



MADH-HABISM: AN EXPOSITION OF FIQH DYNAMISM AND SCHOLASTIC RIVALRY AMONG CONTEMPORARY JURISTS

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ABSTRACT

The Islamic scholarship is undoubtedly a divine responsibility focused on the essence of wahy through the continuous process of ijtihād to understand further and spread the Islamic jurisprudence better. However, the juristic efforts of 'ulamā in the various madhāhib have often attracted scholastic partisanship and unhealthy rivalry among contemporary adherents of these different juristic schools. Some individuals who claim juristic sectism, champion the viewpoints of their madh-hab staunchly without due side-view and consideration of scholarly facts of other schools as well as the wisdom of fiqh differences of the madhāhib thereby disrupting the foundation of juristic dynamism. These modern pro-madh-habists have created staunch devotion to complicit juristic ideology for various reasons ranging from tribalism, devaluation of creativity in knowledge, as well as superficial motives of self-authority and hatred for others when found with greater dexterity and advancement in the trade of scholarship. Thus, the paper examines the essence of profound madh-hab adherence and further evaluates the dangers of madh-habism as well as the unhealthy rivalry amongst fuqahā in the contemporary time with the aid of jurisprudential analytical methods. The paper reveals that, despite the call for healthy rivalry through proven scholarly facts, the impetus for its continuity among scholars is innate and however endless. The paper thus concludes that the status of religious scholarship should however be based on tarjīh (scholarly preference) and not taqlīd (juristic dogmatism) to foster sound Islamic scholarship. The paper further recommends ways to fortify healthy rivalry and enhance sound methodology for ideal scholarship and tutelage in the various madhāhib.

Keywords: madhāhib, scholastic partisanship, unhealthy rivalry, tarjīh, taqlīd

INTRODUCTION

The focal point of *fiqh* is that, it concerns with Islamic devotional knowledge, its principles and application. Al-Qaṭṭān (2001) stated that *fiqh* is used to describe the study of the religion and its related fields because of its greatness and reverence on other kinds of study. Specifically, *fiqh* covers the generality of practical legal issues from its preserved sources and the duties of the "Mukallaf" (matured and religiously responsible person) with the restriction of his practices and the codified limitations. It is important to state that the formation of *sharī'ah* as a total law had been completed by the death of the Prophet. However, the understanding and application of these laws is otherwise known as the *al-fiqhū fī-sh-sharī'ah* (the understanding of the *sharī'ah*) (Philips, 2006). Thus, *fiqh* in general refers to jurisprudence, either in secular or Islamic sense. It is the deep comprehension of legal matters that describes the body of

Islamic law extracted from its detailed sources and the process of acquiring its jurisprudential application (Al-Qaṭṭān, 2001). *Fiqh* deals with the observance of rituals, morals, social legislation as well as the application of political system in Islam. It also concentrates on the divine rules that govern the action of man in the areas of obligation (*wājib*), prohibition (*ḥarām*), recommendation (*mandūb*), abomination (*makrūh*), or permissibility (*mubāḥ*). While a trained person in the field of Islamic jurisprudence is known as *faqīh* (Philips, 2006).

Al-Qaṭṭān (2001) explained that the 'module operandi' of the *faqīh* on juristic matters is known as the *madh-hab* which, according to varying factors differ, thus prompting the perception of *madhāhib* (modules) to help the *fuqahā* derive solution on matters in accordance to time and need. The *Madhāhib* emerged in the ninth and tenth centuries as a result of political instability and socio-religious factionalism. By the twelfth century, clarity of philosophy and methodology of the schools became identified. Rulings of the *Madhāhib* were

followed across Muslim world with adherents of various schools dominating different areas of the world but the *Hanafi*, *Mālikī*, *Shāfi'ī* and *Ḥanbalī* reigned supreme with different tools of legal dexterity to improve the application of the *sharī'ah* to attain the intended *maṣlahah* (benefit) for mankind (Al-Qaṭṭān, 2001).

Nevertheless, the need to adopt a *madh-hab* was never a self-selection of the early jurists rather a conditional factor based on socio-political reason together with cultural undertone in various developmental stages of the *sharī'ah* which serves as an antecedent to the various schools of thought rather than ideological partisanship and juristic sectism without proven knowledge.

Theoretical framework

Madh-habism is a contemporary ideology that reveals unconditional affiliation to a particular school of thought regardless of other superior *fiqh* in other prominent schools and any given factual consensus adjudged by *fuqahā*. The perceived new school of thought is not particular to any country or race; rather it's a universal juristic problem of the Islamic world today. The underlying reasons apparent with *madh-habism* is the seemingly conflictive *nuṣūṣ* (texts) and the insufficient knowledge of *uṣūlu'l-fiqh* (Islamic Jurisprudence) of contemporary *fuqahā* (jurists) to unearth the areas of convergence and divergence in legal matters. Thus, the research aims at the following:

1. Creating a juristic mechanism to choose the appropriate ruling in any given *fiqh* school.
2. Avoiding dogmatism and fanaticism in juristic matters which is common with many *madh-habist*.
3. Appropriately placing the difference between adopting *madh-hab* and being a *madh-habist*.
4. Systemic eradication of scholastic rivalry that exist through *madh-habism* among Muslims.
5. Suggesting new areas of *tarjīḥ* to help harmonize various *fiqh* views in the *madhāhib*

The chosen approaches nonetheless are juristic circumstantial models which unearth reasons for *madh-hab* conflicts and to find solutions to contemporary rivalry among *fuqahā* through jurisprudential analytical methods with classical submissions of contemporary jurists from various *madhāhib*. It should be noted that *madh-habism* in this research implies dogmatic juristic sectism based on ignorance while anti-*madh-habism* implies the total rejection of the system of juristic tutelage and *fiqh* adoption.

Development of *Madhāhib*

According to Al-Qaṭṭān (2001), in the event of death of the Prophet which marks the completion of revelation, Abū-Bakr assumed office of the *khalīfah*. As the first *khalīfah*, he upheld the already built foundation of the *sharī'ah* by shutting off defectors who declined the legality of *zakāh* and other apostates who claimed prophethood and false revelation. Among them is Al-Aswad Al-ʿUnṣī in Yemen, Musaylamah in Yamāmah, Ṭalḥah from the clan of Asad as well as Sujāḥ from Tamīm. ʿUmar the second *khalīfah* was on the same page as he consolidated the *fiqh* of Abū-Bakr extending the tentacles of Islam and the awareness reached beyond the shores of the Arabian Peninsula and the *operandi*

remains the same *kitāb* and *Sunnah* as well as views of the elite companions on legal rulings (Al-Qaṭṭān, 2001).

The development of *fiqh* in the time of ʿUthmān remained relatively upright until his death. However, when ʿAlī became the *khalīfah* and the event of the division between Muʿāwiyah; his followers, ʿAlī and his loyalist, great differences and disputes loomed (Al-Qaṭṭān, 2001). Consequently, the *fiqh* of the *khawārij* and the *shī'ah* sects emerged along with the *fiqh* of the generality of Muslims in the Islamic world. It is worthy to state that the *ṣaḥābah* differed majorly on *far'īyyāt* (secondary issues) until the time of ʿAlī when the differences were taken to other levels such as political variations and later on to issues of creedal divergence (Al-ʿamidī, 1233).

The development of *fiqh* owes greatly to the scholarly prowess of some *ṣaḥābah* who have mastered the knowledge of jurisprudence and gave verdicts on religious issues accordingly. These scholars were known at the time as *Qurrā* (reciters) because of their awareness and dexterity of the Qurʾān and its jurisprudence (Al-Qaṭṭān, 2001). Ibn Qayyim as cited by Al-ʿamidī (1233), classified these scholars into three: *Al-mukthirūn* (those with numerous jurisprudence account); and they are: ʿUmar bn Al-khaṭṭāb, ʿAlī bn Abī Ṭālib, ʿAbdullāh bn Masūd, ʿĀishah (Mother of believers), Zayd bn Thābit, ʿAbdullāh bn ʿAbbās, and ʿAbdullāh bn ʿUmar. *Al-mutawassitūn* (those with moderate account of jurisprudence): Abū Bakr, Ummu Salamah, ʿUthmān bn ʿAffān, Abū Saʿeed Al-khudirī, Abū Mūsā Al-ʿashʿarī, Jābir bn ʿAbdullāh, Muʿāẓh bn Jabal, ʿAbdullāh bn ʿAmr bn al-ʿās, and ʿAbdullāh bn Zubayr. *Al-muqillūn* (those with little or less jurisprudential account); and they are: Abū Dardā, Abū ʿUbaydah bn ʿJarrāḥ, Nuʿmān bn Basheer, Ubayy bn Kaʿb, Abū Ṭalḥah, Abū Zharr, Ṣafiyyah, Ḥafṣah, Ummu Ḥabībah and others (Al-ʿamidī, 1233).

Sequel to that, the trend of different viewpoint turned into a form of *fiqh* thought which was developed through the *ṣaḥābah* and their successors. Although not known to them at the time by the name *madh-hab* (*fiqh* school), but the rudiments were built in their era with rules and regulations on different legal pallets which subsequently was developed and grounded at the time new juristic bases were erected by subsequent scholars through ages and civilizations (Al-ʿamidī, 1233). Thus, *fiqh* schools basically refer to different trends and modules adopted to derive legal solutions on matters from various *Sharī'ah* sources (Philips, 2006).

Nonetheless, Al-Qaṭṭān (2001) highlighted that *fiqh* schools were formed with various factors and challenges which defined the legal principle of these schools. With followers and government, the influence of schools grew in adherents and expansion at the beginning. Later of course, conflict of ideology together with political greed and power reduced the strength of followers and also withered the philosophy of some *madhāhib* largely because of the friction between orthodoxy and conventionality. Many of the *fiqh* thoughts were not compiled but few were left in history with scattered sources in works of the later scholars. The few progenies that survived the various schools became the propagators of the philosophies of these schools and protectors of its ideologies. The popular surviving *Sunni* schools include the *Hanafi*, *Mālikī*, *Shāfi'ī* and *Ḥanbalī* *fiqh* schools (Philips, 2006).

Fiqh Schools

The first school is the *Hanafī madh-hab* which was built on applied 'reason' ('illah), analogical inference (*qiyās*), circumstantial judgments (*wāqī'*), together with *awlawiyyah* (pioneering judgments), which was developed through an era of cultural resurgence in a multi-racial Kūfa of Greek and Persian philosophies (Philips, 2006). The presence of political differences and religious amalgamation of nations accounted for the strictness and yet flexible *fiqh* of the *Hanafīyyah* not to mention the countless problems created from the fusion of the Arab and Persian norms which consequently birthed the anti-Islamic efforts of secret sects to forge ḥadīth in order to soothe their pursuit. Abū Ḥanīfah's *fiqh* played a key role in shutting off fabrications in rejuvenating the *Sharī'ah* and opening up doors for other *fiqh* thoughts (Qaṭṭān, 2001).

The second school is the *Mālikī fiqh*, which was a product of the Madīnian philosophy, where every house beholds the sanctity of the Prophet's tradition. A mixture between *ḥadīth* and reason based upon the traditions of the *ṣaḥābah*; *Mālikī madh-hab* was one of a kind. The combination of orthodox juristic views and his authority as a *muḥaddith* made this *madh-hab* a unique one. Also, the fact that the people of Madīnah witnessed the life of the Prophet and maintained his legacy, make a mammoth legal reference known as "*fiqhu ahlil-madīnah*" the legal stance of the people of Madīnah (Al'āmidī, 1233). Thus, the *ijmā'* in this *fiqh* was hugely formed from the practices of the people of Madīnah which obviously is rather anachronistic view of the early period of Madīnah in both opinion and transmission (Al-Qaṭṭān, 2001).

According to Ibn Taymiyyah as cited by Al-Qaṭṭān (2001), their tradition and narration is the soundest of all because of their connection to the legacy of the Prophet. Much more that Ibn Mas'ūd used to return to Madīnah on legal matters to clarify if judgments contradict the practice in Madīnah regardless of the fact that he was the most knowledgeable of the companions in Iraq. This extraordinary legacy was referred to by Mālik as a unique heritage bequeathed from generation to generation (Al-Qaṭṭān, 2001).

The third school is the *Shāfi'ī madh-hab* which concisely entails the primary sources of *Sharī'ah* with a look to the outer meaning of the *nuṣūṣ* unless there is a proof contrary to the meaning intended (Phillips, 2006). It also considers *khabaru'l-wāhid* (legal report of a one chain narration) and then opts for *ijmā'* (consensus) as well as *qiyās* (analogy) when the need arises (Qaṭṭān, 2001). This school unlike other *fiqh* schools has more of its doctrines compiled by the founder himself. He recorded the derivation method of its rules and regulation in the shape of a book. He further proved the distinctiveness of his methods and styles by publicizing his exemplary *fiqh* and uniqueness through his works which lured great scholars of *fiqh*, *ḥadīth* and Islamic history to study under him. His studentship under Mālik and the Hījāzī *fiqh*, together with the already established *Hanafī fiqh* and the Iraqi styles as well as Egyptian contemporariness made his *madh-hab* an all in one *fiqh* thought. Although the school was founded in Makkah but its method of interpretation describes its comprehensiveness and universality (Philips, 2006).

The last *fiqh* school is the *Ḥanbalī madh-hab* which has evolved and passed on through all stages of development and emerged as the leading *fiqh* school for the *ahlus-sunnah*. This *madh-hab* considers *hikmatul'-hukm* (legal wisdom) more important than reason ('illah) by utilizing *istis-hāb* which implies that already proved matter will be maintained until there happens something contradictory (Philips, 2006). The *madh-hab* also considers public interest in all its legal philosophy. The founder, Ahmad bin Ḥanbal was an expert of ḥadīth like Mālik who established his *fiqh* thoughts on Qur'ān and *Sunnah* as well as the *fatāwā* of the *ṣaḥābah* but also considers the *mur'sal ahādīth* (narrations that were not direct from the Prophet) or weak narrations before *Qiyās* (analogy) but only an option for an unavoidable circumstance (Al-Qaṭṭān, 2001). This *madh-hab* is popular amongst today *salafī* scholars of Hījāz and other disciples of the *Wahhābī* doctrines made popular by the Kingdom of Saudi Arabia (Al-Qaṭṭān, 2001).

Dynamism of Fiqh

Al-Qaṭṭān emphasized that the early jurists differed in their perception and viewpoint due to the disparity in their level of comprehension. Their divergence in the adherence to the *Sunnah* and their dissimilarity in juristic creativity become inevitable in the absence of *naṣṣ* (legal text). These juristic variances amongst the *ṣaḥābah* are described by scholars as "difference of sampling and not of deviation" (*ikhtilāfu't-tanawwu'*) which makes the *sharī'ah* dynamic (Al-Baghdādī, 2012). Ibn Hazm further refuted the notion that states that "disagreement is a blessing" which automatically declares unity and agreement a curse but affirms that divergence is inevitable (Qaṭṭān, 2001).

Evidently, the cradle of the *fiqh* schools is based on the reality of the differences amongst *ṣaḥābah* in the interpretation of a legal term or a metaphoric inference of such given term which majorly is not connected with the fundamentals of creed. Some companions have adopted the manifest meanings of *nuṣūṣ* while others stock to the hidden meaning by seeking the depth of the issue in the *nuṣūṣ* to contextualize the meaning appropriately. This implies that there often occur instances where a *naṣṣ* is conceived to mean something and may imply contrary in the outer application of such *naṣṣ* (Philips, 2006).

In an account of Bukhārī and Muslim as quoted by Al-Baghdādī (2012), the Prophet ordered a group of companions to offer the 'asr prayer in *Banū Qurayzah* province as they run an errand for him. 'Asr approached along the way and some of the companions observed their prayers in the mid-way at the earliest time of the prayer while the other group held the obvious meaning by observing their prayers at *Banū Qurayzah*. The Prophet was apprised of the incident and he did not rebuke any of them (Al-Baghdādī, 2012). This according to An-Nawawī creates a legal outlet for difference of opinion in the absence of clear-cut *naṣṣ*, or presence of multi-facet *nuṣūṣ* of multi-dimensional scope (Al-Baghdādī, 2012).

Obviously, the contemplation of the *ṣaḥābah* on legal matters was strictly based on either the Qur'ān or the *Sunnah* but after the demise of the Prophet the companions faced new issues about which there were no strict orders neither from the Qur'ān nor the *Sunnah*. At that time, their application was

then based on the inference and deduction from the primary sources on the issues for which there were no clear orders. This later formed the bedrock for the secondary sources of the law and as well a developmental path for various *fiqh* thoughts. Similarly, the *tābīʿūn* who were tutored by the *ṣaḥābah* faced fresher issues and more challenges in their time, which were tackled in accordance with their trends and juristic equilibrium (Al-Qaṭṭān, 2001). These differences of trends and circumstance were some of the reasons of the formation of variant jurisprudential interpretations. Thus, the *fiqh* schools were shaped up in view of cities, disciples, as well as social- cultural influence on various legal thoughts.

Madh-habism and Unhealthy Rivalry

The clear juristic path threaded by the early *fuqahā* was based on purity of knowledge and sincerity of purpose which answered the challenges of their various times and gathered followers for them in a continuous chain of tutelage. According to Ibn Taymiyyah (1983), the obedience to Allāh and the Prophet is immediately followed by those who are the heirs of the Prophets, the scholars who carry on their responsibility and thus guide people by their words and practise through the fluorescent of the primary sources of *sharīʿah*. This chain of juristic continuity embodies the awareness that no scholarly view unequivocally is superior to profound *naṣṣ* regardless of the status and disposition of the *faqīh* except with given juristic justification. Bakr Abū Zaydas cited by Abdul-Munʿim (2021) observes that it is only natural that questions are directed to scholars to help guide the non-scholars without any string neither attached to it nor taking them as *walījah* (deities). However, many today have chosen to diverge from this lofty essence and consider *taʿaṣub madh-habi* (juristic sectism) loftier than legal selection of opinion better understood as following a particular *madh-hab*. While ancient *fuqahā* were careful selectors of opinion many contemporary jurists are dogma and staunch in the adoption of juristic viewpoint.

Ibn Qayyim (1991) asserts that adopting a particular *fiqh* school is not the problem rather ignoring proven facts from other schools even when it contradicts the particular thought in the chosen *madh-hab*. He reiterated that the leaders of the popular juristic schools have all frowned at any legal adoption without proven facts. They reproached *taqlīd* (juristic dogmatism) except when the views are proven to be accurate. Abū Shāmah agreed with Aṣ-Ṣanʿānī as cited by Abdul-Munʿim (2021) that all the founders of the *madhāhib* declared that all legal-views of theirs should not be preferred to the words of the Prophet. Abdul-Munʿim (2021) further cited As-Subkī that the position of Abū Ḥanīfah on legal matters is always about the consideration of his sources before adoption while Mālik often declares the likelihood of fallibility in juristic matters which Ash-Shāfiʿī describes as careful selection of legal rulings. But Aḥmad on the other hand refers always to the primary sources of the *sharīʿah* at all times which describes their variance in juristic matters (Abdul-Munʿim 2021).

To rightly understand *madh-habism* is to identify a situation where a *faqīh* ignores the principles of constructive arguments in the various known *madhāhib* and tenaciously adhere to the adopted less factual viewpoint of his chosen

madh-hab without juridical precision. Contrastly though, the founders of the *fiqh* schools directed towards factuality but did not declare the wrongdoing of adopting a *fiqh* thought given that the *Shāriʿ* prescribes scholarly tutelage to grasp the core of its essence and application. Allāh says: “Ask those with *dhikr* if you know not” (Q21 v.6). Thus if a person adopts a particular *madh-hab*, he only does so to seek a path to follow the Prophet. Hence, whenever he finds truth in any opposite *madh-hab*, he adopts like though it was the same *fiqh*.

Traditionally however, the early *fuqahā* have ascribed themselves with a particular *fiqh* school to explain the method of deduction and application of juristic views in other to assist their followers to apply rulings in accordance with their various time and circumstance. Abū Yūsuf Al-Ḥanafī, Ibn Ḥajar Ash-Shāfiʿī, Ibnu'l-ʿArabī Al-Mālikī, and Ibn Quddāmah Al-Ḥanbalī are some of the examples of juristic affiliation of the early jurists without enforcing their views or imposing their *madh-hab* on others. Their call of *madh-habiyyah* only describes gradual application of *fiqh*, establishment of facts, and understanding of the *maqāṣid* as well as the adoption of facts by evidence and not by dogma (Abū Muhammad, 2021).

The significance of taking to a *madh-hab* cannot be overlooked but to arrogantly stick to falsity which undermines the sanctity of the *sharīʿah* and disrupts its set objectives is what is described as *madh-habism*. Aṣ-Ṣāwī a profound *madh-habist* asserted in his *Hashiyah* that it is incumbent to follow the four *madhāhib* and almost pronounced anyone who falls short of that a *kāfir*. However, Al-Amīn Ash-Shanqayṭī strongly refuted him and pronounced the matter holistically flexible without any ambiguity (Abdul-Munʿim, 2021).

The other extreme of *madh-habism* is anti- *madh-habism* which seeks to outrightly shun the system of school of *fiqh* which helps to study not only the application of *fiqh* but also to unearth the various reasons for differences in the change of ruling per change of time which the *madhāhib* stands to educate (Abū Muhammad, 2021). This anti- *madh-habism* has galvanized scholastic rebellion and ridicule from the younger generation towards the elder scholars who have served knowledge through the ranks, mentorship and tutelage. This syndrome has further destroyed the effect of the contemporariness of *fiqh* and the continuity of *ijtihād* as well as the distraction of devoted students of *fiqh* to actually plant their seedlings of juristic thought through the primary *madhāhib* and further germinate profound rulings that fits the needs of time (Abū Muhammad, 2021).

Al-khaṭībū'l-Bagdādī exerted the importance of *dalīl* in matters of jurisprudence and explains that *madh-habism* drives unhealthy rivalry and unjustified quarrel among Muslims (Abdul-Munʿim, 2021). Studies have shown that feuds and disputes have erupted in various Muslim communities as a result of *madh-habism*. Quite a handful number of pro-*madh-habists* have attacked Mālikī adherents for calling the *tathwīb* (saying *aṣ-ṣalatukhayrun mina-naom*) in the latter *adhān* of the *fajr* prayers. Their claim is that if the *tathwīb* implies “prayer is better than sleep” then it is best said earlier before the second *adhān* according to Al-

Albānī and others (Al-Albānī, 2018). The Mālikī exponents on the other hand have stood on the *fiqh* of Madīnah that the practise is immemorial and has not changed since then and that juristic matters are based on revelation and not on human perception thus the *tathwīb* is said before the *iqāmah* before *fajr* prayers as called in the time of the Prophet because the term *adhānān* implies the main *adhān* and *iqāmah* (Al-Munajjid, 2021).

Nonetheless, the seeds of *madh-habism* are well-nourished and catalysed by varying factors of extreme greed for leadership and popularity with or without the acumen to keep such quest. This is noticed when a known scholar gives a verdict from a *madh-hab* and finds out the fault there-in after a rather seemed lower person sanctions a more factual ruling from another *madh-hab*, he then makes an enemy out of it sparking the beginning of an endless rift between them (Al-Munajjid, 2021). Furthermore, this unruly approach and the lack of adequate knowledge of *da'wah* framework generated from extreme *madh-habist* often ignite unhealthy rivalry among scholars in the local communities who hold an opposite view from other *fiqh* schools.

Madh-habism has also affected the varying level of understanding and ability of Muslims to derive rulings based on *maqāsid* from the sources by restricting themselves to a particular *madh-hab* and also depriving others of beneficial knowledge from other *madhāhib*. This is obvious in contemporary matters like social-distancing on *ṣalāt* rows in the period of covid-19 outbreak. The permissibility of the spacing on *ṣalāt* rows is based on necessity which already has bases from opinions of the *madhāhib* to prevent Muslims from spreading the virus (Al-Munajjid, 2021).

The founders of the *madhāhib* nonetheless, have based their views on Qur'ān and *Sunnah* by deduction thereby making them *mujtahidūn*. The *mujtahid* is however forgiven if he errs and gets two rewards when he gets a verdict right (Al-Bukhārī, 732). But when he gets it wrong he is rewarded for his *ijtihād* hence, no *madh-hab* is totally awful rather there is always a better *fiqh* in cases of juristic differences.

Likewise, some *mālikiyyah madh-habist* of West-Africa argue the non-folding of the arm while on *ṣalāt* (*sadl*) based on a premise that Mālik was reported to have switched to this posture in the later part of his life as a result of an inflicted penalty exerted on him that disabled his limbs even though the *mālikī fuqahā* agreed otherwise (Al-Munajjid, 2021). The most appropriate however, is to refer back to the source if truly the injunction in the Qur'ān and *Sunnah* supports such at any given ground. Apparently, this certainly has led to so many rancour and rivalry in various mosques in the contemporary time.

Additionally, the misplacement of preference and the undefined alienism cloned with the colours of devotion is mostly considered a worthy *alibi* for a prolonged hatred between the orthodox traditionalist *fuqahā* who proclaim adherence to *madh-hab* and the modern prolific jurists who eschew *madh-habiyyah* in totality. This is apparent in *masā'il* (legal matters) such as the swinging of the index fingers while reciting the *tasha-hhud* and the calm sitting between two *rakahs* (*jalsatu istirāḥah*), before rising up for the next prayer

which does not reduce the status of the prayer if neglected nor add to it if done but the modules differ in the various *madhāhib* (Ibn Bāz, 2021). Such is the spacing of legs on prostration which is popular with the *jumhūr* as explained by Ash-Shāfi'ī which An-Nawawī agreed with as well as Ash-Shawkānī. However, modern jurists like Ibn 'Uthaymīn and Al-Albānī saw otherwise and explained the joining of the legs instead (Al-Munajjid, 2021). Nevertheless, such *masalah* (legal matter) according to Al-Faozān only requires doing the required which is making sure the feet meet the floor and the toes face the *qiblah* without any juristic hatred (Al-Munajjid, 2021).

Madh-habism and the Contemporary Fuqahā

The existing challenge with adopting a *madh-hab* without the essential mechanism to sieve accurately the position of juristic matters and its peculiarities is similar to getting drugs without diagnosis or prescription for diverse ailment. Thus, adopting a *madh-hab* according to Abū Bakr Abū Zayd benefits a scholar in the area of sampling of opinion and firmness of decision (Abdul-Mun'im, 2021). An-nawawī added that when a *faqīh* follows a *madh-hab*, he gets skilled at juristic matters and becomes able to avoid absurd dogmatism (Abdul-Mun'im, 2021). Such is the conventional instalment sale where *fuqahā* permit increase payment by deferment. Largely this transaction is legal and the increase is not considered *ribā* with the *jumhūr* regardless of the difference of opinion among some staunch adherents of some *fiqh* schools (Abū Muhammad, 2021).

Nevertheless, modern scholars have observed that *madh-habism* is inevitable because common Muslims are bound to inquire while scholars are fashioned to give response to various matters thereby creating a motive of trust between the scholars and the general Muslims. However, these scholars who give verdict based on their *fiqh* are sometimes truthful *mustadill* (claimer of fact) and other times awful *muta'aṣib* (blind imitator) in the sphere of *madh-habism*. The former is the scholar that proves his *fiqh* based on juristic facts regardless of his *madh-hab* while the latter is the fanatic *madh-habist* who considers only blind imitation as the only way to juristic clarification (Abdul-Mun'im, 2021).

'Uthmān Al-khamīs (2017), an exponent of the *ḥanābilah madh-hab* explains that *madhāhib* may be studied to understand different positions of *fuqahā* as a choice but not as devotion. He declared further that the *ṣaḥābah* were not *madh-habist* but still they differ in their awareness of the primary sources of the *sharī'ah*. Thus, enforcing people on a *madh-hab* is not juristically permissible.

Likewise, Al-'Uṣaymī (2019) agreed that adopting *dalīl* is the ideal *madh-hab* because thorough *madh-habism* should allow for migration from weaker *dalīl* to stronger *dalīl*. Ash-Shuway'ir differs slightly when he mentioned that *fiqh* matters are secondary while creedal matters are primary. Hence, there is nothing wrong to adopting strictly any *madh-hab* in the secondary matters like *fiqh* but it's hugely prohibited in creedal matters.

Furtherstill, Al-Albānī according to Al-kamalī (2017), described *madhāhib* as *waṣīlah* (means) to juristic awareness and not the *ghāyah* (outmost) of juristic knowledge. He affirmed that the *ghāyah* is the *kitāb* and *Sunnah* which serves as the bedrock for other sources. Saʿīd Al-kamalī added that *madh-hab* is not devotion on its own and those who treat it as such do so lustfully. He revealed that *madh-hab* is just a path to knowledge as the name connotes and should not be over-stretched (Al-kamalī, 2017). However, *fiqh* issues are learned through the *madhāhib* for adequacy and referential purposes because Allāh says: “*follow the path of he who turns towards me*” (Q34 v.15), “*inquire from the scholars if you do know not*” (Q21 v.7). These and many other similar verses explain why *madhāhib* exist but not the extent of bigotry which diffuses the loftiness of Islamic scholarship and its dynamics.

Conclusion and Recommendation

The essence of *madhāhib ab initio*, is to encourage collective efforts towards the worship of Allāh and to compete proactively in juristic diversity which reveals the scholarly creativity of every *fiqh* school. Difference of opinion in the *madhāhib* implies variation of understanding which beholds tolerance, submission to juristic dynamism as well as constructive criticism used as a tool to clarify ambiguity by orthodox scholars. Modern *madh-habism* however champions extremism, arrogance, unhealthy rivalry and scholastic grudges, aided with sceptic ideologies and self-inflicted ignorance that asserts dreadful dogmatism and rejection of factuality.

To identify between creative authenticity otherwise known as *fiqhu'l-madhāhib* and hostile dogmatism identified as *madh-habism*, it is recommended that methods of *tarjīh* (consideration of superior fact), *tafīq* (combining parts of different rulings on the same question) and *takhayyur* (selection of rulings without restriction to a particular *madh-hab*) are considered as having stronger influence on legal matters than the *madh-hab* system. Through these methods, every *faqīh* will possess the creativity of classical intellectual independence which annuls *taqlīd* (juristic dogmatism) but examines the *uṣūl* (principles) of the evidences that is attached with in jurisprudential matters without hostility and conflict rhetoric.

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