

WITH THE SHAYKH



Is Differing A Mercy?

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Shaykh Bin Bayyah originally hails from Mauritania, West Africa. He is the son of the great scholar and spiritual master, Shaykh Mahfuz. From an early age Shaykh Bin Bayyah was guided to study Islam and went on to master the Islamic sciences. A jurist of eminent standing and an accomplished scholar in the field of *usul al-fiqh*, or Islamic legal theory, Shaykh Bin Bayyah is a member of several legal bodies; such as the *European Council for Fatwa and Research* and the international *al-Majma’ al-Fiqhi*. As well as being a scholar of extraordinary rank, the Shaykh is also fluent in French and is conversant with European thought and literature. He presently lives in Jeddeh where he is a professor at King Abdul Aziz University. The query being responded to here centres on whether differences of opinion (*ikhtilaf*) in religious matters is a mercy or not.

In the Name of Allah, the All-Merciful, the Compassionate

This is a vital issue. For the question of differences (*ikhtilaf*) of the ummah being a mercy occurs in a hadith whose authenticity is unconfirmed. Al-Bayhaqi recorded it with a disconnected (*munqati’*) chain; via Ibn ‘Abbas, with the words: “Allah’s Messenger, peace be upon him, said: Whatever comes to you from the Book of Allah is to be acted upon; there being no excuse for anyone to leave-off doing so. If it is not in the Book of Allah, then upon a previous Sunnah of mine. If there is no previous Sunnah of mine, then what my Companions (*sababah*) say. Indeed, my Companions are like the stars in the sky, whichever of them you follow, you will be guided aright. Differences of opinion among my Companions are a mercy for you.” Al-Albani analysed it in *al-Da’ifab*, no.59, and declared: “It is fabricated.”

The hadith is also recorded by Ibn al-Hajib, with the words: “Differing among my ummah is a mercy.” Mulla ‘Ali al-Qari records this wording and notes: “Al-Suyuti said: It is recorded by Nasr al-Maqdisi in al-Hujjah and al-Bayhaqi in *al-Risalah [al-Asb’ariyyah]*, without a chain. It was also recorded by al-Halimi, Qadi Husayn, Imam al-Haramayn and others. It may have been related [with a chain] in some manuscripts of the hadith masters which have not reached us; and Allah knows best.”²

Al-Suyuti relates from ‘Umar b. ‘Abd al-‘Aziz that he used to say: “It would not have pleased me if the Companions of the Prophet, peace be upon him, did not differ. For if they had not differed, there would have been no leeway.”³

Similarly, al-Khatib cites Harun al-Rashid saying to Malik b. Anas: “O Abu ‘Abd Allah, we will copy this book,” meaning the *Muwatta’*, “and command people to adhere to it, and will send copies of it to each of the Islamic provinces so that the ummah may follow it.” He responded: “O Leader of the Believers, differences between the scholars is a mercy from Allah for this ummah. Each followed what he believed to be correct; each was upon guidance; each aspiring to Allah.”⁴

These statements show that although the hadith, “Differences among my ummah is a mercy” is not established, it does, nevertheless, have a basis. The words of ‘Umar b. ‘Abd al-‘Aziz and Malik, may Allah have mercy upon them, prove that this issue does have a foundation. The meaning is that those differences that have valid justifications - due to their textual wordings or due to understanding the actual text - they are praiseworthy and legitimate differences. This is why Ibn al-Qayyim, may Allah have mercy upon him, calls such differing “legitimate differing between the people of Truth.” This is the category of differing in which there is no problem. Here, a Muslim should be open to the wisdom that one of the scholars once advised his son with: “Know the differences and become more tolerant.” For when a person knows the differences of opinion of the scholars, and that the rationale behind such differences are due to differences in the textual wordings or in understanding the actual texts, then such are differences of *ijtihad*⁵ about which Ibn al-Qayyim states: “If in the issue there is no [decisive text from the] Sunnah, nor a consensus, then *ijtihad* is legislated: there must be no censuring someone who acts in it either as a *mujtahid* or as a *muqallid*.”⁶

Al-Izz b. ‘Abd al-Salam stipulates: “Whoever comes with an issue for which there is a difference of opinion over its forbiddance, and holds it to be lawful, cannot be censured - unless, of course, the opinion is an extremely weak one.”⁷

Therefore, differing such as this is a sort of convenience for people in non-fundamental matters (*furu*).⁸ Whosoever acts according to any of the opinions of the scholars is, Allah willing, not at fault. Even if he is mistaken, he is forgiven for his error. For whoever strives their utmost [to arrive at an Islamic ruling] and is correct, receives two rewards; whoever strives and errs, receives a single reward - as per the hadith related by al-Bukhari, no.7352, and Muslim, no.1716; from ‘Abd Allah b. ‘Amr, may Allah be pleased with him. Thus, in this case one cannot reproach such differences. These are the differences which have been likened to being a mercy, for they provide a sort of ease and flexibility in resolving difficult problems for the ummah, as well as allowing people to coexist peacefully with one another, without the presence of unjustified grudges or rancour.

As for the differing that is forbidden, its like is found in the statement of Allah, Exalted is He: *Dispute not with one another, lest you falter and your strength departs*.⁹ This type of differing provokes enmity and hostility, which the Prophet, upon whom be peace, categorically prohibited. He strictured: “Do not hate one another, nor be hostile to one another, nor spy on each other. But be, O servants of Allah, brothers.” Related by al-Bukhari, no.6066, and Muslim, no.2563, by way of Abu Hurayrah, may Allah be pleased with him. This type of differing that incites hatred and hostility refers to differing in the fundamental issues of belief (*al-aqa'id al-kubra*). It is, to use a contemporary expression, “stepping beyond the red line.” What is meant is that it transgresses the bounds of the acceptable differing and instead leads to strife, and to some of the ummah fighting against others. Therefore the ummah is unable to unify its affairs or face up to its challenges. This differing is reprehensible.

Thus, there is a type of differing that is commendable, for which there are certain indicators. This differing has known causes; its effects on the ummah are healthy; and it gives rise to ease. Then there is a type of differing that has ill-effects on the ummah; this is the blameworthy type of differing. It is therefore required by the seeker of truth to be cognisant of this. He must have insight into the type of differing which can be overlooked, and that type which wreaks havoc upon Muslim unity and engenders enmity and hostility; which the Sacred Law forbids.

I hope that the questioner comprehends this. And Allah, Transcendent and Exalted is He, knows best.



FOOTNOTES

1. From www.binbayyah.net (trans. Abu Aaliyah).
2. *Al-Asrar al-Marfu'ah fi'l-Akbar al-Mawdu'ah* (Beirut: al-Maktabah al-Islami, 1986), 109.
3. *Al-Durar al-Mutanabirah* (Riyadh: Jami' al-Riyadh, 1988), no.6. Also cf. Ibn Taymiyyah, *Majmu' Fatawa* (Riyadh: Dar 'Alam al-Kutub, 1991), 30:80.
4. Its like is cited in *Majmu' al-Fatawa*, 30:79.
5. *Ijtihad* (lit. "exertion"). In Islamic law and legal theory it refers to labouring one's utmost to formulate a new ruling which is not explicitly or precisely laid down in the texts of the Qur'an or the Sunnah. A jurist qualified to undertake such interpretive endeavours is called a mujtahid. Anyone incapable of *ijtihad* is known as a *muqallid*; one obligated with *taqlid* - following qualified scholarship. Cf. al-Shirazi, *al-Luma' fi Usul al-Fiqh* (Beirut: Dar al-Kutub al-Ilmiyyah, 2001), 129; al-Shanqiti, *Natbr al-Wurud 'ala Mara'iq al-Su'ud* (Jeddeh: Dar al-Manarah, 1999), 622, 642.
6. *I'lam al-Muwaqqi'in* (Riyadh: Dar Ibn al-Jawzi, 2002), 5:243.
7. Ibn Rajab wrote: "The wrong which is obligatory to rebuke is whatever is agreed upon [as being wrong]. As for what is differed over, one of our colleagues put it: "One must not censure someone who is a *mujtabid* in the issue, or is a follower of a *mujtabid* in that which *taqlid* is permissible." Al-Qadi [Abu Ya'la] exempted, in *al-Abkam al-Sultaniyyah*, those differences of opinion that are deemed weak." *Jami' al-'Ulum wa'l-Hikam* (Beirut: Mu'assasah al-Risalah, 1998), 2:254.
8. *Furu'* (lit. "branches"). Issues in which the textual proofs are decisive in meaning and authenticity are issues of *usul* - fundamentals. Differing in them is prohibited. Issues wherein the texts are speculative - that is to say, they are either not so clear-cut in authenticity, or their meanings are open to more than one legitimate reading - are known as *furu'*: branches, non-fundamentals. Here, differing is permitted and is not deemed blameworthy; rather it is a mercy.
This principle is so definitively agreed upon that it has entered into the canons of Sunni orthodoxy. Thus, Ibn Qudamah articulated in his creedal tract: "Differing in the *furu'* is a mercy. Those differing are commended in their differing and rewarded for their *ijtihad*. Their differing is a comprehensive mercy; their unanimity a decisive proof." *Lum'at al-I'tiqad* (Kuwait: Dar al-Salafiyyah, 1986), 35.
9. Qur'an 8:46.