just because a scholar has been mentioned in one of these Tabaqats this is not a evidence they were Muqallids and hence refined the madhab.

For example the hanafis do not speak favourably about Imam Nu'aym bin Hammad but you will see that he has been added to the Hanafi Tabaqat by Shaikh Qurashi.

Also to our our amazement Imam Shafi has been included in Tabaqat Malikiyyah, Imam Ahmad bin Hanbal and Imam Ishaq Ibn Rahawaihah have been added to Tabaqat Shafiyyah and Imams Laith ibn Sad, Imam Sufyan ath-Thawri, Imam Ibn Uyainah have been added to Tabaqat Hanafiyyah. Both the Hanafis and Malikis have added Imam Abdullah Ibn Mubarak to their respective Tabaqats.

What is astonishing and also at the same instance hilarious, is what Muhammad Zahid Hussain Kawthari said. He effectively and unwittingly affirms our point of argument in that he rebukes Subki and says he included people in his *Tabaqat Shafiyyah* who just even gave

Salam to Imam Shafi or those who heard just one statement from him and indeed this approach is very bad. (Refer to his *Ahqaq al-Haq* pg.64).

However this approach is not just restricted to *Tabaqat Shafiyyah* in fact this approach and method was employed by all of the madhabs in order to increase their numbers and give their madhab more credibility and fame.

So all of this refining just in order to increase the numbers. indeed is not a numbers game or claim to fame. So when this is the situation with these *Tabaqat* and the scholars who belonged to these madhabs, can we now really say who really belonged to them and who actually did any refining or fine tuning.

The question itself is contradictory because it is suggesting that you don't follow the imam or the founding fathers but all the refining scholars, which is impractical.

In fact out right impossible as there is no way possible on this earth that a Muqallids or follower of that madhab will have ability and knowledge to follow what the refining scholars said. In essence this is the main point, that when your following a madhab you don't know whose ijtihaad you are following.

It would be most pertinent to mention the statement of Imam Malik here who said, “The truth is always one and two differing statements are never correct because the truth and what is correct is one and Ibn Shahb said Laith (Ibn Sa’ad) also said the same.” (*Jami Bayan al-Ilm Wa Fadhlhi* 2/88-89)

Shaikh Anwar Shah Kashmir Deobandi Hanafi has admitted the books of the hanafi madhab include the issue that if the hanafis and shafis are debating in the month of Ramadhan and they feel or think they are weak due to energy, then it is permissible for them to break their fast in order to debate with the shafis.

No doubt Maulana Anwar Shah refuted his notion but the question and issue is, how long was this allowed in the hanafi madhab and was this also done in the name of the refining of hundreds of scholars, corrections and bigotry towards ones madhab that even the command of Allah can be refined. Astagfirullah. (*Refer to Faidh al-Bari* 2/196)

Let us look at another example at why this refining not only does not work, but it lands a follower in more grave danger and severe problems.

For example Shaikh Hussain Ali who was from the students of Maulana Rashid Ahmad Gangohi Deobandi Hanafi and the teacher of the another revered Deobandi Hanafi scholar, Ghulamullah Khan, so effectively from this century or you could argue in the 21st century, they said about Raf ul-Yadain that it is not established from the Messenger of Allah (Sallallahu Alayhee Wasallam) let alone it being abrogated.

Now this is allegedly and the supposed refining we thought was going on. The older Hanafi scholars opined that Raf ul-Yadain was abrogated and no doubt they are mistaken and have erred on this point, al-Muhim the point here is that they concluded it was abrogated.

From them include Imam Tahawi, Shaikh Ibn Humam, Shaikh Kasani, Shaikh Ayni who ranged from the 5 century onwards and now based on centuries of scholarship instead of admitting that Raf ul-Yadain was an established practiced this refining has reversed and gone backwards.

Also most of the scholars of Ahlus Sunnah said Raf ul-Yadain is mutawatir and it should be noted the eminent Hanafi scholars from the likes of Shaikh Abdul Hayy Lucknowi, Shaikh Anwar Shah Kashmiri and Maulana Badr Alam all concluded that Raf ul-Yadain was mutawatir also.

Yet however at the same instance in the 13th century, Abdul Lateef Thathwi Hanafi also gave his own figurative explanations for Raf ul-Yadain and giving all sorts of answers to it in his (*Dhab Dhababat ad-Dirasat (1/585)*)

So there was and there still is this tahazzub, partisanship and sectarianism, this refining and fine tuning is just a myth. So when they did do any refining or clarifications it seemed to have fallen on deaf ears and blind eyes.

For example as it relates during the time of Shaikh Abu Bakr al-Jurjani, a Hanafi man wanted to marry a woman from amongst the Ahlul Hadeeth, so he asked her father, who stipulated the condition that he should recite Fatihah behind the Imam and raise his hands as he went into ruku. So the man ended up doing this.

Shaikh Abu Bakr al-Jurjani said although the nikah is valid but at the time of the transition, he may have been without Iman. So if he abandoned his former madhab to become Ahlul Hadeeth based on evidences, then there is no harm in this in fact this is recommended. (*Radd al-Mukhtar 4/249*)

Another example of this fine scholarship, academic contribution and refining of the madhab is the example of the issue of

one witr as occurs in the authentic ahadeeth. Now we know the hadeeth is authentic and this has been accepted by the hanafi elders, but how come the ahanf don't act upon this hadeeth.

This issue of refining is leaving so many hanafis abandoning this hadeeth and Sunnah, is this what refinement does to a madhab that after 1400 years we can not still act on an authentic hadeeth. We say, what is the use of such academia and scholastism!

Shaikh Anwar Shah Kashmiri says, *“For verily I spent nearly 14 years pondering and thinking of a satisfactory answer for this (hadeeth which mentions 1 rakah for witr).” (Refer to Urf ash-Shadhi pg.215 and also his Faidh al-Bari 2/375)*

So here we ask what kind of scholastic refining is this, is this not opening the doors to denying and rejecting ahadeeth and each and every individual will be responsible for his own actions. One can not deny or hide the behind excuse that I just did taqlid of the Imams or my Imam or scholars!

The scholars have specified when your hear a fatwa of a mujtahid and it is correct, then acting upon it is permissible.

hence Shaikh Bahr al-Uloom writes in his explanation of *'Sharh Muslim ath-Thabut'*, "If you come across a correct statement of a mujtahid, it is permissible to act upon it, do you not know that the later (Mutakhireen) scholars issued verdicts on the statement (opinion/ijtihad) of Ibn Abi Layla in the instance of taking an oath from a witness." (*Fawateh ar-Rahmut Sharh Muslim ath-Thabut 2/407*)

So this refining was on the ijtihaad and fatwa of Ibn Abi Layla and if this is the case how can the people say we follow the hanafi madhab.

This example and numerous others we have cited indicate that the madhabs were formed in this way with a whole array of opinions and ijtihaad which is not what Allah obligated upon us. The obligation upon us is to follow that which Allah revealed, ie the Quran and Hadith.

Dear readers let us not be from amongst those who deny ahadeeth just in the name of scholastic refining as there will be no excuse before Allah and when his Messenger his standing at the pool.

How can we forget the famous and well known principles that were formulated in defence of the hanafi madhab, its rulings and positions all in the name of refining for blind bigoted fanaticism.

Abu al-Hasan al-Karkhi said, “Every Ayah, which is in opposition to the statement of our companions (ie followers of the hanafi madhab) should be taken as abrogated or given precedence over but it is better to figuratively explain it away. The same is for every Hadeeth which opposes the statement of our companions (ie the hanafi madhab), it will be left to be abrogated and it will be understood there is a similar contradictory text. Then the evidence our madhab has used will be looked at and it will be given precedence over this conflicting text.” (Usool al-Karkhi pg.8 and pg.29 respectively and also pg.373 printed with Usool al-Bazdawi)

Subhanallah so these are the principles have been set up to refine and fine tune the hanafi madhab, no doubt this and other such principles are a means and tools that have been innovatively formulated to fight and oppose the Quran and Sunnah.

This again is another deprived and grave statement because there is no way possible to look at these principles in a positive light at all and all those who fail to comprehend this need to stand back and

wash away their stubbornness and arrogance coupled with blind fanatical bigoted staunch partisanship. May Allaah save us from this, Ameen.

There are also some very ignorant individuals who post on deceptive forums coining our name of Ahlul hadeeth, who have the sheer depravity to say why do we look at this in a negative way, there are also a number of positive interpretations!!!

Or those lost, confused and narrow minded individuals who have in recent times unleashed a wave of spider web based arguments in their vile attack of the Ahlul Hadeeth. Where they utter and repeat like parrots, what are the usool of the Ahlul Hadeeth. InshaAllah and indeed this will be replied to very soon.

So we have spoken about how blind fanaticism, partisanship and staunch bigotry has lead to a whole host of problems within madhab and with other madhabs. However most of these issues were pertaining to issues of fiqh.

The mujtahideen and righteous scholars had no problem in changing their opinions and stances on a whole array issues and this spread across a vast spectrum of rulings but the muqallideen, especuilly

the current day ones have looked at this as something censurable and blameworthy.

For example in the hanafi madhab, we have the issue of the Dhimmi (a disbeliever residing in a muslim country) that if we was to swear or abuse the Messenger of Allaah (Sallallahu Alayhi Wasallam) there is no punishment upon him and his covenant with the Muslim rule does not break.

The famous Hanafi jurist, Allamah ibn Najeem writes in this regard, *“The soul of a believer is inclined and disposes towards the position of the Mukhalif (ie the opposers, opponents and in this case the Shafis [and the Ahlul Hadeeth and Saalfis] who establish a punishment on such an individual ie qatl) BUT IT IS OBLIGATORY UPON US TO FOLLOW OUR MADHAB.”* (*al-Bahr ur-Raiq 5/135*).

Meaning we don't like the position in our madhab but following the false opinion and position is obligatory upon us as this is what our madhab necessitates upon us.

It is most pertinent to ask here what refining are the scholars doing since the inception of the madhab, when even in issues of Aqidah they can not leave their madhab. This is not refining, this is misguidance!!!

This is another example that renders the principle and concept mentioned in the question to be null, void and futile. This is because the shackles and chains of taqlid, partisanship and sectarianism can never come off and this is why there is no refining and correction.

In the issue mentioned above about cursing and swearing to the Messenger of Allaah (Sallallahu Alayhi Wasallam) the hanafi scholar Allamah Ibn Humam disagreed and differed in many issues of the hanafi madhab and he also does so in this issue of swearing to the Messenger of Allah (Sallallahu Alayhi Wasallam) *(as he has mentioned in his book Fath ul-Qadeer 4/381).*

The point here is that we have been talking about refining, correcting the rulings and positions of a madhab. So in this instance of swearing to the Messenger of Allah (Sallallahu Alayhi Wasallam), it is shocking to know that in the name of this alleged and supposed refining Shaikh Ibn Najeem discusses this issue and totally ignores and overlooks the position of Shaikh Ibn Humams on this issue as if it never existed or was unimportant!!! Something to think about.

He cites from his student Qasim bin Qutlubugha who said, “*This discussions and assertions of our Shaikh (ie Shaikh Ibn Humam) which*

are contrary and in contradiction to our madhab should not be acted upon.” (*al-Bahr ur-Raiq* 5/125 and *Rasail Ibn Abidin* 1/24)

So the example above is another yet another one that shows there was very little refinement Shaikh Abdul Hayy Lucknowi, the researching scholar of the Hanafis also repels and rebuts this understanding of the refining of the madhabs and in fact elucidates that the followers including the scholars of the madhabs were mutassub and bigoted.

He says, “A taifah (ie a whole group) of the hanafis are engrossed in tassub (ie partisanship – hizbiyyah) and this partisanship is extreme. They are heavily engrossed in pushing fatawa, even if an authentic hadeeth or clear contradicts it (ie the fatawa). They think if the hadeeth was authentic the Imam would have acted upon it and would not have an issued a verdict in contradicting it, this is indeed clear ignorance from them.” (*an-Naf'e al-Kabir* pg.135)

We have already mentioned this before, but again it is pertinent to be mentioned here. There are also other differences in which they have shown extreme bigotry and scare monging tactics and thereby strongly refuting and rebuking the opinions of the other madhabs.

For instance the one Hanafi elder and scholar, ie Shaikh Abdullah Balkhi said, “Whoever recites Fatihah behind the Imam, force soil into his mouth, and if not then break his teeth.” He also issued an edict that the one who recites fatihah behind the Imam then his is a fasiq and someone who does something haram. (Refer to *Durr al-Mukhtar* 1/544 and *Fath ul-Qadeer* 1/240)

What impression and understanding does this give the hanafi muqallid with regards to the other madhabs and people who believe one must recite fatihah behind the Imam, how comfortable would they feel if they happen to pray in their masjid!!!

A hanafi “saint” Shaikh Nizam ud deen was in favour of reciting fatihah behind the Imam but some hardcore extreme bigoted muqallideen presented some weak reports to him mentioning that the one who recites fatihah behind the Imam will have a flame of fire put into his mouth!!! So he replied, “I might receive this punishment but I can not bear that my prayer is rendered null and void (if I don’t recite the fatihah).” (*Nuzhatul Khawatir* 2/129)

Who from the ahnaf takes this REFINING, that although he was informed about all the punishments and sin of going against the position of the madhab, it was more beloved to him to follow the evidence from the book and Sunnah. This is also the refining and

correction, so why do we chose which refinement we take and which one we abandon?

Another problem with this concept and theory is that some eminent hanafi scholars said, those who claim there is no mujtahid after Allamah Nasafi and by this they mean mujtahid fil madhab and with regards to ijtiḥad mutlaq they say it finished with the 4 Imams to the extent that they said obligated and necessitate taqlid of one of the 4 imams.

Then all of this is a whim from amongst their whims and their speech is not given any importance. *(Refer to Fatwateh ar-Rahmut 2/399)*

This is also the reason why some later day hanafis who knew that there was no refining and correcting spoke the truth. They said the different madhabs and inter madhabs became so engrossed that the different madhabs appeared to be like different Shariahs, where as they all believe the commands were from Allah. *(Refer to Ma'ariful Quran 3/364) of Maulana Muhammad Shafee)*

There is also the possibility that a scholar can be wrong in their ijtiḥad and we have shown this from examples of inter madhab differences, reconcilaitions and corrections. However a scholar can be wrong in his rulings and his ijtiḥad and as we from the hadeeth he will

only get one reward and two if correct. (*Bukahri, Muslim and Abu Dawud*).

Therefore this shows mistakes and incorrect rulings can be made and for this they can not be shunned as they are scholars. Yet again the question and pivotal point is, what is the obligation and command upon the Muslims and indeed this has been clarified and to repeat for the sake of reminder and that is that we return to the Quran and Hadeeth.

Lets take an example where refining and correction has not taken place and it also shows by their notion is a myth and a poor understanding of the reality.

It is clearly mentioned by the Messenger of Allaah (Sallallahu Alayhi Wasallam) that he said, “Allahs curse is on the one who does Halaalah and the one who asks for it to be done.” (*Bukhari*) and Umar (RadhiAllaahu Anhu) ordered both of them to be stoned. Shaikh ul-Islam Ibn Taymiyyah said “That the companions are agreed in its prohibition from the likes of Uthman, Ali, Ibn Masood, Ibn Abbas, Ibn Umar and others (RadhiAllahu Anhum Ajma’een) and it has not been transmitted from any of the companions that they wed the woman to the first husband after the halalah.” (*Majmu’a al-Fatawa 33/330-33*)

However on the contrary the hanafi madhab says halalah is permissible to the extent that it has been said, “If someone has the intention of halalah but does not actually do it, he will be rewarded because he intended rectification and reconciliation.” (*ad-Durr al-Mukhtar* 3/415)

It seems like Shaikh Mulla Ali Qari rebuked this horrendous hanafi position (*Mirqat Sharh Mishkat* 6/298) and yet despite this there are halalah centres in some muslim countries.

Another example is when such corrections within a madhab are abandoned, is that the official position of Imam Abu Hanifah, Shaikh Muhammad Hasan Shaybani and Shaikh Abu Yusuf with regards to eating a lizard is that it is unlawful. However Shaikh Tahawi said there was no harm in eating it. (*Mukhtasar at-Tahawi* pg.441). Likewise he considered the urine of a camel and Horse mean to be halal. (*Mukhtasar at-Tahawi* pg.434).

Imam Ibn Hazm said “from the first to the last of the companions and all of the successors, we have from them ijma that it is impermissible to take all of the statements of an individual who was from their time or before them (Except the nabi). The people who take all of the statements of either Abu Haneefah, Malik, Shafi or Ahmad (ie they do taqlid) of them, knowing that the one who they do taqlid they do not reject his statements, then they should know that they are going against the ijma of the whole Ummah and they have left the

way of the believers and we seek refuge in Allaah from such a state. The second point is that all of these virtuous scholars prohibited the people doing taqlid of them and the taqlid of others therefore the one who does taqlid of them is opposing them.” (an-Nubdh pg.71 of Imam Ibn Hazm and ar-Radd Ala Ila Mi Akhlad Ilal Ard pg131-132 of Suyuti., also cited by Shaikh Shah Waliullah Delhawi in his Hujjatullah al-Baalighah 1/362)

5) How can a layperson tell which hadith is weak and which is strong without blindfollowing?

ANSWER

This is indeed a very strange way of trying to prove the reality of taqlid and its legitimacy. It is actually a very poor standard of comprehension to stoop to such a level of scholastic presentation of such a concept. What is further bizarre is their limited and poor understanding of the deen as well as the illustrious disciplines of the Islamic sciences.

Just because a hadith is graded to be sahih or weak does not mean by acting or following the hadith you are doing taqlid of the one who graded it. Likewise a hadith being cited in Bukhari is not considered to be Sahih just because it is transmitted in Bukhari.

I mean lets get to the specifics the Ummah has ijma on Sahih al-Bukhari being authentic so if a person follows any hadith from it then he does so based on it being authentic and in this instance it is not taqlid as their ijma of the Ummah upon this. (*Refer to Fawateh ar-Rahmut Sharh Musallim ath-Thabut 2/400*)

Furthermore the grading of the hadith based on the conditions of the science of hadith has stringent conditions and proofs for this. The reality and main reason that this point even got mentioned was due to the poor or ill understanding of the definition of taqlid. It is very important to understand the various definitions of taqlid.

One such basic definition is Imaam Khateeb Baghdadi himself said, “in essence *taqlid* is to accept a statement without evidence.” (*al-Faqeeh Wal-Muttafaqih* (2/66)

Abu Abdullah bin Khawar Bandad al-Basri al-Maliki who said, “*Taqlid* in the shariah means to refer to someone’s statement who himself does not have evidence for it and that is prohibited (Mamno’a) in the shariah and *ittiba* (following/obeying) is something that is established by the way of evidence.” (*Jami Bayan al-Ilm Wa-Fadhlihi* vol2 pg.993 no.1895), Ibn Qayyim also cites something similar in *A’laam al-Muwaqieen* 2/197, as does Suyuti in *ar-Radd Alal Akhlad Ilal Ard* pg.123)

When the scholars of hadith grade ahadith, they look at a whole host of evidences, they look the trustworthiness, the precision, accuracy, character etc and after all of this they grade a hadith. So they do base them on evidence ie they say such and such narrator is trustworthy as due to the principle of hadith, no criticism has been levelled against him.

Also on the other hand the scholar may say such and such narrator is weak due to the fact that he was a liar because such and such imam said, this is proof right and they will back this up with evidence. How on earth is this taqlid???

So all of these gradings are taken based on evidence and not a scholar saying oh I say that hadith is sahih or weak just because I say so. We have never said or advocated that the lay person is to know these sciences or that he must have a certain level of understanding to discern a difference between sahih or weak.

The scholars are agreed in that mentioning praise and criticism and taking this is not from taqlid as this falls under the category of information. The same principle applies to a witness in front of the judge ie the Qadhi or likewise a person referring to a Qadhi for a fatwa has never been termed or understood to be taqlid.

It should also be known, a lay person asking the mufti or Ahlul ilm questions and acting upon the answer is not taqlid as the scholars of usool have understood. *(for this refer to al-Mustasfa 2/389 of Ghazali, Fawateh ar-Rahmut Sharh Musallim ath-Thabut 2/400, at-Tahrir pg.547 of Ibn Humam.)*

Imam Shawkani said, “A lay person referring and acting upon the fatwa of a mufti and a Qadhi or taking the testimony of a witness is not taqlid because a Hujjah ie evidence has been established for this.” (*Irshad alFuhul* pg.246)

Imam Shawkani also said in the aforementioned book

Similarly when a Qadhi seeks the testimony of a witness, no one refers to this as taqlid and none of the scholars have ever labelled this as taqlid because here the principle is the same. So how can this be called taqlid.

At the same instance is this not ijtehad of the scholar and following his books or gradings is synonymous in asking him directly and whatever the outcome it is understood to be his ijtehad. So for this ijtehad he could either be right or wrong and this necessitates 2 reward for the former and one for the latter.

This is taken from the hadith of Amr ibn Al-As (RadhiAllahu Anhu) reported, The Messenger of Allah (Sallallahu Alayhi Wasallam) “If a judge makes a ruling, striving to apply his reasoning and he is correct, then he will have two rewards. If a judge makes a ruling, striving to apply his reasoning and he is mistaken, then he will have one reward.” (*Bukhari no.6919, Muslim no.1716*)

Insha Allah those, I can tell you, were the thoughts that I had. I definitely look forward to reading your response, to learning and understanding

These are just some of the thought that we had, unfortunately due to the lack of time we were unable to expand more on some of these points. We pray to Allah, The Almighty and Majestic that he keeps us firm on the Quran and Sunnah and keeps us away and saves us from the blind, bigoted staunch partisanship of taqlid. Ameen.

Allah willing we shall be presenting more articles and booklets on this subject. As for those who say we refute taqlid yet (blindly) follow the scholars when it comes to the issues of the rulers. Then we say their comprehension is poor, weak and based on emotion rather than looking into the issues deeply. Picking upon a few words of the Scholars is indeed injustice and way of Ahlul Bidah. We don't follow your way because its precisely this reason that we don't make taqlid, how about that for comprehension to begin with.

In addition to the loud mouth (or trigger fingers in this case) who poste one liners in their defense of taqlid on firums, are known to make alot of noise and thats all that it is, with nothing substantial and as we have previously said compiling a list of scholars who forbade

taqlid shaksi is what the salafis and Ahlul Hadith have reduced these modern day champions of taqlid. What a joke.

We pray to Allah, The Almighty and Majestic that he keeps us firm on the Quran and Sunnah and keeps us away and saves us from the blind, bigoted staunch partisanship of taqlid. Ameen.

By the two who are in need of the Mercy of his Lord

May Allah forgive us. Ameen

Abu Hibban & Abu Khuzaimah Ansaari

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