

1) Al-Usool Min Ilmil Usuul:

Taqleed - it's definition:

Linguistically, taqleed means: Placing something around the neck, which encircles the neck. Technically it means: Following he whose sayings is not a proof (hujjah).

Excluded from our saying, "following he whose saying is not a proof" is: following the Prophet (sallallahu `alaihi wasallam) , following the ijmaa and also following the saying of the sahaabee – if we say that his (sahaabee's) saying is a proof. So following any of these is not called taqleed, since there is a proof for doing so. However this type of following is sometimes referred to as taqleed in a very metaphorical and loose sense.

The Place of Taqleed:

Taqleed is done in two cases:

1) When the muqallid is an 'aamee (a common person) who does not have the ability to know the ruling by himself. So taqleed is obligatory upon him, due to the saying of Allaah - The Most High, "ask the people of knowledge if you do not know." So he does taqleed of one whom he considers to be a person of knowledge and piety. If there are two such people who are equal in his view, then he chooses any one of them.

2) The mujtahid when he encounters a new situation, for which an immediate solution is required, but it is not possible for him to research into this matter. So in this case he is permitted to perform taqleed. Some stipulate as a condition for the permissibility of taqleed, that the matter is not from the fundamentals of the deen - those matters which must be held as aqeedah - since matters of aqeedah require certainty, **whereas taqleed only amounts to dhann** (knowledge which is not certain).

However the correct saying in this matter is that this is not a condition, due to the generality of his - the Most High's - saying, "ask the people of knowledge if you do not know." And this verse is in the context of affirming the Messengership - which is from the fundamentals of the deen. And also because the common person cannot acquire knowledge of the sharee'ah rulings with it's proofs by himself. So if he is unable to arrive at the truth by himself, then nothing remains for him except taqleed, due to the saying of Allaah - the most High, "fear Allaah as much as you can"

Types of Taqleed:

Taqleed is of two types: general and specific.

1) The general ('aam) type (Taqleed al shakhsi according to Taqi Usmani): that a person sticks to a particular madhhab, accepting it's concessions and non-concessions, in all matters of the deen.

The scholars have differed about such a state. So have reported that this is obligatory upon him, due to his inability to perform ijtihaad, being amongst the late-comers. **Others report it as being forbidden for him, due to its being a case of necessitating unrestricted following of other than the Prophet (sallallaahu `alaihi wasallam) .**

Shaykh al-Islam Ibn Taymiyyah said,

"The saying that it is obligatory, causes obedience to other than the Prophet (sallallaahu `alaihi wasallam) in every matter of command and prohibition, and this is in opposition to the ijmaa'. And the allowing of it contains what it contains."

He (RH) also said,

"He who sticks to a particular madhhab, and then acts in opposition to it - without making taqleed of another scholar who has given him a fatwa, **nor does he use an evidence as a proof which necessitates acting in opposition to his madhhab, nor does he have an acceptable Sharii excuse which allows him to do what he has done** - then such a person is a follower of his desires, doing what is haraam - without a Sharii excuse - and this is evil and sinful. **However, if there becomes clear to him, something which necessitates preference to one saying to another - either due to detailed proofs if he knows and understands them, or because he holds one of two people to be more knowledgeable about this matter and having more piety with regards to what he says - and so he leaves the saying of that one for the saying of the other one, then this is permissible, rather, it is obligatory. And there is a text from Imaam Ahmad about this."**

2) The particular (khaas) type of taqleed (i.e. Taqleed al mutlaq according to Taqi Usmani) is that he accepts a saying about a particular matter. This is permissible if such a person is unable to arrive at knowledge of the by ijtihaad - whether he is unable to in reality, or he is able, but with great difficulty.

Fatwaa of a Muqallid:

Allaah - the Most High - said, "Ask the people of knowledge if you do not know." And the Ahludh Dhikr are the Ahlul Ilm (the people of knowledge), **whereas the muqallid is not a person of knowledge who is followed - rather he himself is a follower of someone else.**

Ibn Abdul Barr (d.463) and others have said,

"the people are united in ijmaa that the muqallid is not counted as being from the Ahlul Ilm, and that knowledge is the realisation of guidance along with it's proof."

Ibn al-Qayyim said,

" And it is as Abu Umar (Ibn Abdul Barr) said: Indeed, **the people do not differ about the fact that knowledge is the realisation attained from proof, but without proof, it is only taqleed.**"

Ibn al-Qayyim then quotes,

"There are three sayings about the permissibility of giving fatwaa based upon taqleed:

- 1) It is not permissible to give fatwaa based upon taqleed, because it is not knowledge; since issuing a fatwaa without knowledge is forbidden. This is the saying of most of the Hanbalee scholars and the majority of the Shaafi'iyyah.
- 2) That it is permissible with regards to himself, but it is not permissible to give a fatwaa to others based upon taqleed.
- 3) That it is permissible when there is a need for it, and there is no mujtahid scholar. And this is the most correct of the sayings and is what is acted upon."

2) Sharah Nazm Al-Waraqaat (pp. 223-228)

Imam Al-Juwainee says:

"Our Taqleed is : To accept the saying of the sayer (mufti) without mentioning the evidence to the questioner".

Shaykh Al Uthaimen explains it as:

He says: this is the definition of Taqleed.

For example: A person comes and asks: I ate after sun rise , unknowingly, but I intended to fast? The scholar says to him: Your fast is OK. The questioner accepts it. This person is now called a Muqallid, because he accepted the scholar's saying without knowing the evidence.

From this it is evident that: **If the scholar had mentioned the evidence, and the questioner accepted the saying of this muftee, based upon the evidence, then this is not Taqlid**, because the questioner is now following the evidence and not this scholar.

The Al-Juwainee says:

"And it is said that even our acceptance of his (muftee's) saying, while we are ignorant from which source he took this ruling from (is called Taqlid)"

Shaykh Al-Uthaymeen says:

There is a deifference between this and the earlier definition. Before the questioner knew that the scholar had evidence but he did not mention it, here the questioner does not even know whether the mufti himself knows the evidence or not.

Anyway, Taqlid is accepting the saying of another person if he does not mention his evidence, whether or not the mufti himself knows the evidence.

And is Taqlid permissible?

We say: Taqlid is permissible in case of necessity, because Allah says: "ask the people of knowledge", but he conditioned it with: "if you do not know." It is evident from the verse

that if we knew ourselves then we don't have to ask, since we are then ourselves "People of knowledge".

So, Taqlid is permissible in case of necessity, **but it is obligatory on the Muqallid, that when the truth becomes clear to him, then he must leave taqlid**, but what made some scholars deny taqlid completely is that some muqallids never accept the truth. Even if he is given the evidence from the Quraan and Sunnah, this muqallid says: "He (my mujtahid) said in that book..." or he says "My mazhab is so and so...", And from this is what is understood by some A'aamis (common people), if you gave him a fatwa he says: "This is the Mazahab of so and so..(meaning I will not accept it since this is not my mazhab)", and this is not permissible, because we are commanded to follow the Prophet sallallahu alaihi wasallam.

An issue: If a person comes to ask a question and says give me the fatwa based on the mazhab of so and so, and the mufti knows that the truth is opposite to this mazhab, so is it permissible that he gives fatwa based upon this mazhab?

The answer is it is not permissible. If some one says: "This person does not desire except such and such a mazhab", I say: "Yes, he does not desire except such and such a mazhab, but he did not say, What is the mazhab of such and such a scholar, to know that scholar's position and not to follow it. If he only wanted to know and not act upon it I would tell him the fatwa, but if he only asked to follow that mazhab and then leave the evidence I have, then I will not tell him of the Fatwa and I will say: This is the saying of Allah and this is the saying of Muhammad bin Abdulah.

So the conclusion is that if a Muqallid asks you of a fatwa, and says: "What is the Mazhab of so and so in this issue", and you know that the correct opinion is opposite to this mazhab, then it is not permissible for you to give him fatwa, because if you did that you will give him the fatwa to oppose the truth, which you know or you are more sure that it is the truth.

So, if there is a person who asks you a question, not to act upon it, there is no harm if you give him clarify him the stance of that mazhab, if you know it.

Al-Juwaini further said: "And in accepting what the Prophet sallallahu alaihi wasallam said, there is openly Taqleed. And it is said that this is not so, because whatever he sallallahu alaihi wasallam said is through revelation".

Al-Uthaymeen said:

Is the acceptance of the saying of the Prophet sallallahu alaihi wasallam Taqleed or Ittiba'?' There is no doubt it is Ittiba'.

But is it correct to name it Taqleed?

The answer is: when we say: that Taqleed is to accept the saying of the sayar without mentioning the evidence to the questioner, it is correct to name it Taqleed, because there a lot of Ahadith where the Prophet sallallahu alaihi wasallam tells a ruling without mentioning the evidence.

But, we say: the Prophet sallallahu alaihi wasallam has a different status, his commandment is obligatory to follow. So, when he utters a saying or issues an order, then our following cannot be named Taqleed but it is Ittiba'. Because Allah says: "Follow ('Ittiba') him so that you may be guided". (7:157). Also see 3:31. It is not appropriate to call it Taqleed because it may cast the doubt that the Prophet sallallahu alaihi wasallam is the follower rather than the followed.

Another issue: Our reliance on the scholars sayind about the narrators of a hadith, whether h is trust worthy or not: is it Taqleed?

Answer: If we say that then it means every scholar is a muqallid, beacauce the authenticity of a hadith is based upon the trust-worthiness of the narrators, and we donot say anything about the narrators except by taqleed (if we accept this theory). But the reality is opposite to this, because Taqleed is if you accept the saying of an Imam, whether he is upon the truth or opposite to it, theis is condemnable taqleed.

However if a person shows association to a certain Imam, but leaves his saying when it opposes the truth, then this is good, not doubt.

However, it is necessary to be familiar with the sayings of the scholars and to refer to these and to refer to the rules of using the evidences, but if a person takes whatever he sees (from an Imam), then this is not good.

If a an 'Aami asks about a uling then the best is to say, this is Halaal, (or) this is haraam only, but in whom you find some knowledge, then mention to him the evidence....

3) In Fatawa Ibn Uthaymeen, vol. 1 page 58-63, he says:

“It should be know that these 4 mazahib do not encompass the truth, but the truth may be outside them. The consensus of these 4 is not the consensus of the Ummah....”

