

## Review Article

## The concept of Ijtihad (analogical deduction) and followership in Maliki School of Law in Nigeria: An Appraisal

Dr. Zayyanu Musa Dogon Daji<sup>1</sup> and Dr. Abubakar Bako<sup>1</sup><sup>1</sup>Department of Islamic Studies, Faculty of Arts and Islamic Studies, Usmanu Danfodiyo University, Sokoto, Nigeria

\*Corresponding Author

Dr. Zayyanu Musa Dogon Daji

**Abstract:** It is a well-known fact that Islam reached Nigeria along with the teachings of Maliki School of Law, many centuries ago; therefore Muslims in Nigeria initially were adherents of Maliki School of law, but as time goes on a lot of changes were introduced into the teachings of Maliki School of law ranging from mixing ideas of *Madha'hib* together on any legal issue or abandoning in totality the idea of *Madha'hib* while the knowledge of practicing acts of worship such as ritual, purification, ablution, prayer, poor due, pilgrimage to *Makkah*, marriage, business transactions among others by Muslims of Nigeria were based on Maliki *Fiqh* Books. This paper is attempts to show the significance of following a particular *Madh'hab* most especially the available in a community provided one have not reach the level of *Mujtahid*.

**Keywords:** *Ijtihad*, (analogical deduction) followership, *Madh'hab*, Maliki School of Law in Nigeria.

### INTRODUCTION

The revelation of the Glorious Qur'an to Prophet Muhammad (*Sallal-Lahu-alaihi wa Sallani*)<sup>1</sup> marked the beginning of all wisdom, as it contained guidance on all spheres of life. The Glorious Qur'an is the primary source from which the knowledge of Islamic jurisprudence was extracted. During the life time of the Prophet (SAW) in the absence of Qur'anic injunction on any issue he (the Prophet) issue out verdicts which are known as his *Sunnah* (practices of Prophet Muhammad (SAW)). This *Sunnah* complements Qur'anic injunction in order to clarify the actual ordinance contained in a verse.

However, the possibility of emergence of a new problem for which no provision has been made in the Qur'an or *Sunnah* paves way for *Ijtihad* (analogical deduction of the law), which was encouraged by the Prophet (SAW). Therefore, the following sources of law were firmly recognized and established right from the time of the Prophet (SAW) these are the Qur'an, *Sunnah* and *Ijtihad*. This is to say that as revelation comes, the Prophet would explain or practice it. The Companions of the Prophet (SAW) followed his footsteps during and after his life. They referred to the more learned among them at the emergence of any new issue.

*Ijthad* of the companions of the Prophet (SAW) coupled with their *Ijma* (General agreement) are part of the contributions of this era to evolution of Islamic law and jurisprudence. After the fourth caliph, Aliyu bn Abi Talib the era of the Umayyad dynasty started and the scope of jurisprudence was widened. The era witnessed the emergence of two main *madh'hab* (practicing road of founded school of law) each one taking its root from the views of the Companions; these are the *Ahl-al-Ra'ay* (the people of reasoning) and *Ahl-al-Hadith* (The people of *Hadith*). But after the Umayyad period, there came that of the Abbasid dynasty which divided the two main *madh'hab* into many *Madha'hib* (plural of

<sup>1</sup> Meaning peace be upon him, and from now on S.A.W will be used in place of *Sallal-Lahu-Alaihi wa Sallam*

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*Madh'hab*) some of them were those of *Awza'i* Al-Thawri, Malik, Hanafi, Shafi'i and Hambali schools. With the passage of time, those *madha'hib* were reduced to four (Maliki, Hanafi, Shafi'i, and Hambali *Madha'hib*)<sup>2</sup>

Islam was introduced into Nigeria along with Maliki school of law upon which the practices of Islam by Muslims in the Nigeria. Taking this into consideration one can say that the Muslims of Nigeria were adherents of Maliki school of law.

**But today you find some Muslims of Nigeria practicing one or more of the following:**

- Shifting from one *Madh'hab* to another (from Maliki *Madh'hab* to another), thus mixing the idea of *madha'hib* together at a time on any legal issue.
- Doing away with the idea of *Madh'hab* in totality, (non-adherence to one of the four schools of law)<sup>3</sup>
- **Transferring** in totality from *Madh'hab* Maliki to another, etc, these were caused as a result of the following factors.
  - Ignorance
  - Simplicity of a certain ruling found in another *Madh'hab* (other than that of Maliki).
- Blindness following of a certain person claiming to be right than others.
- In order to cause confusion and conflict among Muslims, thus suiting personal interest among others.

The idea of non-adherence to Maliki school of law was baseless because the knowledge of practicing *Ibadat* such as ablution, ritual bath, dry ablution, prayer, poor due, pilgrimage, marriage, business transaction were extracted from *Malikiyya Fiqh* books such as *Qawa'id al-Islam*, *Akhdari*, *Iziyyah*, *Risalah*, *fathul Jiwad* etc. Therefore, abandoning of the *Madh'hab* of Imam Malik (partially or fully) by some Muslims is just a mere saying because what they uttered (of not following Maliki School) prove abortive as they still have no available *Fiqh* books at hand other than that of *Malikiyya*, thus confusing themselves.

Practicing of *Madh'hab* Imam Malik neither mean introducing something new into Islamic religion (as Imam Malik based all his legal rulings on the teachings of Quran and *Hadith*) nor leading Muslims astray. And Imam Malik did not wake up in a day and chose a *Madh'hab* or informed people that he has a *Madh'hab* to be followed, but rather his *Madh'hab* came into being as a result of teaching vast number of students from different parts of the world learning various branches of knowledge from him. Imam Malik said "Any *Hadith* prove to be authentic, that is my stand"<sup>4</sup> this shows that any ruling that goes contrary to the sayings of Prophet (SAW) is not the stand of Imam Malik. Even where opinions differ among four schools of law does not mean opposition among them and the differences are not in dogma and belief, they differ in secondary juristic issues. In fact, *Shaykh* Muhammad Zahid Al-kawathari (d.1952) maintains that the Jurists basically agreed on at least two third of the juristic issues, Nicolas Aghnides (d.1950) maintains that differences between the schools relate to application whereas in theory they follow the same principles. He describes them as many roads leading to one goal. And despite the differences the scholars still respected one another to an extent where Imam Shafi'i study under Imam Malik and various other examples of this nature throughout history.<sup>5</sup> Therefore, there is no harm in practicing of *Madh'hab* Imam Malik by the Muslims of Nigeria.

## CONCLUSION

It has been seen that Maliki law was the predominant law in Nigeria long ago but due fast intellectual development nowadays many Muslims were mixing the idea of *Madha'hib* together for simplicity of a certain ruling found in any *Madh'hab*.

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<sup>4</sup> G. F. Haddad, *Introduction to Malik's Muwatta*. up, up, 1980, p.30

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