22652 - Our attitude towards differences among the scholars

the question

If there is some issue and there is more than one shar’i fatwa concerning it, and a fatwa that says it is halaal (permissible) and a fatwa that says it is haraam (forbidden), and a fatwa that is in between, then which should the Muslim choose, especially with regard to modern issues in which qiyaas (analogy) and ijtihaad (studying an issue within the framework of the Qur’aan and Sunnah) may play a part, and concerning which there is no shar’i text, such as bank interest, or what we call investments or returns on investment, or any other new names that are given to it?
What do you say about people who say that this is the fatwa of a scholar, and that he is responsible for it, and that it is hung around his neck?
What is your view on one who follows the dispensations granted by the scholars or the easier options that they grant? They say that these are the people of knowledge and these are their fatwas, and they know better than we do about that? But their fatwa may go against the fatwas of other shaykhs and scholars in the same country or in other countries, so which of them should we follow? How can we know what is right and what is not? Please note that most people do not have sufficient knowledge to decide whether the fatwa issued by a scholar or mufti differs from those issued by other scholars.

Detailed answer

Praise be to Allah.

Before answering this important question, we must first describe the conditions that must be met by the mufti so that he may be regarded as one of the people of knowledge whose words count and if he expresses a different view we may then say that there is indeed a difference of opinion among the scholars. There are many such conditions, which ultimately boil down to two:

1 – Knowledge, because the mufti will be telling people about the rulings of Allah, and he cannot

speak of the rulings of Allah if he is ignorant of them.

2 – Soundness of character, i.e., he is righteous in all his affairs, he fears Allah and he keeps away from anything that may undermine his credibility. The scholars are agreed that a fatwa cannot be accepted from one who is immoral, even if he is knowledgeable. This was clearly stated by al-Khateeb al-Baghdaadi.

Whoever meets these two conditions is a scholar whose words may be accepted, but whoever does not meet these conditions is not one of the people of knowledge whose words may be accepted. The words of one who is known to be ignorant or who is known not to be of good character cannot be accepted.

Al-Khilaaf bayna al-'Ulama' Asbaabuhu wa Mawqifuna minhu, by Shaykh Ibn 'Uthaymeen, p. 23

What is the Muslim's attitude towards the differences of the scholars described above?

If the Muslim has enough knowledge to enable him to compare the views of the scholars based on the evidence and to decide which is more likely to be correct, and he can tell what is more correct and more likely to be correct, then he must do that, because Allah has commanded us to refer disputed matters to the Qur'aan and Sunnah, as He says (interpretation of the meaning):

"(And) if you differ in anything amongst yourselves, refer it to Allah and His Messenger, if you believe in Allah and in the Last Day. That is better and more suitable for final determination"[al-Nisa' 4:59]

So he should refer the disputed matter to the Qur'aan and Sunnah, and whatever appears to him to be more correct, based on the evidence, is what he should follow, because what is obligatory is to follow the evidence, and he may refer to the words of the scholars to help him understand the evidence.

But if the Muslim does not have sufficient knowledge to enable him to decide which of the scholarly opinions is more likely to be correct, then he should ask the people of knowledge whose knowledge and religious commitment he trusts and then follow the advice or fatwas they give.

Allah says (interpretation of the meaning):

“So ask the people of the Reminder if you do not know”

[al-Nahl 16:43]

The scholars have stated that the madhhab of the common man is the madhhab of his mufti.

If their opinions differ, then he should follow the one who is most trustworthy and most knowledgeable. This is like when a person falls sick – may Allah give us all good health – and he looks for the most trustworthy and knowledgeable doctor so that he can go to him, because he is most likely to give him the right treatment than anyone else. It is more important to be on the safe side in religious matters than in worldly ones.

It is not permissible for the Muslim to follow whatever scholarly opinion suits his desires if it goes against the evidence, or to seek fatwas from those who he thinks are going to be lenient in their fatwas.

Rather he has to be on the safe side when it comes to his religion, and ask the scholars who have the most knowledge and are most fearing of Allah.

Al-Khilaaf bayna al-‘Ulama’ by Shaykh Ibn ‘Uthaymeen, 26; Liqa’ Munawwa’ ma’a Shaykh Saalih al-Fawzaan, p. 25, 26

Is it befitting for a wise man to take precautions for his physical health and go to the most skilled doctors no matter how far away they are, and spend a great deal of money on that, then take the matter of his religion lightly and not to care about it unless it coincides with his whims and desires, and to take the easiest fatwa even if it is contrary to the truth? Indeed, there are even people who – Allah forbid – ask a scholar a question, and if his fatwa does not suit their whims and desires, they will ask another, and another, until they find a person who will give them the fatwa they want!

There is no scholar who does not have some issues in which he strove to make a decision on the

basis of ijtihaad but failed to reach the right answer, but he is excused for that and he will have a reward for his ijtihaad, as the Prophet (peace and blessings of Allah be upon him) said: “If a judge passes a ruling to the best of his ability and knowledge and gets it right, he will have two rewards. If he passes a ruling to the best of his ability and knowledge but gets it wrong, he will have one reward.” (al-Bukhaari, 7352; Muslim, 1716).

It is not permissible for the Muslim to follow the errors and mistakes of the scholars, for that combines all kinds of evil. Hence the scholars said: whoever follows that concerning which the scholars differed, and takes the easiest of their fatwas, becomes a heretic, or close enough. Ighaathat al-Lahfaan, 1/228. Heresy means hypocrisy.

We ask Allah to give us understanding and to help us to acquire beneficial knowledge and to do righteous deeds.

With regard to what you mention about bank profits, this has already been answered. Please see Questions no. 226729 and 12823.

And Allah knows best. May Allah bless our Prophet Muhammad and grant him peace.