



Summer Holiday

2016

ADDITIONAL NOTES FOR DAY (1)


Why Muslims Follow Madhhabs - by Nuh Ha Mim Keller

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WHY MUSLIMS FOLLOW MADHHABS

By Nuh Ha Mim Keller

This essay developed from a lecture given in the United States, Canada, and England in 1994 and 1995. On each occasion, questions were taken, some of the most frequent of which have been answered in the subsequent chapters.

The work of the mujtahid Imams of Sacred Law, those who deduce shari'a rulings from Qur'an and hadith, has been the object of my research for some years now, during which I have sometimes heard the question: "Who needs the Imams of Sacred Law when we have the Qur'an and hadith? Why can't we take our Islam from the word of Allah and His Messenger (Allah bless him and give him peace), which are divinely protected from error, instead of taking it from the madhhabs or "schools of jurisprudence" of the mujtahid Imams such as Abu Hanifa, Malik, Shafi'i, and Ahmad, which are not?"

It cannot be hidden from any of you how urgent this issue is, or that many of the disagreements we see and hear in our mosques these days are due to lack of knowledge of fiqh or "Islamic jurisprudence" and its relation to Islam as a whole. Now, perhaps more than ever before, it is time for us to get back to basics and ask ourselves how we understand and carry out the commands of Allah.

We will first discuss the knowledge of Islam that all of us possess, and then show where fiqh enters into it. We will look at the qualifications mentioned in the Qur'an and sunna for those who do fiqh, the mujtahid scholars. We will focus first on the extent of the mujtahid scholar's knowledge—how many hadiths he has to know, and so on—and then we will look at the depth of his knowledge, through actual examples of dalils or "legal proofs" that demonstrate how scholars join between different and even contradictory hadiths to produce a unified and consistent legal ruling.

We will close by discussing the mujtahid's relation to the science of hadith authentication, and the conditions by which a scholar knows that a given hadith is sahih or "rigorously authenticated," so that he can accept and follow it.

Qur'an and Hadith. The knowledge that you and I take from the Qur'an and the hadith is of several types: the first and most important concerns our faith, and is the knowledge of Allah and His attributes, and the other basic tenets of Islamic belief such as the messengerhood of the Prophet (Allah bless him and give him peace), the Last Day, and so on. Every Muslim can and must acquire this knowledge from the Book of Allah and the sunna.

This is also the case with a second type of general knowledge, which does not concern faith, however, but rather works: the general laws of Islam to do good, to avoid evil, to perform the prayer, pay zakat, fast Ramadan, to cooperate with others in good works, and so forth. Anyone can learn and understand these general rules, which summarize the sirat al-mustaqim or "straight path" of our religion.

Fiqh. A third type of knowledge is of the specific details of Islamic practice. Whereas anyone can understand the first two types of knowledge from the Qur'an and hadith, the understanding of this third type has a special name, fiqh, meaning literally "understanding." And people differ in their capacity to do it.

I had a visitor one day in Jordan, for example, who, when we talked about why he hadn't yet gone on hajj, mentioned the hadith of Anas ibn Malik that the Messenger of Allah (Allah bless him and give him peace) said, "Whoever prays the dawn prayer (**fajr**) in a group and then sits and does dhikr until the sun



Summer Holiday 2016
Additional notes for Day (1)

Why Muslims Follow Madhhabs - By Nuh Ha Mim Keller
<http://masud.co.uk/why-muslims-follow-madhhabs/>

risers, then prays two rak'as, shall have the like of the reward of a hajj and an 'umra." Anas said, "The Prophet (Allah bless him and give him peace) said: 'Completely, completely, completely'" (Tirmidhi, 2.481).

My visitor had done just that this very morning, and he now believed that he had fulfilled his obligation to perform the hajj, and had no need to go to Mecca. The hadith was well authenticated (hasan). I distinguished for my visitor between having the reward of something, and lifting the obligation of Islam by actually doing it, and he saw my point.

But there is a larger lesson here, that while the Qur'an and the sunna are ma'sum or "divinely protected from error," the understanding of them is not. And someone who derives rulings from the Qur'an and hadith without training in ijtihad or "deduction from primary texts" as my visitor did, will be responsible for it on the Day of Judgment, just as an amateur doctor who had never been to medical school would be responsible if he performed an operation and somebody died under his knife.

Why? Because Allah has explained in the Qur'an that fiqh, the detailed understanding of the divine command, requires specially trained members of the Muslim community to learn and teach it. Allah says in surat al-Tawba:

"Not all of the believers should go to fight. Of every section of them, why does not one part alone go forth, that the rest may gain understanding of the religion, and to admonish their people when they return, that perhaps they may take warning" (Qur'an 9:122)

—where the expression li yatafaqqahu fi al-din, "to gain understanding of the religion," is derived from precisely the same root (f-q-h) as the word fiqh or "jurisprudence," and is what Western students of Arabic would call a "fifth-form verb" (tafa'ala), which indicates that the meaning contained in the root, understanding, is accomplished through careful, sustained effort.

This Qur'anic verse establishes that there should be a category of people who have learned the religion so as to be qualified in turn to teach it. And Allah has commanded those who do not know a ruling in Sacred Law to ask those who do, by saying in surat al-Nahl,

"Ask those who recall if you know not" (Qur'an 16:43),

in which the words "those who recall," ahl al-dhikri, indicate those with knowledge of the Qur'an and sunna, at their forefront the mujtahid Imams of this Umma. Why? Because, first of all, the Qur'an and hadith are in Arabic, and as a translator, I can assure you that it is not just any Arabic.

To understand the Qur'an and sunna, the mujtahid must have complete knowledge of the Arabic language in the same capacity as the early Arabs themselves had before the language came to be used by non-native speakers. This qualification, which almost no one in our time has, is not the main subject of my essay, but even if we did have it, what if you or I, though not trained specialists, wanted to deduce details of Islamic practice directly from the sources? After all, the Prophet (Allah bless him and give him peace) has said, in the hadith of Bukhari and Muslim: "When a judge gives judgement and strives to know a ruling (ijtahada) and is correct, he has two rewards. If he gives judgement and strives to know a ruling, but is wrong, he has one reward" (Bukhari, 9.133).

The answer is that the term ijtihad or "striving to know a ruling" in this hadith does not mean just any



Summer Holiday 2016
Additional notes for Day (1)

Why Muslims Follow Madhhabs - By Nuh Ha Mim Keller
<http://masud.co.uk/why-muslims-follow-madhhabs/>

person's efforts to understand and operationalize an Islamic ruling, but rather the person with sound knowledge of everything the Prophet (Allah bless him and give him peace) taught that relates to the question. Whoever makes ijtiḥad without this qualification is a criminal. The proof of this is the ḥadith that the Companion Jabir ibn 'Abdullah said:

We went on a journey, and a stone struck one of us and opened a gash in his head. When he later had a wet-dream in his sleep, he then asked his companions, "Do you find any dispensation for me to perform dry ablution (tayammum)?" [Meaning instead of a full purificatory bath (ghusl).] They told him, "We don't find any dispensation for you if you can use water."

So he performed the purificatory bath and his wound opened and he died. When we came to the Prophet (Allah bless him and give him peace), he was told of this and he said: "They have killed him, may Allah kill them. Why did they not ask?—for they didn't know. The only cure for someone who does not know what to say is to ask" (Abu Dawud, 1.93).

This ḥadith, which was related by Abu Dawud, is well authenticated (ḥasan), and every Muslim who has any taqwa should reflect on it carefully, for the Prophet (Allah bless him and give him peace) indicated in it—in the strongest language possible—that to judge on a rule of Islam on the basis of insufficient knowledge is a crime. And like it is the well authenticated ḥadith "Whoever is given a legal opinion (fatwa) without knowledge, his sin is but upon the person who gave him the opinion" (Abu Dawud, 3.321).

The Prophet (Allah bless him and give him peace) also said:

Judges are three: two of them in hell, and one in paradise. A man who knows the truth and judges accordingly, he shall go to paradise. A man who judges for people while ignorant, he shall go to hell. And a man who knows the truth but rules unjustly, he shall go to hell (Sharḥ al-sunna, 10.94).

This ḥadith, which was related by Abu Dawud, Tirmidhi, Ibn Majah, and others, is rigorously authenticated (ṣaḥih), and any Muslim who would like to avoid the hellfire should soberly consider the fate of whoever, in the words of the Prophet (Allah bless him and give him peace), "judges for people while ignorant."

Yet we all have our Yusuf 'Ali Qur'ans, and our Ṣaḥih al-Bukhari translations. Aren't these adequate scholarly resources?

These are valuable books, and do convey perhaps the largest and most important part of our dīn: the basic Islamic beliefs, and general laws of the religion. Our discussion here is not about these broad principles, but rather about understanding specific details of Islamic practice, which is called precisely fiqh. For this, I think any honest investigator who studies the issues will agree that the English translations are not enough. They are not enough because understanding the total Qur'an and ḥadith textual corpus, which comprises what we call the dīn, requires two dimensions in a scholar: a dimension of breadth, the substantive knowledge of all the texts; and a dimension of depth, the methodological tools needed to join between all the Qur'anic verses and ḥadiths, even those that ostensibly contradict one another.



Summer Holiday 2016
Additional notes for Day (1)

Why Muslims Follow Madhabs - By Nuh Ha Mim Keller
<http://masud.co.uk/why-muslims-follow-madhabs/>

Knowledge of Primary Texts. As for the breadth of a mujtahid's knowledge, it is recorded that Imam Ahmad ibn Hanbal's student Muhammad ibn 'Ubaydullah ibn al-Munadi heard a man ask him [Imam Ahmad]: "When a man has memorized 100,000 hadiths, is he a scholar of Sacred Law, a faqih?" And he said, "No." The man asked, "200,000 then?" And he said, "No." The man asked, "Then 300,000?" And he said, "No." The man asked, "400,000?" And Ahmad gestured with his hand to signify "about that many" (Ibn al-Qayyim: I'lam al-muwaqqi'in, 4.205).

In truth, by the term "hadith" here Imam Ahmad meant the hadiths of the Prophet (Allah bless him and give him peace) in all their various chains of transmission, counting each chain of transmission as a separate hadith, and perhaps also counting the statements of the Sahaba. But the larger point here is that even if we eliminate the different chains, and speak only about the hadiths from the Prophet (Allah bless him and give him peace) that are plainly acceptable as evidence, whether sahih, "rigorously authenticated" or hasan "well authenticated" (which for purposes of ijtiḥad, may be assimilated to the sahih), we are still speaking of well over 10,000 hadiths, and they are not contained in Bukhari alone, or in Bukhari and Muslim alone, nor yet in any six books, or even in any nine. Yet whoever wants to give a fatwa or "formal legal opinion" and judge for people that something is lawful or unlawful, obligatory or sunna, must know all the primary texts that relate to it. For the perhaps 10,000 hadiths that are sahih are, for the mujtahid, as one single hadith, and he must first know them in order to join between them to explain the unified command of Allah. I say "join between" because most of you must be aware that some sahih hadiths seem to controvert other equally sahih hadiths. What does a mujtahid do in such an instance?

Ijtiḥad. Let's look at some examples. Most of us know the hadiths about fasting on the Day of 'Arafa for the non-pilgrim, that "it expiates [the sins of] the year before and the year after" (Muslim, 2.819). But another rigorously authenticated hadith prohibits fasting on Friday alone (Bukhari, 3.54), and a well authenticated hadith prohibits fasting on Saturday alone (Tirmidhi, 3.120), of which Tirmidhi explains, "The meaning of the 'offensiveness' in this is when a man singles out Saturday to fast on, since the Jews venerate Saturdays" (ibid.). Some scholars hold Sundays offensive to fast on for the same reason, that they are venerated by non-Muslims. (Other hadiths permit fasting one of these days together with the day before or the day after it, perhaps because no religion venerates two of the days in a row.) The question arises: What does one do when 'Arafa falls on a Friday, a Saturday, or a Sunday? The general demand for fasting on the Day of 'Arafa might well be qualified by the specific prohibition of fasting on just one of these days. But a mujtahid aware of the whole hadith corpus would certainly know a third hadith related by Muslim that is even more specific, and says: "Do not single out Friday from among other days to fast on, unless it coincides with a fast one of you performs" (Muslim, 2.801).

The latter hadith establishes for the mujtahid the general principle that the ruling for fasting on a day normally prohibited to fast on changes when it "coincides with a fast one of you performs"—and so there is no problem with fasting whether the Day of Arafa falls on a Friday, Saturday, or Sunday.

Here as elsewhere, whoever wants to understand the ruling of doing something in Islam must know all the texts connected with it. Because as ordinary Muslims, you and I are not only responsible for obeying the Qur'anic verses and hadiths we are familiar with. We are responsible for obeying all of them, the whole shari'a. And if we are not personally qualified to join between all of its texts—and we have heard Ahmad ibn Hanbal discuss how much knowledge this takes—we must follow someone who can, which is why Allah tells us, "Ask those who recall if you know not."



Summer Holiday 2016
Additional notes for Day (1)

Why Muslims Follow Madhhabs - By Nuh Ha Mim Keller
<http://masud.co.uk/why-muslims-follow-madhhabs/>

The size and nature of this knowledge necessitate that the non-specialist use adab or "proper respect" towards the scholars of fiqh when he finds a hadith, whether in Bukhari or elsewhere, that ostensibly contradicts the schools of fiqh. A non-scholar, for example, reading through Sahih al-Bukhari will find the hadith that the Prophet (Allah bless him and give him peace) bared a thigh on the ride back from Khaybar (Bukhari, 1.103–4). And he might imagine that the four madhhabs or "legal schools"—Hanafi, Maliki, Shafi'i, and Hanbali—were mistaken in their judgment that the thigh is 'awra or "nakedness that must be covered."

But in fact there are a number of other hadiths, all of them well authenticated (hasan) or rigorously authenticated (sahih) that prove that the Prophet (Allah bless him and give him peace) explicitly commanded various Sahaba to cover the thigh because it was nakedness. Hakim reports that the Prophet (Allah bless him and give him peace) saw Jarhad in the mosque wearing a mantle, and his thigh became uncovered, so the Prophet told him, "The thigh is part of one's nakedness" (al-Mustadrak), of which Hakim said, "This is a hadith whose chain of transmission is rigorously authenticated (sahih)," which Imam Dhahabi confirmed (ibid.). Imam al-Baghawi records the sahih hadith that "the Prophet (Allah bless him and give him peace) passed by Ma'mar, whose two thighs were exposed, and told him, 'O Ma'mar, cover your two thighs, for the two thighs are nakedness'" (Sharh al-sunna 9.21). And Ahmad ibn Hanbal records that the Prophet (Allah bless him and give him peace) said, "When one of you marries [someone to] his servant or hired man, let him not look at his nakedness, for what is below his navel to his two knees is nakedness" (Ahmad, 2.187), a hadith with a well authenticated (hasan) chain of transmission. The mujtahid Imams of the four schools knew these hadiths, and joined between them and the Khaybar hadith in Bukhari by the methodological principle that: "An explicit command in words from the Prophet (Allah bless him and give him peace) is given precedence over an action of his." Why?

Among other reasons, because certain laws of the shari'a applied to the Prophet alone (Allah bless him and give him peace). Such as the fact that when he went into battle, he was not permitted to retreat, no matter how outnumbered. Or such as the obligatoriness for him alone of praying tahajjud or "night vigil prayer" after rising from sleep before dawn, which is merely sunna for the rest of us. Or such as the permissibility for him alone of not breaking his fast at night between fast-days. Or such as the permissibility for him alone of having more than four wives—the means through which Allah, in His wisdom, preserved for us the minutest details of the Prophet's day-to-day sunna (Allah bless him and give him peace), which a larger number of wives would be far abler to observe and remember.

Because certain laws of the shari'a applied to him alone, the scholars of ijtiḥad have established the principle that in many cases, when an act was done by the Prophet personally (Allah bless him and give him peace), such as bearing the thigh after Khaybar, and when he gave an explicit command to us to do something else, in this case, to cover the thigh because it is nakedness, then the command is adopted for us, and the act is considered to pertain to him alone (Allah bless him and give him peace).

We can see from this example the kind of scholarship it takes to seriously comprehend the whole body of hadith, both in breadth of knowledge, and depth of interpretive understanding or fiqh, and that anyone who would give a fatwa, on the basis of the Khaybar hadith in Sahih al-Bukhari, that "the scholars are wrong and the hadith is right" would be guilty of criminal negligence for his ignorance. When one does not have substantive knowledge of the Qur'an and hadith corpus, and lacks the fiqh methodology to comprehensively join between it, the hadiths one has read are not enough. To take another example, there is a well authenticated (hasan) hadith that "the Prophet (Allah bless him and



Summer Holiday 2016
Additional notes for Day (1)

Why Muslims Follow Madhhabs - By Nuh Ha Mim Keller
<http://masud.co.uk/why-muslims-follow-madhhabs/>

give him peace) cursed women who visit graves" (Tirmidhi, 3.371). But scholars say that the prohibition of women visiting graves was abrogated (mansukh) by the rigorously authenticated (sahih) hadith "I had forbidden you to visit graves, but now visit them" (Muslim, 2.672).

Here, although the expression "now visit them" (fa zuruha) is an imperative to men (or to a group of whom at least some are men), the fact that the hadith permits women as well as men to now visit graves is shown by another hadith related by Muslim in his Sahih that when 'A'isha asked the Prophet (Allah bless him and give him peace) what she should say if she visited graves, he told her, "Say: 'Peace be upon the believers and Muslims of the folk of these abodes: May Allah have mercy on those of us who have gone ahead and those who have stayed behind: Allah willing, we shall certainly be joining you'" (Muslim, 2.671), which plainly entails the permissibility of her visiting graves in order to say this, for the Prophet (Allah bless him and give him peace) would never have taught her these words if visiting the graves to say them had been disobedience. In other words, knowing all these hadiths, together with the methodological principle of naskh or "abrogation," is essential to drawing the valid fiqh conclusion that the first hadith in which "the Prophet (Allah bless him and give him peace) cursed women who visit graves"—was abrogated by the second hadith, as is attested to by the third.

Or consider the Qur'anic text in surat al-Ma'ida:

"The food of those who have been given the Book is lawful for you, and your food is lawful for them" (Qur'an 5:5).

This is a general ruling ostensibly pertaining to all their food. Yet this ruling is subject to takhsis, or "restriction" by more specific rulings that prove that certain foods of Ahl al-Kitab, "those who have been given the Book," such as pork, or animals not properly slaughtered, are not lawful for us.

Ignorance of this principle of takhsis or restriction seems to be especially common among would-be mujtahids of our times, from whom we often hear the more general ruling in the words "But the Qur'an says," or "But the hadith says," without any mention of the more particular ruling from a different hadith or Qur'anic versethat restricts it. The reply can only be "Yes, brother, the Qur'an does say, 'The food of those who have been given the Book is lawful for you,' But what else does it say?" or "Yes, the hadith in Sahih al-Bukhari says the Prophet (Allah bless him and give him peace) bared his thigh on the return from Khaybar. But what else do the hadiths say, and more importantly, are you sure you know it?"

The above examples illustrate only a few of the methodological rules needed by the mujtahid to understand and operationalize Islam by joining between all the evidence. Firstly, we saw the principle of takhsis or "restriction" of general rules by more specific ones, both in the example of fasting on the Day of 'Arafa when it falls on a Friday, Saturday, or Sunday, and the example of the food of Ahl al-Kitab. Secondly, in the Khaybar hadith in Sahih al-Bukhari about baring the thigh and the hadiths commanding that the thigh be covered, we saw the principle of how an explicit prophetic command in words is given precedence over a mere action when there is a contradiction. Thirdly, we saw the principle of nasikh wa mansukh, of "an earlier ruling being abrogated by a later one," in the example of the initial prohibition of women visiting graves, and their subsequently being permitted to.

These are only three of the ways that two or more texts of the Qur'an and hadith may enter into and qualify one another, rules that someone who derives the shari'a from them must know. In other



Summer Holiday 2016
Additional notes for Day (1)

Why Muslims Follow Madhhabs - By Nuh Ha Mim Keller
<http://masud.co.uk/why-muslims-follow-madhhabs/>

words, they are but three tools of a whole methodological toolbox. We do not have the time tonight to go through all these tools in detail, although we can mention some in passing, giving first their Arabic names, such as:

- The 'amm, a text of general applicability to many legal rulings, and its opposite:
- The khass, that which is applicable to only one ruling or type of ruling.

- The mujmal, that which requires other texts to be fully understood, and its opposite:
- The mubayyan, that which is plain without other texts.

- The mutlaq, that which is applicable without restriction, and its opposite:
- The muqayyad, that which has restrictions given in other texts.

- The nasikh, that which supersedes previous revealed rulings, and its opposite:
- The mansukh: that which is superseded.

- The nass: that which unequivocally decides a particular legal question, and its opposite:
- The dhahir: that which can bear more than one interpretation.

My point in mentioning what a mujtahid is, what fiqh is, and the types of texts that embody Allah's commands, with the examples that illustrate them, is to answer our original question: "Why can't we take our Islamic practice from the word of Allah and His messenger, which are divinely protected, instead of taking it from mujtahid Imams, who are not?" The answer, we have seen, is that revelation cannot be acted upon without understanding, and understanding requires firstly that one have the breadth of mastery of the whole, and secondly, the knowledge of how the parts relate to each other. Whoever joins between these two dimensions of the revelation is taking his Islamic practice from the word of Allah and His messenger, whether he does so personally, by being a mujtahid Imam, or whether by a means of another, by following one.

Following Scholars (Taqlid). The Qur'an clearly distinguishes between these two levels—the nonspecialists whose way is taqlid or "following the results of scholar without knowing the detailed evidence"; and those whose task is to know and evaluate the evidence—by Allah Most High saying in surat al-Nisa':

"If they had referred it to the Messenger and to those of authority among them, then those of them whose task it is to find it out would have known the matter" (Qur'an 4:83)

—where alladhina yastanbitunahu minhum, "those of them whose task it is to find it out," refers to those possessing the capacity to infer legal rulings directly from evidence, which is called in Arabic precisely istinbat, showing, as Qur'anic exegete al-Razi says, that "Allah has commanded those morally responsible to refer actual facts to someone who can infer (yastanbitu) the legal ruling concerning them" (Tafsir al-Fakhr al-Razi, 10.205).

A person who has reached this level can and indeed must draw his inferences directly from evidence, and may not merely follow another scholar's conclusions without examining the evidence (taqlid), a rule expressed in books of methodological principles of fiqh as: Laysa li al-'alim an yuqallida, "The alim [i.e. the mujtahid at the level of istinbat referred to by the above Qur'anic verse] may not merely follow another scholar" (al-Juwayni: Sharh al- Waraqat, 75), meaning it is not legally permissible for



Summer Holiday 2016
Additional notes for Day (1)

Why Muslims Follow Madhhabs - By Nuh Ha Mim Keller
<http://masud.co.uk/why-muslims-follow-madhhabs/>

one mujtahid to follow another mujtahid unless he knows and agrees with his evidences.

The mujtahid Imams trained a number of scholars who were at this level. Imam Shafi'i had al-Muzani, and Imam Abu Hanifa had Abu Yusuf and Muhammad ibn al-Hasan al-Shaybani. It was to such students that Abu Hanifa addressed his words: "It is unlawful for whoever does not know my evidence to give my position as a fatwa" (al-Hamid: Luzum ittiba' madhahib al-a'imma, 6), and, "It is not lawful for anyone to give our position as a fatwa until he knows where we have taken it from" (ibid.).

It is one of the howlers of our times that these words are sometimes quoted as though they were addressed to ordinary Muslims. If it were unlawful for the carpenter, the sailor, the computer programmer, the doctor, to do any act of worship before he had mastered the entire textual corpus of the Qur'an and thousands of hadiths, together with all the methodological principles needed to weigh the evidence and comprehensively join between it, he would either have to give up his profession or give up his religion. A lifetime of study would hardly be enough for this, a fact that Abu Hanifa knew better than anyone else, and it was to scholars of istinbat, the mujtahids, that he addressed his remarks. Whoever quotes these words to non-scholars to try to suggest that Abu Hanifa meant that it is wrong for ordinary Muslims to accept the work of scholars, should stop for a moment to reflect how insane this is, particularly in view of the life work of Abu Hanifa from beginning to end, which consisted precisely in summarizing the fiqh rulings of the religion for ordinary people to follow and benefit from.

Imam Shafi'i was also addressing this top level of scholars when he said: "When a hadith is sahih, it is my school (madhhab)"—which has been misunderstood by some to mean that if one finds a hadith, for example, in Sahih al-Bukhari that is inconsistent with a position of Shafi'i's, one should presume that he was ignorant of it, drop the fiqh, and accept the hadith.

I think the examples we have heard tonight of joining between several hadiths for a single ruling are too clear to misunderstand Shafi'i in this way. Shafi'i is referring to hadiths that he was previously unaware of and that mujtahid scholars know him to have been unaware of when he gave a particular ruling. And this, as Imam Nawawi has said, "is very difficult," for Shafi'i was aware of a great deal. We have heard the opinion of Shafi'i's student Ahmad ibn Hanbal about how many hadiths a faqih must know, and he unquestionably considered Shafi'i to be such a scholar, for Shafi'i was his sheikh in fiqh. Ibn Khuzayma, known as "the Imam of Imams" in hadith memorization, was once asked, "Do you know of any rigorously authenticated (sahih) hadith that Shafi'i did not place in his books?" And he said "No" (Nawawi: al-Majmu', 1.10). And Imam Dhahabi has said, "Shafi'i did not make a single mistake about a hadith" (Ibn Subki: Tabaqat al-Shafi'iyya, 9.114). It is clear from all of this that Imam Shafi'i's statement "When a hadith is sahih, it is my position" only makes sense—and could result in meaningful corrections—if addressed to scholars at a level of hadith mastery comparable to his own.

Hadith Authentication. The last point raises another issue that few people are aware of today, and I shall devote the final part of my speech to it. Just as the mujtahid Imam is not like us in his command of the Qur'an and hadith evidence and the principles needed to join between it and infer rulings from it, so too he is not like us in the way he judges the authenticity of hadiths. If a person who is not a hadith specialist needs to rate a hadith, he will usually want to know if it appears, for example, in Sahih al-Bukhari, or Sahih Muslim, or if some hadith scholar has declared it to be sahih or hasan. A mujtahid does not do this.



Summer Holiday 2016
Additional notes for Day (1)

Why Muslims Follow Madhhabs - By Nuh Ha Mim Keller
<http://masud.co.uk/why-muslims-follow-madhhabs/>

Rather, he reaches an independent judgment as to whether a particular hadith is truly from the Prophet (Allah bless him and give him peace) through his own knowledge of hadith narrators and the sciences of hadith, and not from taqlid or "following the opinion of another hadith scholar."

It is thus not necessarily an evidence against the positions of a mujtahid that Bukhari, or Muslim, or whoever, has accepted a hadith that contradicts the mujtahid's evidence. Why? Because among hadith scholars, the reliability rating of individual narrators in hadith chains of transmission are disagreed about and therefore hadiths are disagreed about in the same manner that particular questions of fiqh are disagreed about among the scholars of fiqh. Like the schools of fiqh, the extent of this disagreement is relatively small in relation to the whole, but one should remember that it does exist.

Because a mujtahid scholar is not bound to accept another scholar's ijtiḥad regarding a particular hadith, the ijtiḥad of a hadith specialist of our own time that, for example, a hadith is weak (da'if), is not necessarily an evidence against the ijtiḥad of a previous mujtahid that the hadith is acceptable. This is particularly true in the present day, when specialists in hadith are not at the level of their predecessors in either knowledge of hadith sciences, or memorization of hadiths.

We should also remember what sahih means. I shall conclude my essay with the five conditions that have to be met for a hadith to be considered sahih, and we shall see, in sha' Allah, how the scholars of hadith have differed about them, a discussion drawn in its outlines from contemporary Syrian hadith scholar Muhammad 'Awwama's *Athar al-hadith al-sharif fi ikhtilaf al-A'imma al-fuqaha* [The effect of hadith on the differences of the Imams of fiqh] (21–23):

(a) The first condition is that a hadith must go back to the Prophet (Allah bless him and give him peace) by a continuous chain of narrators. There is a difference of opinion here between Bukhari and Muslim, in that Bukhari held that for any two adjacent narrators in a chain of transmission, it must be historically established that the two actually met, whereas Muslim and others stipulated only that their meeting have been possible, such as by one having lived in a particular city that the other is known to have visited at least once in his life. So some hadiths will be acceptable to Muslim that will not be acceptable to Bukhari and those of the mujtahid imams who adopt his criterion.

(b) The second condition for a sahih hadith is that the narrators be morally upright. The scholars have disagreed about the definition of this, some accepting that it is enough that a narrator be a Muslim who is not proven to have been unacceptable. Others stipulate that he be outwardly established as having been morally upright, while other scholars stipulate that this be established inwardly as well. These different criteria are naturally reasons why two mujtahids may differ about the authenticity of a single hadith.

(c) The third condition is that the narrators must be known to have had accurate memories. The verification of this is similarly subject to some disagreement between the Imams of hadith, resulting in differences about reliability ratings of particular narrators, and therefore of particular hadiths.

(d) The fourth condition for a sahih hadith is that the text and transmission of the hadith must be free of shudhudh, or "variance from established standard narrations of it." An example is when a hadith is related by five different narrators who are contemporaries of one another, all of whom relate the same hadith from the same sheikh through his chain of transmission back to the Prophet (Allah bless him and give him peace). Here, if we find that four of the hadiths have the same wording but one of



them has a variant wording, the hadith with the variant wording is called shadhdh or "deviant," and it is not accepted, because the difference is naturally assumed to be the mistake of the one narrator, since all of the narrators heard the hadith from the same sheikh.

There is a hadith (to take an example researched by our hadith teacher, sheikh Shu'ayb al-Arna'ut) related by Ahmad (4.318), Bayhaqi (2.132), Ibn Khuzayma (1.354), and Ibn Hibban, with a reliable chain of narrators (thiqat)—except for Kulayb ibn Hisham, who is a merely "acceptable" (saduq), not "reliable" (thiqa)—that the Companion Wa'il ibn Hujr al-Hadrami said that when he watched the Prophet (Allah bless him and give him peace) kneeling in the Tashahhud or "Testification of Faith" of his prayer, the Prophet lifted his [index] finger, and I saw him move it, supplicating with it. I came [some time] after that and saw people in [winter] over-cloaks, their hands moving under the cloaks (Ibn Hibban, 5.170–71).

Now, all of the versions of the hadith mentioning that the Prophet (Allah bless him and give him peace) moved his finger have been related to us by way of Za'ida ibn Qudama al-Thaqafi, a narrator who is considered reliable, and who transmitted it from the hadith sheikh 'Asim ibn Kulayb, who related it from his father Kulayb ibn Shihab, from Wa'il ibn Hujr al-Hadrami. But we find that this version of "moving the finger" contradicts versions of the hadith transmitted from the same sheikh, 'Asim ibn Kulayb, by no less than ten of 'Asim's other students, all of them reliable, who heard 'Asim report that the Prophet (Allah bless him and give him peace) did not move but rather pointed (ashara) with his index finger (towards the qibla or "direction of prayer").

These companions of 'Asim (with their hadiths, which are well authenticated (hasan)) are: Sufyan al-Thawri: "then he pointed with his index finger, putting the thumb to the middle finger to make a ring with them" (al-Musannaf 2.68–69); Sufyan ibn 'Uyayna: "he joined his thumb and middle finger to make a ring, and pointed with his index finger" (Ahmad, 4.318); Shu'ba ibn al-Hajjaj: "he pointed with his index finger, and formed a ring with the middle one" (Ahmad, 4.319); Qays ibn al-Rabi': "then he joined his thumb and middle finger to make a ring, and pointed with his index finger" (Tabarani, 22.33–34); 'Abd al-Wahid ibn Ziyad al-'Abdi: "he made a ring with a finger, and pointed with his index finger" (Ahmad, 4.316); 'Abdullah ibn Idris al-Awdi: "he had joined his thumb and middle finger to make a ring, and raised the finger between them to make du'a (supplication) in the Testification of Faith" (Ibn Majah, 1.295); Zuhayr ibn Mu'awiya: "and I saw him ['Asim] say, 'Like this,'—and Zuhayr pointed with his first index finger, holding two fingers in, and made a ring with his thumb and second index [middle] finger" (Ahmad, 4.318–19); Abu al-Ahwas Sallam ibn Sulaym: "he began making du'a like this—meaning with his index finger, pointing with it—" (Musnad al-Tayalisi, 137); Bishr ibn al-Mufaddal: "and I saw him ['Asim] say, 'Like this,'—and Bishr joined his thumb and middle finger to make a ring, and pointed with his index finger" (Abi Dawud, 1.251); and Khalid ibn Abdullah al-Wasiti: "then he joined his thumb and middle finger to make a ring, and pointed with his index finger" (Bayhaqi, 2.131).

All of these narrators are reliable (thiqat), and all heard 'Asim ibn Kulayb relate that the Prophet (Allah bless him and give him peace) "pointed with (ashara bi) his index finger" during the Testimony of Faith in his prayer. There are many other narrations of "pointing with the index finger" transmitted through sheikhs other than 'Asim, omitted here for brevity—four of them, for example, in Sahih Muslim, 1.408–9). The point is, for illustrating the meaning of a shadhdh or "deviant hadith," that the version of moving the finger was conveyed only by Za'ida ibn Qudama from 'Asim. Ibn Khuzayma says: "There is not a single hadith containing yuharrikuha ('he moved it') except this hadith mentioned by Za'ida" (Ibn Khuzayma, 1.354).



So we know that the Prophet (Allah bless him and give him peace) used to point with his index finger, and that the version of "moving his finger" is *shadhdh* or "deviant," and represents a slip of the narrator, for the word *ishara* in the majority's version means only "to point or gesture at," or "to indicate with the hand," and has no recorded lexical sense of wiggling or shaking the finger (*Lisan al-'Arab*, 4.437 and *al-Qamus al-muhit* (540). This interpretation is explicitly borne out by well authenticated hadiths related from the Companion Abdullah ibn al-Zubayr that "the Prophet (Allah bless him and give him peace) used to point with his index finger when making supplication [in the Testification of Faith], and did not move it" (Abi Dawud, 1.260) and that he "used to point with his index finger when making supplication, without moving it" (Bayhaqi, 2.131–32).

Finally, we may note that Imam Bayhaqi has joined between the Za'ida ibn Qudama hadith and the many hadiths that apparently contradict it by suggesting that moving the finger in the Za'ida hadith may mean simply lifting it (*rafa'a*), a wording explicitly mentioned in one version recorded by Muslim that the Prophet (Allah bless him and give him peace) "raised the right finger that is next to the thumb, and supplicated with it" (Muslim, 1.408). So according to Bayhaqi, the contradiction is only apparent, and raising the finger is the "movement" that Wa'il saw from the Prophet (Allah bless him and give him peace) and the people's hands under their cloaks, according to Za'ida's version, which remains, however, *shadhdh* or "deviant" from a hadith point of view, unless understood in this limited sense.

(e) The fifth and final condition for a *sahih* hadith is that both the text and chain of transmission must be without 'illa or "hidden flaw" that alerts experts to expect inauthenticity in it. We will dwell for a moment on this point not only because it helps illustrate the processes of *ijtihad*, but because in-depth expertise in this condition was not common even among top hadith Imams. The greatest name in the field was 'Ali al-Madini, one of the sheikhs of Bukhari, though his major work about it is now unfortunately lost. Daraqutni is perhaps the most famous specialist in the field whose works exist. In the words of Ibn al-Salah, a *hafiz* or "hadith master" (someone with at least 100,000 hadiths by memory), the knowledge of the 'illa or "hidden flaw" is:

among the greatest of the sciences of hadith, the most exacting, and highest: only scholars of great memorization, hadith expertise, and penetrating understanding have a thorough knowledge of it. It refers to obscure, hidden flaws that vitiate hadiths, "flawed" meaning that a defect is discovered that negates the authenticity of a hadith that is outwardly "rigorously authenticated" (*sahih*). It affects hadiths with reliable chains of narrators that outwardly appear to fulfill all the conditions of a *sahih* hadith ('*Ulum al-hadith*).

It may surprise some people to learn that one example often cited in hadith textbooks of such a hidden flaw ('illa) is from *Sahih Muslim*, all of whose hadiths are rigorously authenticated (*sahih*), as Ibn al-Salah has said, "except for a very small number of words, which hadith masters of textual evaluation (*naqd*) such as Daraqutni and others have critiqued, and which are known to scholars of this level" ('*Ulum al-hadith*). The hadith of the present example was related by Muslim from the Companion Anas ibn Malik in several versions, which might convince those unaware of its flaw to believe that someone at prayer should omit the Basmala or "Bismi Llahi r-Rahmani r-Rahim" at the beginning of the Fatiha. According to the hadith, Anas ibn Malik (Allah be well pleased with him) said,

I prayed with the Messenger of Allah (Allah bless him and give him peace), Abu Bakr, 'Umar, and 'Uthman, and they opened with "al-Hamdu li Llahi Rabbi l-'Alamin," not mentioning "Bismi Llahi r-Rahmani r-Rahim" at the first of the recital or the last of it [and in another version, "I didn't hear any of



Summer Holiday 2016
Additional notes for Day (1)

Why Muslims Follow Madhhabs - By Nuh Ha Mim Keller
<http://masud.co.uk/why-muslims-follow-madhhabs/>

them recite 'Bismi Llahi r-Rahmani r-Rahim'"] (Muslim, 1.299).

Scholars say the hadith's flaw lies in the negation of the Basmala at the end, which is not the words of Anas, but rather one of the subnarrators explaining what he thought Anas meant. Ibn al-Salah says: "Its subnarrator related it with the above-mentioned wording in accordance with his own understanding of it" (Muqaddima Ibn al-Salah (b01), 99). This hadith is given as an example of a "hidden flaw" in a number of manuals of hadith terminology such as hadith master (hafiz) Suyuti's *Tadrib al-rawi* (1.254–57); hadith master Ibn al-Salah's *Uloom al-hadith*; hadith master Zayn al-Din al-'Iraqi's *al-Taqyid wa al-idah* (98–103); and others. Al-'Iraqi says, "A number of hadith masters (huffaz) have judged it to be flawed, including Shafi'i, Daraqutni, Bayhaqi, and Ibn 'Abd al-Barr" (ibid., 98).

Now, Bukhari has related the hadith up to the words "and they opened with 'al-Hamdu li Llahi Rabbi l-'Alamin'"; without mentioning omitting the Basmala (Bukhari, 1.189), and Tirmidhi and Abu Dawud relate no other version. Scholars point out, in this connection, that the words "al-Hamdu li Llahi Rabbi l-'Alamin" were in fact the name of the Fatiha, for the Prophet (Allah bless him and give him peace) and his Companions often used the opening words of suras as names for them; for example, in the hadith in *Sahih al-Bukhari* of Abu Sa'id ibn al-Mu'alla, who relates that the Prophet (Allah bless him and give him peace) said:

"I will teach you a sura that is the greatest sura of the Qur'an before you leave the mosque." Then he took my hand, and when he was going out, I said to him, "Didn't you say, 'I will teach you a sura that is the greatest sura of the Qur'an before you leave the mosque'?" And he said: "'Al-Hamdu li Llahi Rabbi l-'Alamin': it is the Seven Oft-Recited [Verses] (al-Sab' al-Mathani) and the Tremendous Recital (al-Qur'an al-'Adhim) that I have been given" (ibid., 6.20–21).

In this hadith, "Al-Hamdu li Llahi Rabbi l-'Alamin" is plainly the name of the Fatiha, and means nothing besides, for otherwise, it is one verse, not seven. 'A'isha, who was one of the ulama of the Sahaba, also referred to names of suras in this way, as in the hadith of Bukhari that the Prophet (Allah bless him and give him peace), when he went to bed each night, joined his hands together, blew a light spray of saliva upon them, and read over them "Qul huwa Llahu Ahad," "Qul a'udhu bi Rabbi l-Falaq," and "Qul a'udhu bi Rabbi n-Nas"; then wiped every part of his body he could with them (ibid., 233–34), which clearly shows that she named the suras by their opening words (after the Basmala), as did other early Muslims (such as Bukhari in his chapter headings in the section of his *Sahih* on the Virtues of the Qur'an, for example). So there is no indication, in the portion of the Anas hadith's wording that is agreed upon by both Bukhari and Muslim; namely, "I prayed with the Messenger of Allah (Allah bless him and give him peace), Abu Bakr, 'Umar, and 'Uthman, and they opened with 'al-Hamdu li Llahi Rabbi l-'Alamin,'" that the Basmala was not recited aloud. Says Tirmidhi: "Imam Shafi'i has said, 'Its meaning is that they used to begin with the Fatiha before the sura, not that they did not recite "Bismi Llahi r-Rahmani r-Rahim."'" And Shafi'i held that the prayer was begun with 'Bismi Llahi r-Rahmani r-Rahim,' and that it was recited aloud in prayers recited aloud" (Tirmidhi, 2.16).

Hadith scholars who are masters of textual critique, like Daraqutni and others, consider the words of the Anas hadith "not mentioning 'Bismi Llahi r-Rahmani r-Rahim,'" which outwardly seem to suggest omitting the Basmala, to be vitiated by an 'illa or "hidden flaw" for many reasons, a few of which are:—It is established by numerous intersubstantiative channels of transmission (tawatur), that the Prophet (Allah bless him and give him peace) said, "There is no prayer for whoever does not recite the Fatiha" (Bukhari, 1.192). That the Basmala is the Fatiha's first verse is shown by several facts:



Summer Holiday 2016
Additional notes for Day (1)

Why Muslims Follow Madhhabs - By Nuh Ha Mim Keller
<http://masud.co.uk/why-muslims-follow-madhhabs/>

First, the Sahaba affirmed nothing in the collation of the Qur'an (mushaf) of 'Uthman's time except what was Qur'an, and they unanimously placed the Basmala at the beginning of every sura except surat al-Tawba.

Second, the Prophet (Allah bless him and give him peace) said, "When you recite 'al- Hamdu li Llah,' recite 'Bismi Llahi r-Rahmani r-Rahim,' for it is the Sum of the Qur'an (Umm al-Qur'an), and the Com- priser of the Scripture (Umm al-Kitab), and the Seven Oft- Repeated [Verses] (al-Sab' al-Mathani)—and 'Bismi Llahi r-Rahmani r-Rahim' is one of its verses" (Bayhaqi, 2.45; and Daraqutni, 1.312), a hadith related with a rigorously authenticated (sahih) channel of transmission to the Prophet (Allah bless him and give him peace), and through another chain to Abu Hurayra alone (Allah be well pleased with him).

Third, Umm Salama relates: "The Prophet (Allah bless him and give him peace) used to recite: 'Bismi Llahi r-Rahmani r-Rahim. al-Hamdu li Llahi Rabbi l-'Alamin,' separating each phrase"; a hadith which Hakim said was rigorously authenticated (sahih) according to the conditions of Bukhari and Muslim, which Imam Dhahabi corroborated (al-Mustadrak, 1.232). Daraqutni also relates from Umm Salama that "the Prophet (Allah bless him and give him peace) when he used to recite the Qur'an would pause in his recital verse by verse: 'Bismi Llahi r-Rahmani r-Rahim: al-Hamdu li Llahi Rabbi l-'Alamin: ar-Rahmani r- Rahim: Maliki yawmi d-din.'" Daraqutni said, "Its ascription is rigorously authenticated (sahih); all of its narrators are reliable" (Daraqutni, 1.312–13). These hadiths show that the Basmala was recited aloud by the Prophet (Allah bless him and give him peace) as part of the Fatiha.

Fourth, Bukhari relates in his Sahih that when Anas was asked how the Prophet (Allah bless him and give him peace) used to recite, "he answered: 'By prolonging [the vowels]'—and then he [Anas] recit- ed 'Bismi Llahi r-Rahmani r-Rahim,' prolonging the Bismi Llah, prolonging the r-Rahman, and prolong- ing the r-Rahim" (Bukhari, 6.241), indicating that Anas regarded this as part of the Prophet's Qur'an recital and that the Prophet (Allah bless him and give him peace) recited it aloud.

Fifth, Daraqutni has recorded two hadiths, both from Ibn 'Abbas, and has said about each of them, "This is a rigorously authenticated (sahih) chain of transmission, there is not a weak narrator in it," of which the first is: "The Prophet (Allah bless him and give him peace) used to recite 'Bismi Llahi r-Rah- mani r-Rahim,' aloud"; and the second is: "The Prophet (Allah bless him and give him peace) used to begin the prayer with 'Bismi Llahi r- Rahmani r-Rahim'" (al-Nawawi: al-Majmu', 3.347).

—Imam al-Mawardi summarizes: "Because it is established that it is obligatory to recite the Fatiha in the prayer, and that the Basmala is part of it, the ruling for reciting the Basmala aloud or to oneself must be the same as that of reciting the Fatiha aloud or to oneself" (al- Hawi al-kabir, 2.139).

—Imam Nawawi says: "Concerning reciting 'Bismi Llahi r-Rahmani r-Rahim' aloud, we have mentioned that our position is that it is praiseworthy to do so. Wherever one recites the Fatiha and sura aloud, the ruling for reciting the Basmala aloud is the same as reciting the rest of the Fatiha and sura aloud. This is the position of the majority of the ulama of the Sahaba and those who were taught by them (Tabi'in) and those after them. As for the Sahaba who held the Basmala is recited aloud at prayer, the hadith master (hafiz) Abu Bakr al-Khatib reports that they included Abu Bakr, 'Umar, 'Uthman, 'Ali, 'Ammar ibn Yasir, Ubayy ibn Ka'b, Ibn 'Umar, Ibn 'Abbas, Abu Qatada, Abu Sa'id, Qays ibn Malik, Abu Hurayra, 'Abdullah ibn Abi Awfa, Shaddad ibn Aws, 'Abdullah ibn Ja'far, Husayn ibn 'Ali, Mu'awiya, and the congregation of Emigrants (Muhajirin) and Helpers (Ansar) who were present with Mu'awiya when he prayed in Medina but did not say the Basmala aloud, and they censured him, so he returned



Summer Holiday 2016
Additional notes for Day (1)

Why Muslims Follow Madhhabs - By Nuh Ha Mim Keller
<http://masud.co.uk/why-muslims-follow-madhhabs/>

to saying it aloud" (al-Majmu', 3.341).

These are some reasons why scholars regard the Anas hadith in Sahih Muslim to be mu'all or "flawed." We cannot here discuss other aspects of the hadith such as the flaws in its chain of narrators, which are explained in detail in Zayn al-Din 'Iraqi's al-Ta'ayid wa al-idah (100–101), though the foregoing may give a general idea why it has been considered flawed by hadith masters (huffaz) such as Suyuti, 'Iraqi, Ibn Salah, Ibn 'Abd al-Barr, Daraqutni, and Bayhaqi—and why the shari'a ruling apparently deducible from the end of the hadith; namely, omitting the Basmala when reciting the Fatiha at prayer, has been rejected by al-Shafi'i, Nawawi, and others, who hold that the Basmala is recited aloud whenever the Fatiha is. (The position of Abu Hanifa and Ahmad ibn Hanbal, it may be noted, is that one recites the Basmala to oneself before the Fatiha, thus joining between hadiths on both sides by interpreting the "omitting" in the Anas hadith in other than its apparent sense, to mean merely "reciting to oneself.") In any case, it is clearly not a story of "the hadith in Sahih Muslim that the Imams didn't know about," as some of the unlearned seriously suggest today, but rather a difference of opinion in hadith authentication involving the highest levels of shari'a scholarship.

Studying the five conditions above for a sahih hadith and the differences about them among specialists shows us why the mujtahid Imams of the schools sometimes differ with one another about whether a particular hadith is really from the Prophet (Allah bless him and give him peace). Whoever believes that a single scholar, whether Bukhari, Muslim, or a contemporary sheikh, can finish off all differences of opinion about the acceptability of particular hadiths, should correct his impressions by going and studying the sciences of hadith. What we can realize from this is that when we find a hadith in Sahih Bukhari that one school of fiqh seems to follow and another does not, it may well be that differences in fiqh methodology, hadith methodology, or both, play a role.

Conclusions. Let me summarize everything I have said tonight. I first pointed out that the knowledge you and I learn from the Qur'an and hadith may be divided into three categories. The first is the knowledge of Allah and His attributes, and the basic truths of Islamic belief such as the messengerhood of the Prophet (Allah bless him and give him peace), the belief in the Last Day, and so on. Every Muslim can and must learn this knowledge from the Book of Allah and the sunna, which is also the case for the second kind of knowledge: that of general Islamic laws to do good, to avoid evil, to perform the prayer, pay zakat, fast Ramadan, to cooperate with others in good works, and so on. Anyone can and must learn these general prescriptions for him or herself.

Then we discussed a third category of knowledge, which consists of fiqh or "understanding" of specific details of Islamic practice. We found in the Qur'an and sahih hadiths that people are of two types respecting this knowledge, those qualified to do ijtihad and those who are not. We mentioned the sahih hadith about "a man who judges for people while ignorant: he shall go to hell," showing that would-be mujtahids are criminals when they operate without training.

We heard the Qur'anic verse that established that a certain group of the Muslim community must learn and be able to teach others the specific details of their religion. We heard the Qur'anic verse that those who do not know must ask those who do, as well as the verse about referring matters to "those whose task it is to find it out."

We talked about these scholars, the mujtahid Imams, firstly, in terms of their comprehensive knowledge of the whole Qur'an and hadith textual corpus, and secondly, in terms of their depth of interpretation, and here we mentioned Qur'an and hadith examples that illustrate the processes by which



Summer Holiday 2016
Additional notes for Day (1)

Why Muslims Follow Madhhabs - By Nuh Ha Mim Keller
<http://masud.co.uk/why-muslims-follow-madhhabs/>

mujtahid Imams join between multiple texts, and give precedence when there is ostensive conflict. Our concrete examples of ijtihad enabled us in turn to understand to whom the Imams addressed their famous remarks not to follow their positions without knowing the proofs. They addressed them to the first rank scholars they had trained and who were capable of grasping and evaluating the issues involved in these particular proofs.

We then saw that the Imams were also mujtahids in the matter of judging hadiths to be sahih or otherwise, and noted that, just as it is unlawful for a mujtahid Imam to do taqlid or "follow another mujtahid without knowing his evidence" in a question of fiqh, neither does he do so in the question of accepting particular hadiths. Finally, we noted that the differences in reliability ratings of hadiths among qualified scholars were parallel to the differences among scholars about the details of Islamic practice: a relatively small amount of difference in relation to the whole.

The main point of all of this is that while every Muslim can take the foundation of his Islam directly from the Qur'an and hadith; namely, the main beliefs and general ethical principles he has to follow—for the specific details of fiqh of Islamic practice, knowing a Qur'anic verse or hadith may be worlds apart from knowing the shari'a ruling, unless one is a qualified mujtahid or is citing one.

As for would-be mujtahids who know some Arabic and are armed with books of hadith, they are like the would-be doctor we mentioned earlier: if his only qualification were that he could read English and owned some medical books, we would certainly object to his practicing medicine, even if it were no more than operating on someone's little finger. So what should be said of someone who knows only Arabic and has some books of hadith, and wants to operate on your akhira?

To understand why Muslims follow madhhabs, we have to go beyond simplistic slogans about "the divinely-protected versus the non-divinely-protected," and appreciate the Imams of fiqh who have operationalized the Qur'an and sunna to apply in our lives as shari'a, and we must ask ourselves if we really "hear and obey" when Allah tells us "Ask those who know if you know not" (Qur'an 16:43).



Summer Holiday 2016
Additional notes for Day (1)

Why Muslims Follow Madhhabs - By Nuh Ha Mim Keller
<http://masud.co.uk/why-muslims-follow-madhhabs/>