70491 - Is there no denunciation with regard to matters concerning which the scholars differed?

the question

Some people say that with regard to matters concerning which the scholars differed, the person who follows one of the scholarly views is not to be denounced, and they mention the principle that “there is no denunciation with regard to matters concerning which the scholars differed.” Is this principle correct?.

Detailed answer

Praise be to Allah.

This principle which some people speak of, that “there is no denunciation with regard to matters concerning which the scholars differed,” is not correct, and the correct view is that “there is no denunciation with regard to matters that are subject to ijtihaad.” To explain that, we have to know that the matters concerning which the scholars differed are of two types.

1 – There are issues for which the ruling has been clearly stated in the Holy Qur’aan or the saheeh Sunnah with no opposing text, or it is narrated that there was scholarly consensus, although some later scholars held odd views and went against that consensus, or the ruling was derived by means of clear and unambiguous analogy. In these cases, the one who goes against the evidence is to be denounced.

There are many examples of this kind of issue, such as:

1.Denying the attributes of Allaah by which He praised Himself, or His Messenger (peace and blessings of Allaah be upon him) described Him, under the guise of ta’weel (“interpretation”), which in fact is a distortion of the texts of the Qur’aan and Sunnah.

2.Denying some of the true events which the Prophet (peace and blessings of Allaah be upon him) said will happen on the Day of Resurrection, such as the Balance and the Siraat (bridge over Hell).

3.What some contemporary scholars say about it being permissible to take interest on money deposited in the bank even though this is the essence of riba which Allaah and His Messenger have forbidden.

4.Saying that nikaah al-tahleel (marriage to a divorced woman with the aim of divorcing her in order to make her permissible for her first husband) is halaal. This is a false view because the Prophet (peace and blessings of Allaah be upon him) cursed the one who enters into such a marriage and the one for whom it is done.

5.Saying that it is permissible to listen to musical instruments. This is a reprehensible view, and there is a great deal of evidence from the Qur'aan, Sunnah and opinions of the salaf (early generation) which indicates that it is false. Hence the four imams were unanimously agreed that it is haraam.

6.Saying that the one who enters the mosque on Friday when the imam is giving the khutbah should sit down and listen to the khutbah and not pray tahiyyat al-masjid (two rak'ahs to "greet the mosque").

7.Saying that it is not mustahabb to raise the hands during prayer when saying takbeer for bowing and when rising from bowing and when standing up for the second rak'ah.

8.Saying that it is not mustahabb to offer the prayer for rain (istisqa'). It is proven in al-Saheehayn and elsewhere that the Prophet (peace and blessings of Allaah be upon him) did that with a group of his companions.

9.Saying that it is not mustahabb to fast six days of Shawwaal after Ramadaan.

In these and similar cases where there is a text that clearly explains the ruling, the one who goes against that is to be denounced. The Sahaabah and those who came after them continued to denounce the one who went against sound evidence, even if that was based on ijtihaad.

2 – The second type of issue is that for which there is no clear evidence on the ruling in the Qur’aan, Sunnah, scholarly consensus or clear analogy.

Or there is evidence for the ruling in the Sunnah, but there is some dispute as to whether it is saheeh, or it does not clearly define the ruling, rather it is subject to different interpretations.

Or there are texts concerning it which appear to contradict one another.

These issues require a kind of ijtihaad and study in order to find out the ruling. Examples of this kind of issue include the following:

1.The difference of opinion as to whether the Prophet (peace and blessings of Allaah be upon him) saw his Lord in this world.

2.The difference of opinion as to whether the dead can hear the words of the living.

3.Whether wudoo’ is invalidated by touching one's penis or touching a woman or eating camel meat.

4.Reciting Qunoot in Fajr every day.

5.Reciting Qunoot in Witr prayer – is it done before bowing or after?

In these and similar cases where there is no clear text to explain the ruling, the one who does something different is not to be denounced, so long as he is following one of the imams and thinks that his view is correct. But it is not permissible for anyone to follow the scholarly view that coincides with his whims and desires, because by doing that one may be combining all kinds of evil.

Not denouncing the one who acts differently in such cases does not mean that we should not examine or debate the matter and explain which view is more likely to be correct, based on the evidence. Rather the scholars, past and present, have held gatherings to debate and discuss such issues and the one who recognizes the truth must follow it.

Shaykh al-Islam Ibn Taymiyah (may Allaah have mercy on him) said: With regard to matters of ijtihaad, they are not to be denounced by force, and no one has the right to force the people to follow him with regard to them, but he may speak of them on the basis of evidence. Whoever thinks that one of the two views is correct should follow it, and whoever follows those who favour the other view should not be denounced.

End quote from Majmoo' al-Fataawa (30/80).

There follow some scholarly views which support what we have said above about this categorization:

1 – Shaykh al-Islam Ibn Taymiyah (may Allaah have mercy on him) said:

The view that there is no denunciation in matters where there is a difference of scholarly opinion is not correct, as denunciation is aimed either at the ruling issued by someone or at actions (that go against the Sunnah).

With regard to the former, if a ruling goes against the Sunnah or ancient consensus then it must be denounced according to all scholars. If that is not the case then it must be denounced in the sense that its weakness must be pointed out. This is the view of those who say there can only be one correct ruling, and this is the view of most of the salaf and the fuqaha'.

With regard to actions, if they go against Sunnah or consensus then they must also be denounced, according to the degrees of denunciation.

But if there is no Sunnah or consensus concerning the matter and ijtihaad is valid in this case, then the one who acts on the basis of ijtihaad, whether he is a mujtahid or is following a mujtahid, is not to be denounced.

Rather this confusion arose because of the idea that issues concerning which the scholars differed are issues of ijtihaad, as some people think. The correct view, which is that held by the imams, is that issues of ijtihaad are those for which there is no evidence that must clearly be followed, such as a saheeh hadeeth which is not contradicted by a hadeeth of similar strength. In the absence of

such evidence, ijtihaad is valid because there is contradictory evidence or the evidence is not clear at all. End quote

Bayaan al-Daleel ‘ala Batlaan al-Tahleel (p. 210-211).

He also said:

With regard to matters of ijtihaad, the one who follows one of the scholars in such matters is not to be denounced or forsaken. The one who follows one of the two opinions is not to be denounced. End quote from Majmoo’ al-Fataawa (20/207).

2 – Ibn al-Qayyim (may Allaah have mercy on him) said:

Their view that there is no denunciation with regard to matters concerning which the scholars differed is not valid … then he quoted the words of Shaykh al-Islam that we have quoted above, then he said:

How can a faqeeh say that there is no denunciation with regard to matters concerning which the scholars differed, when the fuqaha’ of all groups have clearly stated that the ruling of a judge is invalid if it goes against a verse of the Qur’aan or a Sunnah, even if some of the scholars agree with it? But if there is no Sunnah or consensus regarding an issue, then ijtihaad is permissible and the one who acts on the basis of ijtihaad, whether he is a mujtahid or is following a mujtahid, is not to be denounced.

There are many issues concerning which the earlier and later generations differed but we are certain that one of the two views concerning them is correct, such as the view that the pregnant woman’s ‘iddah ends when she gives birth, or that consummation of marriage with the second husband is a condition of a woman becoming permissible for her first husband (following divorce from the second), or that ghusl becomes necessary when penetration takes place even if there is no ejaculation, or that riba al-fadl (a type of usury) is haraam, or that mut’ah marriage is haraam, or that nabeedh (a drink made from dates) that causes intoxication is haraam, or that a Muslim cannot be killed in retaliation for a kaafir, or that wiping over the socks is permissible whether one

is travelling or not, or that the Sunnah when bowing is to place the hands on the knees, not hold them together between the thighs, and that raising the hand when bowing and when rising from bowing is Sunnah, or that pre-emption is permitted with regard to buying land or property, or that waqf (endowment) is valid and is binding, or that the diyah for all fingers and toes is the same, or that the hand of the thief is to be cut off for three dirhams, or that an iron ring is valid as a dowry, or that doing tayammum up to the wrist with one pat is permissible, or that the heir's fasting on behalf of the deceased is acceptable, or that the pilgrim should recite the talbiyah until he stones Jamarat al-'Aqabah, or that the muhrim may continue to wear perfume without applying it anew, or that the Sunnah is to say salaam in prayer to the right and the left by saying al-salaamu 'alaykum wa rahmat-Allaah, al-salaamu 'alaykum wa rahmat-Allaah, or that the option of cancelling a deal remains until the two parties separate, or when a camel or sheep is retuned after having milked it, with a saa' of dates must be given in return for the milk, or that there are two bowings in each rak'ah of the eclipse prayer, or that judgement is permissible with a witness and an oath, etc. And there are many more such issues. Hence the imams stated that the rulings of those who issued different rulings in many of these issues are invalid, without impugning on a personal level those who held those opinions.

Whatever the case, there will be no excuse before Allaah on the Day of Resurrection for those who heard ahaadeeth and reports concerning the issue in which there were no contradictions, if he ignored them. End quote.

I'laam al-Muwaqqi'een (3/300-301).

3 – Ibn Qudaamah al-Maqdisi said: No one should denounce anyone for following his madhhab, for there is no denunciation with regard to issues that are subject to ijtihaad. End quote from al-Adaab al-Shar'iyyah by Ibn Muflih (1/186).

4 – al-Nawawi said in Sharh Muslim (1/186):

The scholars said: The mufti and the qaadi have no right to object to the one who differs from them so long as he is not going against a text, scholarly consensus or clear analogy. End quote.

5 – Shaykh Muhammad ibn ‘Abd al-Wahhaab said: … If the one who said this was referring to issues of dispute, this is invalid and goes against the consensus of the ummah. The Sahaabah and those who came after them continued to denounce those who held views (contrary to the evidence) and made mistakes, no matter who they were, even if they were the most knowledgeable and pious of the people. Allaah sent Muhammad with guidance and true religion, and He commanded us to follow him and to forsake that which goes against that. Part of following him means that if a scholar goes against that by mistake, his error must be pointed out and he must be denounced. If what it meant by matters of ijtihaad is matters concerning which the scholars differed and for which the correct view is not clear, then this is a valid point, and it is not permissible for anyone to denounce something that differs from his madhhab or the people’s customs. As it is not permissible for anyone to enjoin anything without knowledge, by the same token it is not permissible for anyone to denounce anything without knowledge. All of this is included in the verse in which Allaah says (interpretation of the meaning): “And follow not (O man, i.e., say not, or do not, or witness not) that of which you have no knowledge” [al-Isra’ 17:36]. End quote from al-Durar al-Saniyyah (4/8).

6 – al-Shawkaani said:

This view – that there is no denunciation with regard to matters concerning which the scholars differed – has become the greatest means of preventing the enjoining of what is good and the forbidding of what is evil, which are of a high status as you know. It has been enjoined and made obligatory upon this ummah by Allaah and His Messenger (peace and blessings of Allaah be upon him) to enjoin that which is good according to sharee’ah and forbid that which is evil according to sharee’ah, and the measure of that is the Qur’aan and Sunnah. Every Muslim should enjoin that which he finds is regarded as good in both or either of them, and he should forbid that which he finds is regarded as evil in both or either of them.

If any scholar says something that differs from that, then his words are to be rejected and he is to be denounced, as is the one who follows his view.

Secondly:

This noble sharee’ah, in which we are commanded to enjoin that which it describes as good and denounce that which it describes as evil, is that which is found in the Qur'aan and Sunnah. End quote from al-Sayl al-Jaraar (4/588).

7 – Shaykh Ibn ‘Uthaymeen (may Allaah have mercy on him) said, refuting those who said that there is no denunciation with regard to matters concerning which the scholars differed:

If we were to say that there is no denunciation at all with regard to matters concerning which the scholars differed, then the entire religion would be lost because of people seeking easy options, because you can hardly find any issue in which there is no difference of opinion among people.

Matters concerning which the scholars differed fall into two categories. (The first category is) matters of ijtihaad in which differences of opinion are valid, in the sense that that is a good reason for these differences of opinion. In this case the mujtahid is not to be denounced, and the ordinary Muslims are obliged to follow what the scholars of their country say, so that the masses will not be left in confusion, because if we were to say to the ordinary Muslim: Follow whichever opinion you like, then the community would be disunited. Hence our Shaykh ‘Abd al-Rahmaan ibn Sa’di (may Allaah have mercy on him) said: The common folk should follow the madhhab of their scholars.

The second category is matters concerning which differences of opinion are not valid and there is no room for ijtihaad. In this case the one who holds a different view is to be denounced because he has no excuse. End quote from Liqa’ al-baab il-Maftooh (49/192-193).

And Allaah knows best.

See Hukm al-Inkaar fi Masaa’il al-Khilaaf by Dr. Fadl Ilaahi Zaheer.