

3755 - Tension in the home because of fiqhi differences between husband and wife

the question

My husband is a strict follower of the Shafi'ee madhab, while I prefer to choose the fatwa which my mind tells me is based on stronger daleel no matter what the origin of the school is, whenever there is a difference between the well-known madhabs. My husband tells me that I don't have the right to do this since I am not a scholar myself. Is he right?

Please reply if at all possible, because there has been a lot of tension in my household because of this.

Detailed answer

In order to answer this question, we must shed light on three things:

1. we must point out the importance of avoiding sectarianism in following any school of thought, whether it has to do with fiqh, thought or anything else. We should get into the habit of following the Quraan and Sunnah and letting them be our guide.
2. There is such a thing as the inclination to follow one of the opinions of the fuqaha, not on the basis of Tarjeeh (weighing and comparing evidence) but because of a desire to follow the easiest way or because it suits one's own desires. A person may find some justification for motives that he thinks are correct, and does not realize they are wrong until later on. Therefore one should only select or give preference to an opinion either by studying the matter and examining the evidence and proofs offered by all sides, which should be done by one who has sound knowledge, or else by following a scholar who is well known to be knowledgeable, religious, pious and righteous, so that one feels confident of his sincerity and wide knowledge.

3. Keeping the peace in the marital home is more important than disputing as to whose opinion or madhhab should prevail, so long as the issue in question is one in which differences of opinion are permissible and every opinion has some grounds for validity. At the same time, it should be pointed out to the husband, gently and calmly, that it is important to base ones opinions on sound evidence, and that not every scholarly opinion or madhhab is always correct. The scholars themselves said that their opinions should be discounted if they contradicted well known evidence, as al-Shaafai said: If my opinion contradicts a hadeeth of the Messenger of Allaah (peace and blessings of Allaah be upon him), cast it aside (lit. throw it against the wall).

If you and your husband are not students of shareeah with a firm grounding of knowledge, then you have to refer to one of the scholars and follow his opinions. If you agree on a scholar you can both refer to him, and if your husband chooses someone according to what he thinks is best and you choose someone else, there is nothing wrong with that. Each of you can follow his or her scholar in matters that do not affect the other, but in matters where the husband has authority or responsibility, the opinion of the scholar whom your husband is following should prevail. And Allaah knows best.