

The Taqleed Of An Individual And New Issues

http://www.muftisays.com/blog/Seifeddine-M/484_27-10-2010/the-taqleed-of-an-individual-and-new-issues.html

Arguments have been advanced that Taqleed of an individual impedes solutions to modern developments. The answer to such a contention is that modern issues, which demand Ijtihad, should be delegated to an expert scholar - whose Taqleed is very different from that of the lay person. Such an expert scholar would be able to sift the principles of earlier Mujtahids and resolve new problems based on the same. This type of Ijtihad has been prevalent in all ages even with the concept and practice of the Taqleed of an individual. Moreover, scholars of one school may unite upon solutions to new problems, which arise. Where there is a severe need for an immediate national or social problem, scholars are given leeway and hence, they can resort to the Fatwa from another school.

This is the reason why, in the Hanafi school, scholars have resorted to following the opinion of Imam Malik in issues like accepting wages and salaries for teaching the Quran, making legal provisions for divorce for a wife whose husband is lost or whose husband is impotent. This has been elaborated by Maulana Ashraf Ali Thanvi in his work *Al-Hilyatul Najizah lil Hilayatul 'Ajiza*. If there is a social need for Muslims to find latitude in a certain issue, an expert scholar may go to any of the four Madhabs to find a solution. Under no conditions is the practice of "Talfeeq" permissible, which is to use the Fatwa offered by one Imam and following another Imam in the same unit of ibaadah. Individuals are advised to seek the advice of expert scholars through a council.

Taqleed of an individual, in reality, has never rendered the community incapable of resolving new issues: rather it has constantly been in a state of flux and development addressing new issues for more than a millennium. [146] It is interesting to note that some contemporary orientalists have made the same allegation. [147]

Notes:

146 The details of the methods to arrive at these solutions can be found in elaborate works like that of Ibn

Abi Deen and the work of Maulana Ashraf Ali mentioned above

147 Refer to Montgomery Watt, *Islamic Political Thought*, Edinburgh University Press and N Coulson. *A History of Islamic Law*, Edinburgh University Press.