68152 - Our attitude towards the differences of opinion among the imams with regard to covering the face

the question

There is an important matter that is giving me sleepless nights, which is: what is the meaning of the differences of the imam concerning a certain issue? If I say to someone that Shaykh So and so says that something is haraam, he says to me that is according to his madhhab or the madhhab of his country, and we follow a different madhhab that says it is halaal. This led me to the issue of hijab. For example, my country follows the Maaliki madhhab, the imams of which say that “that which is apparent” [al-Noor 24:33] refers to the face and hands. In addition to that, the face-veil is virtually banned in my country, i.e., you could never wear it in your daily life, such as wearing it at work or in school. There are laws that ban it and the gloves. Although personally I am fully convinced about the face-veil, I cannot wear it. What is your ruling on that? Because every time I listen to tapes about hijab from Shaykhs from another madhhab, I feel that my hijab is not Islamically acceptable, and I understand from their words that I am currently unveiled and making a wanton display of myself (tabarruj) and I am a cause of fitnah among this ummah. What should we do, as we are confused?.

Detailed answer

Praise be to Allah.

Firstly:

At the time of the Revelation, the Muslims learned the rulings of Islam from the Prophet (peace and blessings of Allaah be upon him) through the verses of the Holy Qur’aan and the ahaadeeth of his Sunnah. Hence there were no differences of opinion among them except with regard to some minor issues. If that happened, the Prophet (peace and blessings of Allaah be upon him) would explain to them what was correct.

When the Prophet (peace and blessings of Allaah be upon him) died and the Sahaabah spread out to various regions to teach the people Islam, there appeared some differences with regard to some matters of fiqh which arose at different times and in different places. These differences were due to a number of reasons, which we will sum up here from the words of the scholars:

1-The evidence had not reached the one who held a different opinion, and he made a mistake in forming his opinion.

2-The hadeeth had reached the scholar, but he did not regard the transmitter as trustworthy, and he thought that it went against something that was stronger, so he followed that which he thought was stronger than it.

3-The hadeeth had reached him but he forgot it.

4-The hadeeth had reached him but he understood it in a way other than the intended meaning.

5-The hadeeth reached him but it was abrogated, and he did not know the abrogating text.

6-He thought that it contradicted something that was stronger than it, whether that was a text or scholarly consensus (ijmaa')

7-The scholar used a weak hadeeth as the basis for his ruling, or he derived the ruling by means of weak arguments.

For a detailed discussion of these reasons and others, see Raf' al-Malaam 'an al-A'immati'l-A'laam by Shaykh al-Islam Ibn Taymiyah, and al-Khilaaf bayna al-'Ulama': Asbaabuhu wa Mawqifuna minhu by Shaykh al-'Uthaymeen.

We think that what we have mentioned about the reasons for differences among the scholars i.e., with regard to matters of fiqh, will be clear to you, in sha Allaah.

Secondly:

What should the Muslim's attitude be towards differences that arise between the scholars? In other

words, which scholarly opinion should the Muslim follow in matters where they differed? The answer depends:

1 – If the Muslim is one who has studied shar'i knowledge and learned its basic principles and minor issues, and he can distinguish right from wrong with regard to scholarly views, then he has to follow that which he thinks is correct and ignore that which he thinks is wrong.

2 – If he is one of the rank and file, or has not studied shar'i knowledge, and thus cannot distinguish between right and wrong with regard to scholarly views, then he must follow the fatwa of a scholar whose knowledge he trusts and who he believes to be trustworthy and religiously committed, whether he is from his own country or another country, and differences between scholars will not matter after that. He does not have to change what he is doing because he hears another scholar issuing a fatwa that differs from the one he is following, unless he realizes that what he learned later on is the correct view, on the basis of his confidence in the religious commitment and knowledge of the second Shaykh.

Shaykh Muhammad ibn Saalih al-'Uthaymeen (may Allaah have mercy on him) said:

The one who has knowledge of evidence is required to follow the evidence, even if it goes against some of the imams, if it does not go against the consensus of the ummah.

The one who does not have any knowledge should ask the scholars, because Allaah says (interpretation of the meaning): "So ask of those who know the Scripture, if you know not" [al-Nahl 16:43]. He should ask one who he thinks has more knowledge and is more religiously committed, but that does not mean that doing so obligatory, because the one who is better may make a mistake with regard to a particular issue, and the one who is regarded as less knowledgeable may be right with regard to it. But priority should be given to following the one who is more knowledgeable and more religiously committed.

See also the answers to questions no. 8294 and 10645.

Thirdly:

If you ask about our view on the issue of covering the face, the most correct scholarly view in our opinion is that it is obligatory to cover the face in front of non-mahram men. There is a great deal of evidence and scholarly views concerning that, as among the Maalikis. Many of them said that it is not permissible for a woman to uncover her face in front of non-mahram men, not because it is ‘awrah but because uncovering it runs the risk of fitnah. But some of them think that it is ‘awrah. Hence women, in their view, are forbidden to go out in front of non-mahram men with their faces uncovered.

Allaah says (interpretation of the meaning):

“And when you ask (his wives) for anything you want, ask them from behind a screen”

[al-Ahzaab 33:53]

al-Qaadi Abu Bakr ibn al-‘Arabi al-Maaliki (may Allaah have mercy on him) said:

The entire woman is ‘awrah, her body and her voice, so it is not permissible to uncover that except in cases of necessity, such as when testimony is given against her, or medical treatment, or asking her about her health issues. End quote.

Ahkaam al-Qur’aan by Ibn al-‘Arabi (3/1578, 1579).

Al-Qurtubi (may Allaah have mercy on him), who is also Maaliki, said:

This verse indicates that Allaah has given permission to ask of them from behind a screen if there is some need, or when they ask a question about something. That includes all women. Because it is a basic shar’i principle that the entire woman is ‘awrah, her body and her voice – as stated above –it is not permissible to uncover that except in cases of necessity such as when testimony is given against her, or medical treatment, or asking her about her health issues. End quote.

In al-Jaami’ li Ahkaam al-Qur’aan (14/227) it says:

For more information on the views of Maaliki fuqaha’ concerning the obligation for women to cover their faces, see: al-Ma’yaar al-Mu’arrab by al-Wanshireesi (10/165 and 11/226 and 229), Mawaahib

al-Jaleel by al-Hattaab (3/141), al-Dhakheerah by al-Quraafi (3/307) and Haashiyat al-Dasooqi ‘ala al-Sharh al-Kabeer (2/55).

We have discussed this issue and its evidence in more than one answer on this site. Please see the answers to questions no. 11774, 12525, 13998, 21134 and 21536.

Fourthly:

With regard to what you mention about the laws in your country forbidding women to cover their faces, that is something that makes us feel very sad, to hear that covering and chastity are being opposed and wanton display and unveiling are being encouraged everywhere, especially when that happens in a country that is supposed to be Muslim.

If the laws forbid women to cover, and you fear persecution because of covering your faces, then there is no sin on you if you do not do it in that case, so long as that is based on necessity. So a woman should not go out of her house with her face uncovered except in cases of necessity. If she can break the law and put up with a little bit of hassle, let her do so for there is no obedience to any created being if it involves disobedience towards the Creator.

See also the answer to question no. 2198 and 45672.

And Allaah knows best.