
The Evil Consequences of
Tagleed, Hizbiyyah
and *Partisanship*



PART 7

Madhabs Refined By 100's Of Scholars

By

Abu Hibbaan & Abu Khuzaimah Ansaari

www.Ahlulhadeeth.wordpress.com



The Evil Consequences of Taqleed, Hizbiyyah and Partisanship

Part 7 – Madhabs Refined By 100's Of Scholars

1st Edn. © Maktabah Ashaabul Hadeeth & Makatabah Imaam Badee ud deen

Rajab 1435H / May 2014ce

All rights reserved No part of this book may be reprinted or reproduced Or utilized in any form or by any electronic, mechanical, or other means, Now known or hereafter invented, including photocopying and recording, without prior Permission from the publishers or authors.

Published by



In conjunction with

www.Ablulhadeeth.wordpress.com

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

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 Anhuma 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 ijtihaad.

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'waiyyah. (*Refer to his Nur ul-Anwar pg.298, another edn. pg.304*).

Mu'awiyahs (RadhiAllaahu Anhu) ijtihaad was that if a claimant does not have 2 witnesses then one witness would suffice with the claimant taking an oath. Mu'awiyah (RadhiAllaahu Anhu) was not alone in this ijtihaad 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 taboeeen 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 Waqayyah 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 Waqayyah, in the Book of ad-Da'wa, which is 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 ulAnwar 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 si 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) (*Sifatus 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 (RadhiAllaahu 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 scholars 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!!!

By the two who are in need of the Mercy of his Lord, May Allah forgive us. Ameen

Abu Hibban & Abu Khuzaimah Ansaari

Rajab 1435 / May 2014