

Lesson 27

Supplementary Notes

How to become a home-made Mujtahid

Would you advise individuals to study Ḥadīth from al-Bukhari and Muslim on their own?

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Any Muslim can benefit from reading hadiths from al-Bukhari and Muslim, whether on his own or with others. As for studying hadith, Sheikh Shuayb al-Arnaut, with whom my wife and I are currently reading Imam al-Suyuti's *Tadrib al-rawi* [The training of the Ḥadīth narrator], emphasizes that the science of Ḥadīth deals with a vast and complex literature, a tremendous sea of information that requires a pilot to help one navigate, without which one is bound to run up on the rocks. In this context, Sheikh Shuayb once told us, "Whoever doesn't have a sheikh, the Devil is his sheikh, in any Islamic discipline."

In other words, there are benefits the ordinary Muslim can expect from personally reading hadith, and benefits that he cannot, unless he is both trained and uses other literature, particularly the classical commentaries that explain the hadiths meanings and their relation to Islam as a whole.

The benefits one can derive from reading al-Bukhari and Muslim are many: general knowledge of such fundamentals as the belief in Allāh, the messengerhood of the Prophet (ﷺ), the Last Day and so on; as well as the general moral prescriptions of Islam to do good, avoid evil, perform the prayer, fast Ramadan, and so forth. The Ḥadīth collections also contain many other interesting points, such as the great rewards for acts of worship like the midmorning prayer (duha), the night vigil prayer (tahajjud), fasting on Mondays and Thursdays, giving voluntary charity, and So on. Anyone who reads these and puts them into practice in his life has an enormous return for reading hadith, even more so if he aims at perfecting himself by attaining the noble character traits of the Prophet (ﷺ) mentioned in hadith. Whoever learns and follows the prophetic example in these matters has triumphed in this world and the next.

What is not to be hoped for in reading Ḥadīth (without personal instruction from a sheikh for some time) is two things: to become an alim or Islamic scholar, and to deduce fiqh (Islamic jurisprudence) from the hadiths on particulars of sharia practice.

Without a guiding hand, the untrained reader will misunderstand many of the hadiths he reads, and these mistakes, if assimilated and left uncorrected, may pile up until he can never find his way out of them, let alone become a scholar. Such a person is

particularly easy prey for modern sectarian movements of our times appearing in a neo-orthodox guise, well financed and published, quoting Qur'ān and hadiths to the uninformed to make a case for the basic contention of all deviant sects since the beginning of Islam; namely, that only they are the true Muslims. Such movements may adduce, for example, the well-authenticated (hasan) Ḥadīth related from Aisha (Allāh be well pleased with her) by al-Hakim al-Tirmidhi that the Prophet (ﷺ) said, Shirk (polytheism) is more hidden in my Umma than the creeping of ants across a great smooth stone on a black night . . (Nawadir al-usul fi marifa aḤadīth al-Rasul. Istanbul 1294/1877. Reprint. Beirut: Dar Sadir, n.d., 399).

This Ḥadīth has been used by sects from the times of the historical Wahhabi movement down to the present to convince common people that the majority of Muslims may not actually be Muslims at all, but rather mushrikin or polytheists, and that those who do not subscribe to the views of their sheikhs may be beyond the pale of Islam.

In reply, traditional scholars point out that the words fi Ummati, "in my Umma" in the Ḥadīth plainly indicate that what is meant here is the lesser shirk of certain sins that, though serious, do not entail outright unbelief. For the word shirk or polytheism has two meanings. The first is the greater polytheism of worshipping others with Allāh, of which Allāh says in surat al-Nisa, "Truly, Allāh does not forgive that any should be associated with Him [in worship], but forgives what is other than that to whomever He wills" (Qur'ān 4:48), and this is the shirk of unbelief. The second is the lesser polytheism of sins that entail shortcomings in one's tawhid or knowledge of the divine unity, but do not entail leaving Islam. Examples include affection towards someone for the sake of something that is wrongdoing (called shirk because one hopes to benefit from what Allāh has placed no benefit in), or disliking someone because of something that is right (called shirk because one apprehends harm from what Allāh has placed benefit in), or the sin of showing off in acts of worship, as mentioned in the sahih or rigorously authenticated Ḥadīth that the Prophet (ﷺ) said, The slightest bit of showing off in good works is shirk (al-Mustadrak ala al-Sahihayn. 4 vols. Hyderabad, 1334/1916. Reprint (with index vol. 5). Beirut: Dar al-Marifa, n.d., 1.4). Such sins do not put one outside of Islam, though they are disobedience and do show a lack of faith (iman).

Scholars say that the lesser shirk of such sins is meant by the hadith, for if the greater shirk of unbelief were intended, the Prophet (ﷺ) would not have referred to such individuals as being in my Umma, since unbelief (kufr) is separate and distinct from Islam, and necessarily outside of it. This is also borne out by another version of the Ḥadīth related from Abu Bakr (Nawadir al-usul, 397), which has fikum or "among you" in place of the words "in my Umma", a direct reference to the Sahaba or prophetic Companions, none of whom was a mushrik or idolator, by unanimous consensus (ijma) of all Muslim scholars. As for sins of lesser shirk, it cannot be lost on anyone why their hiddenness is compared in the Ḥadīth to the imperceptible creeping of ants across a great smooth stone on a black night; namely, because of the subtlety

of human motives, and the ease with which human beings can deceive themselves. Similarly, al-Bukhari relates that the Prophet (ﷺ) said: "Truly, you shall follow the ways of those who were before you, span by span, and cubit by cubit, until, if they were to enter a lizards lair, you would follow them." We said, "O Messenger of Allāh, the Jews and Christians?" And he said, "Who else?" (Sahih al-Bukhari. 9 vols. Cairo 1313/1895. Reprint (9 vols. in 3). Beirut: Dar al-Jil, n.d., 9.126: 7320).

This Ḥadīth is also used by modern movements claiming to be a return to the Qur'ān and Sunnah, to suggest that the majority of ordinary Sunni Muslims who follow the aqida (tenets of faith) or fiqh of mainstream orthodox Sunni Imams (whose classic works seldom fully correspond with their views) are intended by this hadith, while there is much evidence that the orthodox majority of the Umma is divinely protected from error, such as the sahih Ḥadīth related by al-Hakim that "Allāh's hand is over the group, and whoever diverges from them diverges to hell" (al-Mustadrak, 1.116). Such hadiths show that Qur'anic verses like "If you obey most of those on earth, they will lead you astray from the path of Allāh" (Qur'an, 6:116) do not refer to those who follow traditional Islamic scholarship (who have never been a majority of those on earth), but rather the non-Muslim majority of mankind.

It is fitter to regard the previously-mentioned hadiths wording of following the Jews and Christians as referring, in our times, to the Muslims who copy the West in all aspects of their lives, rational and irrational, even to the extent of building banks in Muslim cities and holy places never before sullied by usury (riba) on an institutional basis since pre-Islamic times. Or those who promote divisive sectarian ideologies under the guise of reform movements among the Muslims, as the Jews and Christians did in their respective religions.

Traditional scholarship is protected from such misguidance by the authentic knowledge it has preserved, living teacher from living teacher, in unbroken succession back to the Prophet (ﷺ). To return to our question, without such a quality control process, the unaided reader of Ḥadīth cannot hope to become a sort of homemade alim, giving fatwas on the basis of what he finds in al-Bukhari or Muslim alone, because the sahih hadiths related to Islamic legal questions are by no means found only in these two works, but in a great many others, which those who issue judgements on these questions must know. I have mentioned elsewhere some of the sciences needed by the scholar to join between all the hadiths, and that some hadiths condition each other or are conditioned by more general or more specific hadiths or Qur'anic verses that bear on the question. Without this knowledge, and a traditional sheikh to learn it from, one must necessarily stumble, something I know because I have personally tried.

When I first came to Jordan in 1980, someone had impressed upon my mind that a Muslim needs nothing besides the Qur'ān and sahih hadiths. After reading through the Arabic Qur'ān with the aid of A.J. Arberry's Koran Interpreted and recording

what I understood, **I sat down** with the Muhammad Muhsin Khan translation of Sahih al-Bukhari and went through all the hadiths, volume by volume, writing down everything they seemed to tell a Muslim to do. It was an effort to cut through the centuries of accretions to Islam that orientalists had taught me about at the University of Chicago, an effort to win through to pure Islam from the original sources themselves. My Salafism and my orientalism converged on this point.

At length, I produced a manuscript of selected hadiths of al-Bukhari, a sort of do-it-yourself Sharia manual. I still use it as an index to hadiths in al-Bukhari, though the fiqh conclusions of my amateur ijtihads are now rather embarrassing. When hadiths were mentioned that seemed to contradict each other, I would simply choose whichever I wanted, or whichever was closer to my Western habits. After all, I said, the Prophet (ﷺ) was never given a choice between two matters except that he chose the easier of the two (Sahih al-Bukhari, 4.230: 3560). For example, I had been told that it was not Sunnah to urinate while standing up, and had heard the Ḥadīth of Aisha that anyone who says the Prophet (ﷺ) passed urine while standing up, do not believe him (Musnad al-Imam Ahmad. 6 vols. Cairo 1313/1895. Reprint. Beirut: Dar Sadir, n.d., 6.136). But then I read the Ḥadīth in al-Bukhari that the Prophet (ﷺ) once urinated while standing up (Sahih al-Bukhari, 1.66: 224), and decided that what I had first been told was a mistake, or that perhaps it did not matter much. Only later, when I began translating the Arabic of the Shafi'i fiqh manual Reliance of the Traveller did I find out how the scholars of sharia had combined the implications of these hadiths; that the standing of the Prophet (ﷺ) to pass urine was to teach the Umma that it was not unlawful (haram), but rather merely offensive (makruh)—though in relation to the Prophet such actions were not offensive, but rather obligatory to do at least once to show the Umma they were not unlawful—or according to other scholars, to show it was permissible in situations in which it would prevent urine from spattering one's clothes.

In retrospect, my early misadventures in Ḥadīth enabled me to appreciate the way the fiqh I later studied had joined between all hadiths, something I had personally been unable to do. And I understood why, of the top Ḥadīth Imams, Imam al-Bukhari took his Shafi'i jurisprudence from the disciple of Imam Shafi'i, Abdullah ibn al-Zubayr al-Humaydi (al-Subki, Tabaqat al-Shafi'iyya al-kubra. 10 vols. Cairo: Isa al-Babi al-Halabi, 1383/1964, 2.214), and why Imams Muslim, al-Tirmidhi, Abu Dawud, and al-Nasai also followed the Shafi'i school (Mansur Ali Nasif, al-Taj al-jami li al-usul fi aḤadīth al-Rasul. 5 vols. Cairo 1382/1962. Reprint. Beirut: Dar Ihya al-Turath al-Arabi, n.d., 1.16), as did al-Bayhaqi, al-Hakim, Abu Nuaym, Ibn Hibban, al-Daraqutni, al-Baghawi, Ibn Khuzayma, al-Suyuti, al-Dhahabi, Ibn Kathir, Nur al-Din al-Haythami, al-Mundhiri, al-Nawawi, Ibn Hajar al-Asqalani, Taqi al-Din al-Subki and others; why Imams such as Abd al-Rahman ibn al-Jawzi followed the madhhab of Ahmad ibn Hanbal; and why Abu Jafar al-Tahawi, Ali al-Qari, Jamal al-Din al-Zaylai (the African sheikh of Ibn Hajar al-Asqalani, thought by some to have been even more

knowledgeable than him), and Badr al-Din al-Ayni followed the Hanafi school.

These facts speak eloquently as to the role of Ḥadīth in the sharia in the eyes of these Imams, for whom it was not a matter of practicing either fiqh or hadith, as some Muslims seriously suggest today, but rather, the fiqh of Ḥadīth embodied in the traditional madhhab which they followed. There would seem to be room for many of us to benefit from their example. ●●●

I only want to follow Qur'ān & Sunnah

Why Muslims Follow Madhabs

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This essay developed from a lecture given in the United States, Canada, and England in 1994 and 1995. On each occasion, questions were taken, some of the most frequent of which have been answered in the subsequent chapters.

The work of the mujtahid Imams of Sacred Law, those who deduce shari'a rulings from Qur'ān and hadith, has been the object of my research for some years now, during which I have sometimes heard the question: "Who needs the Imams of Sacred Law when we have the Qur'ān and hadith? Why can't we take our Islam from the word of Allāh and His Messenger (ﷺ), which are divinely protected from error, instead of taking it from the madhabs or "schools of jurisprudence" of the mujtahid Imams such as Abu Hanifa, Malik, Shafi'i, and Ahmad, which are not?"

It cannot be hidden from any of you how urgent this issue is, or that many of the disagreements we see and hear in our mosques these days are due to lack of knowledge of fiqh or "Islamic jurisprudence" and its relation to Islam as a whole. Now, perhaps more than ever before, it is time for us to get back to basics and ask ourselves how we understand and carry out the commands of Allāh.

We will first discuss the knowledge of Islam that all of us possess, and then show where fiqh enters into it. We will look at the qualifications mentioned in the Qur'ān and Sunnah for those who do fiqh, the mujtahid scholars. We will focus first on the extent of the mujtahid scholar's knowledge—how many hadiths he has to know, and so on—and then we will look at the depth of his knowledge, through actual examples of dalils or "legal proofs" that demonstrate how scholars join between different and even contradictory hadiths to produce a unified and consistent legal ruling.

We will close by discussing the mujtahid's relation to the science of Ḥadīth authentication, and the conditions by which a scholar knows that a given Ḥadīth is sahih or "rigorously authenticated," so that he can accept and follow it.

Qur'ān and Hadith. The knowledge that you and I take from the Qur'ān and the Ḥadīth is of several types: the first and most important concerns our faith, and is the knowledge of Allāh and His attributes, and the other basic tenets of Islamic belief such as the messengerhood of the Prophet (ﷺ), the Last Day, and so on. Every Muslim can and must acquire this knowledge from the Book of Allāh and the Sunnah.

This is also the case with a second type of general knowledge, which does not concern faith, however, but rather works: the general laws of Islam to do good, to avoid evil, to perform the prayer, pay zakat, fast Ramadan, to cooperate with others in good works, and so forth. Anyone can learn and understand these general rules, which summarize the **sirat al-mustaqim** or "straight path" of our religion.

Fiqh. A third type of knowledge is of the specific details of Islamic practice. Whereas anyone can understand the first two types of knowledge from the Qur'ān and hadith, the understanding of this third type has a special name, fiqh, meaning literally "understanding." And people differ in their capacity to do it.

I had a visitor one day in Jordan, for example, who, when we talked about why he hadn't yet gone on hajj, mentioned the Ḥadīth of Anas ibn Malik that

the Messenger of Allāh (ﷺ) said, "Whoever prays the dawn prayer (fajr) in a group and then sits and does dhikr until the sun rises, then prays two rak'as, shall have the like of the reward of a hajj and an 'umra." Anas said, "The Prophet (ﷺ) said: 'Completely, completely, completely'" (Tirmidhi, 2.481).

My visitor had done just that this very morning, and he now believed that he had fulfilled his obligation to perform the hajj, and had no need to go to Mecca. The Ḥadīth was well authenticated (hasan). I distinguished for my visitor between having the reward of something, and lifting the obligation of Islam by actually doing it, and he saw my point.

But there is a larger lesson here, that while the Qur'ān and the Sunnah are ma'sum or "divinely protected from error," the understanding of them is not. And someone who derives rulings from the Qur'ān and Ḥadīth without training in ijtihad or "deduction from primary texts" as y visitor did, will be responsible for it on the Day of Judgment, just as an amateur doctor who had never been to medical school would be responsible if he performed an operation and somebody died under his knife.

Why? Because Allāh has explained in the Qur'ān that fiqh, the detailed understanding of the divine command, requires specially trained members of the Muslim community to learn and teach it. Allāh says in surat al-Tawba:

"Not all of the believers should go to fight. Of every section of them, why does not one part alone go forth, that the rest may gain understanding of the religion, and to admonish their people when they return, that perhaps they may take warning" (Qur'ān 9:122)

—where the expression li yatafaqqahu fi al-din, "to gain understanding of the religion," is derived from precisely the same root (f-q-h) as the word fiqh or

“jurisprudence,” and is what Western students of Arabic would call a “fifth-form verb” (tafaʿala), which indicates that the meaning contained in the root, understanding, is accomplished through careful, sustained effort.

This Qurʾānic verse establishes that there should be a category of people who have learned the religion so as to be qualified in turn to teach it. And Allāh has commanded those who do not know a ruling in Sacred Law to ask those who do, by saying in surat al-Nahl,

“Ask those who recall if you know not” (Qurʾān 16:43),

in which the words “those who recall,” ahl al-dhikri, indicate those with knowledge of the Qurʾān and Sunnah, at their forefront the mujtahid Imams of this Umma. Why? Because, first of all, the Qurʾān and Ḥadīth are in Arabic, and as a translator, I can assure you that it is not just any Arabic.

To understand the Qurʾān and Sunnah, the mujtahid must have complete knowledge of the Arabic language in the same capacity as the early Arabs themselves had before the language came to be used by non-native speakers. This qualification, which almost no one in our time has, is not the main subject of my essay, but even if we did have it, what if you or I, though not trained specialists, wanted to deduce details of Islamic practice directly from the sources? After all, the Prophet (ﷺ) has said, in the Ḥadīth of Bukhari and Muslim: “When a judge gives judgement and strives to know a ruling (ijtihad) and is correct, he has two rewards. If he gives judgement and strives to know a ruling, but is wrong, he has one reward” (Bukhari, 9.133).

The answer is that the term **ijtihad** or “striving to know a ruling” in this Ḥadīth does not mean just any person’s efforts to understand and operationalize an Islamic ruling, but rather the person with sound knowledge of everything the Prophet (ﷺ) taught that relates to the question. Whoever makes ijtihad without this qualification is a criminal. The proof of this is the Ḥadīth that the Companion Jabir ibn ‘Abdullah said:

We went on a journey, and a stone struck one of us and opened a gash in his head. When he later had a wet-dream in his sleep, he then asked his companions, “Do you find any dispensation for me to perform dry ablution (tayammum)?” [Meaning instead of a full purificatory bath (ghusl).] They told him, “We don’t find any dispensation for you if you can use water.”

So he performed the purificatory bath and his wound opened and he died. When we came to the Prophet (ﷺ), he was told of this and he said: “They have killed him, may Allāh kill them. Why did they not ask?—for they didn’t know. The only cure for someone who does not know what to say is to ask” (Abu Dawud, 1.93).

This hadith, which was related by Abu Dawud, is well authenticated (hasan), and every Muslim who has any taqwa should reflect on it carefully, for the Prophet (ﷺ) indicated in it—in the strongest language possible—that to judge on a rule of Islam on the basis of insufficient knowledge is a crime. And like it is the well authenticated

Ḥadīth “Whoever is given a legal opinion (fatwa) without knowledge, his sin is but upon the person who gave him the opinion” (Abu Dawud, 3.321).

The Prophet (ﷺ) also said:

Judges are three: two of them in hell, and one in paradise. A man who knows the truth and judges accordingly, he shall go to paradise. A man who judges for people while ignorant, he shall go to hell. And a man who knows the truth but rules unjustly, he shall go to hell (Sharh al-Sunnah, 10.94).

This hadith, which was related by Abu Dawud, Tirmidhi, Ibn Majah, and others, is rigorously authenticated (sahih), and any Muslim who would like to avoid the hellfire should soberly consider the fate of whoever, in the words of the Prophet (ﷺ), “judges for people while ignorant.”

Yet we all have our Yusuf ‘Ali Qur’ans, and our Sahih al-Bukhari translations. Aren’t these adequate scholarly resources?

These are valuable books, and do convey perhaps the largest and most important part of our din: the basic Islamic beliefs, and general laws of the religion. Our discussion here is not about these broad principles, but rather about understanding specific details of Islamic practice, which is called precisely fiqh. For this, I think any honest investigator who studies the issues will agree that the English translations are not enough. They are not enough because understanding the total Qur’ān and Ḥadīth textual corpus, which comprises what we call the din, requires two dimensions in a scholar: a dimension of breadth, the substantive knowledge of all the texts; and a dimension of depth, the methodological tools needed to join between all the Qur’anic verses and hadiths, even those that ostensibly contradict one another.

KNOWLEDGE OF PRIMARY TEXTS.

As for the breadth of a mujtahid’s knowledge, it is recorded that Imam Ahmad ibn Hanbal’s student Muhammad ibn ‘Ubaydullah ibn al-Munadi heard a man ask him [Imam Ahmad]: “When a man has memorized 100,000 hadiths, is he a scholar of Sacred Law, a faqih?” And he said, “No.” The man asked, “200,000 then?” And he said, “No.” The man asked, “Then 300,000?” And he said, “No.” The man asked, “400,000?” And Ahmad gestured with his hand to signify “about that many” (Ibn al-Qayyim: I’lam al-muwaqqi’in, 4.205).

In truth, by the term “hadith” here Imam Ahmad meant the hadiths of the Prophet (ﷺ) in all their various chains of transmission, counting each chain of transmission as a separate hadith, and perhaps also counting the statements of the Sahaba. But the larger point here is that even if we eliminate the different chains, and speak only about the hadiths from the Prophet (ﷺ) that are plainly acceptable as evidence, whether sahih, “rigorously authenticated” or hasan “well authenticated” (which for purposes of ijtihad, may be assimilated to the sahih), we are still speaking of well over 10,000 hadiths, and they are not contained in Bukhari alone, or in Bukhari and

Muslim alone, nor yet in any six books, or even in any nine. Yet whoever wants to give a fatwa or “formal legal opinion” and judge for people that something is lawful or unlawful, obligatory or Sunnah, must know all the primary texts that relate to it. For the perhaps 10,000 hadiths that are sahih are, for the mujtahid, as one single hadith, and he must first know them in order to join between them to explain the unified command of Allāh.

I say “**join between**” because most of you must be aware that some sahih hadiths seem to controvert other equally sahih hadiths. What does a mujtahid do in such an instance?

IJTIHAD. Let’s look at some examples. Most of us know the hadiths about fasting on the Day of ‘Arafa for the non-pilgrim, that “it expiates [the sins of] the year before and the year after” (Muslim, 2.819). But another rigorously authenticated Ḥadīth prohibits fasting on Friday alone (Bukhari, 3.54), and a well authenticated Ḥadīth prohibits fasting on Saturday alone (Tirmidhi, 3.120), of which Tirmidhi explains, “The meaning of the ‘offensiveness’ in this is when a man singles out Saturday to fast on, since the Jews venerate Saturdays” (ibid.). Some scholars hold Sundays offensive to fast on for the same reason, that they are venerated by non-Muslims. (Other hadiths permit fasting one of these days together with the day before or the day after it, perhaps because no religion venerates two of the days in a row.) The question arises: What does one do when ‘Arafa falls on a Friday, a Saturday, or a Sunday? The general demand for fasting on the Day of ‘Arafa might well be qualified by the specific prohibition of fasting on just one of these days. But a mujtahid aware of the whole Ḥadīth corpus would certainly know third Ḥadīth related by Muslim that is even more specific, and says: “Do not single out Friday from among other days to fast on, unless it coincides with a fast one of you performs” (Muslim, 2.801).

The latter Ḥadīth establishes for the mujtahid the general principle that the ruling for fasting on a day normally prohibited to fast on changes when it “coincides with a fast one of you performs”—and so there is no problem with fasting whether the Day of Arafa falls on a Friday, Saturday, or Sunday.

Here as elsewhere, whoever wants to understand the ruling of doing something in Islam must know all the texts connected with it. Because as ordinary Muslims, you and I are not only responsible for obeying the Qur’anic verses and hadiths we are familiar with. We are responsible for obeying all of them, the whole shari’a. And if we are not personally qualified to join between all of its texts—and we have heard Ahmad ibn Hanbal discuss how much knowledge this takes—we must follow someone who can, which is why Allāh tells us, “Ask those who recall if you know not.”

The size and nature of this knowledge necessitate that the non-specialist use adab or “proper respect” towards the scholars of fiqh when he finds a hadith, whether in Bukhari or elsewhere, that ostensibly contradicts the schools of fiqh. A non-scholar, for example, reading through Sahih al-Bukhari will find the Ḥadīth that the Prophet

(ﷺ) bared a thigh on the ride back from Khaybar (Bukhari, 1.103–4). And he might imagine that the four madhhabs or “legal schools”—Hanafi, Maliki, Shafi’i, and Hanbali—were mistaken in their judgment that the thigh is ‘awra or “nakedness that must be covered.”

But in fact there are a number of other hadiths, all of them well authenticated (hasan) or rigorously authenticated (sahih) that prove that the Prophet (ﷺ) explicitly commanded various Sahaba to cover the thigh because it was nakedness. Hakim reports that the Prophet (ﷺ) saw Jarhad in the mosque wearing a mantle, and his thigh became uncovered, so the Prophet told him, “The thigh is part of one’s nakedness” (al-Mustadrak), of which Hakim said, “This is a Ḥadīth whose chain of transmission is rigorously authenticated (sahih),” which Imam Dhahabi confirmed (ibid.). Imam al-Baghawi records the sahih Ḥadīth that “the Prophet (ﷺ) passed by Ma’mar, whose two thighs were exposed, and told him, ‘O Ma’mar, cover your two thighs, for the two thighs are nakedness’” (Sharh al-Sunnah 9.21). And Ahmad ibn Hanbal records that the Prophet (ﷺ) said, “When one of you marries [someone to] his servant or hired man, let him not look at his nakedness, for what is below his navel to his two knees is nakedness” (Ahmad, 2.187), a Ḥadīth with a well authenticated (hasan) chain of transmission. The mujtahid Imams of the four schools knew these hadiths, and joined between them and the Khaybar Ḥadīth in Bukhari by the methodological principle that: “An explicit command in words from the Prophet (ﷺ) is given precedence over an action of his.” Why?

Among other reasons, because certain laws of the shari’a applied to the Prophet alone (ﷺ). Such as the fact that when he went into battle, he was not permitted to retreat, no matter how outnumbered. Or such as the obligatoriness for him alone of praying tahajjud or “night vigil prayer” after rising from sleep before dawn, which is merely Sunnah for the rest of us. Or such as the permissibility for him alone of not breaking his fast at night between fast-days. Or such as the permissibility for him alone of having more than four wives—the means through which Allāh, in His wisdom, preserved for us the minutest details of the Prophet’s day-to-day Sunnah (ﷺ), which a larger number of wives would be far abler to observe and remember.

Because certain laws of the shari’a applied to him alone, the scholars of ijtiḥad have established the principle that in many cases, when an act was done by the Prophet personally (ﷺ), such as bearing the thigh after Khaybar, and when he gave an explicit command to us to do something else, in this case, to cover the thigh because it is nakedness, then the command is adopted for us, and the act is considered to pertain to him alone (ﷺ).

We can see from this example the kind of scholarship it takes to seriously comprehend the whole body of hadith, both in breadth of knowledge, and depth of interpretive understanding or fiqh, and that anyone who would give a fatwa, on the basis of the Khaybar Ḥadīth in Sahih al-Bukhari, that “the scholars are wrong and the Ḥadīth is right” would be guilty of criminal negligence for his ignorance.

When one does not have substantive knowledge of the Qur'ān and Ḥadīth corpus, and lacks the fiqh methodology to comprehensively join between it, the hadiths one has read are not enough. To take another example, there is a well authenticated (hasan) Ḥadīth that "the Prophet (ﷺ) cursed women who visit graves" (Tirmidhi, 3.371). But scholars say that the prohibition of women visiting graves was abrogated (mansukh) by the rigorously authenticated (sahih) Ḥadīth "I had forbidden you to visit graves, but now visit them" (Muslim, 2.672).

Here, although the expression "now visit them" (fa zuruha) is an imperative to men (or to a group of whom at least some are men), the fact that the Ḥadīth permits women as well as men to now visit graves is shown by another Ḥadīth related by Muslim in his Sahih that when 'A'isha asked the Prophet (ﷺ) what she should say if she visited graves, he told her, "Say: 'Peace be upon the believers and Muslims of the folk of these abodes: May Allāh have mercy on those of us who have gone ahead and those who have stayed behind: Allāh willing, we shall certainly be joining you'" (Muslim, 2.671), which plainly entails the permissibility of her visiting graves in order to say this, for the Prophet (ﷺ) would never have taught her these words if visiting the graves to say them had been disobedience. In other words, knowing all these hadiths, together with the methodological principle of naskh or "abrogation," is essential to drawing the valid fiqh conclusion that the first Ḥadīth in which "the Prophet (ﷺ) cursed women who visit graves"—was abrogated by the second hadith, as is attested to by the third.

Or consider the Qur'ānic text in surat al-Ma'ida:

"The food of those who have been given the Book is lawful for you, and your food is lawful for them" (Qur'ān 5:5).

This is a general ruling ostensibly pertaining to all their food. Yet this ruling is subject to takhsis, or "restriction" by more specific rulings that prove that certain foods of Ahl al-Kitab, "those who have been given the Book," such as pork, or animals not properly slaughtered, are not lawful for us.

Ignorance of this principle of takhsis or restriction seems to be especially common among would-be mujtahids of our times, from whom we often hear the more general ruling in the words "But the Qur'ān says," or "But the Ḥadīth says," without any mention of the more particular ruling from a different Ḥadīth or Qur'ānic versethat restricts it. The reply can only be "Yes, brother, the Qur'ān does say, 'The food of those who have been given the Book is lawful for you,' But what else does it say?" or "Yes, the Ḥadīth in Sahih al-Bukhari says the Prophet (ﷺ) bared his thigh on the return from Khaybar. But what else do the hadiths say, and more importantly, are you sure you know it?"

The above examples illustrate only a few of the methodological rules needed by the mujtahid to understand and operationalize Islam by joining between all the evidence. Firstly, we saw the principle of takhsis or "restriction" of general rules by more specific

ones, both in the example of fasting on the Day of 'Arafa when it falls on a Friday, Saturday, or Sunday, and the example of the food of Ahl al-Kitab. Secondly, in the Khaybar Ḥadīth in Sahih al-Bukhari about baring the thigh and the hadiths commanding that the thigh be covered, we saw the principle of how an explicit prophetic command in words is given precedence over a mere action when there is a contradiction. Thirdly, we saw the principle of nasikh wa mansukh, of "an earlier ruling being abrogated by a later one," in the example of the initial prohibition of women visiting graves, and their subsequently being permitted to.

These are only three of the ways that two or more texts of the Qur'ān and Ḥadīth may enter into and qualify one another, rules that someone who derives the shari'a from them must know. In other words, they are but three tools of a whole methodological toolbox. We do not have the time tonight to go through all these tools in detail, although we can mention some in passing, giving first their Arabic names, such as:

- The **'amm**, a text of general applicability to many legal rulings, and its opposite:
- The **khass**, that which is applicable to only one ruling or type of ruling.
- The **mujmal**, that which requires other texts to be fully understood, and its opposite:
- The **mubayyan**, that which is plain without other texts.
- The **mutlaq**, that which is applicable without restriction, and its opposite:
- The **muqayyad**, that which has restrictions given in other texts.
- The **nasikh**, that which supersedes previous revealed rulings, and its opposite:
- The **mansukh**: that which is superseded.
- The **nass**: that which unequivocally decides a particular legal question, and its opposite:
- The **dhahir**: that which can bear more than one interpretation.

My point in mentioning what a mujtahid is, what fiqh is, and the types of texts that embody Allāh's commands, with the examples that illustrate them, is to answer our original question: "Why can't we take our Islamic practice from the word of Allāh and His messenger, which are divinely protected, instead of taking it from mujtahid Imams, who are not?" The answer, we have seen, is that revelation cannot be acted upon without understanding, and understanding requires firstly that one have the breadth of mastery of the whole, and secondly, the knowledge of how the parts relate to each other. Whoever joins between these two dimensions of the revelation is taking his Islamic practice from the word of Allāh and His messenger, whether he does so personally, by being a mujtahid Imam, or whether by a means of another, by following one.

FOLLOWING SCHOLARS (TAQLID). The Qur'ān clearly distinguishes between these two levels—the nonspecialists whose way is taqlid or “following the results of scholar without knowing the detailed evidence”; and those whose task is to know and evaluate the evidence—by Allāh Most High saying in surat al-Nisa’:

“If they had referred it to the Messenger and to those of authority among them, then those of them whose task it is to find it out would have known the matter” (Qur’ān 4:83)

—where *alladhina yastanbitunahu minhum*, “those of them whose task it is to find it out,” refers to those possessing the capacity to infer legal rulings directly from evidence, which is called in Arabic precisely *istinbat*, showing, as Qur’anic exegete al-Razi says, that “Allāh has commanded those morally responsible to refer actual facts to someone who can infer (*yastanbitu*) the legal ruling concerning them” (Tafsir al-Fakhr al-Razi, 10.205).

A person who has reached this level can and indeed must draw his inferences directly from evidence, and may not merely follow another scholar’s conclusions without examining the evidence (*taqlid*), a rule expressed in books of methodological principles of fiqh as: *Laysa li al-‘alim an yuqallida*, “The alim [i.e. the mujtahid at the level of *istinbat* referred to by the above Qur’anic verse] may not merely follow another scholar” (al-Juwayni: *Sharh al-Waraqat*, 75), meaning it is not legally permissible for one mujtahid to follow another mujtahid unless he knows and agrees with his evidences.

The mujtahid Imams trained a number of scholars who were at this level. Imam Shafi’i had al-Muzani, and Imam Abu Hanifa had Abu Yusuf and Muhammad ibn al-Hasan al-Shaybani. It was to such students that Abu Hanifa addressed his words: “It is unlawful for whoever does not know my evidence to give my position as a fatwa” (al-Hamid: *Luzum ittiba’ madhahib al-a’imma*, 6), and, “It is not lawful for anyone to give our position as a fatwa until he knows where we have taken it from” (ibid.).

It is one of the howlers of our times that these words are sometimes quoted as though they were addressed to ordinary Muslims. If it were unlawful for the carpenter, the sailor, the computer programmer, the doctor, to do any act of worship before he had mastered the entire textual corpus of the Qur’ān and thousands of hadiths, together with all the methodological principles needed to weigh the evidence and comprehensively join between it, he would either have to give up his profession or give up his religion. A lifetime of study would hardly be enough for this, a fact that Abu Hanifa knew better than anyone else, and it was to scholars of *istinbat*, the mujtahids, that he addressed his remarks. Whoever quotes these words to non-scholars to try to suggest that Abu Hanifa meant that it is wrong for ordinary Muslims to accept the work of scholars, should stop for a moment to reflect how insane this is, particularly in view of the life work of Abu Hanifa from beginning to end, which consisted precisely in summarizing the fiqh rulings of the religion for ordinary people to follow and benefit from.

Imam Shafi'i was also addressing this top level of scholars when he said: "When a Ḥadīth is sahih, it is my school (madhhab)"—which has been misunderstood by some to mean that if one finds a hadith, for example, in Sahih al-Bukhari that is inconsistent with a position of Shafi'i's, one should presume that he was ignorant of it, drop the fiqh, and accept the hadith.

I think the examples we have heard tonight of joining between several hadiths for a single ruling are too clear to misunderstand Shafi'i in this way. Shafi'i is referring to hadiths that he was previously unaware of and that mujtahid scholars know him to have been unaware of when he gave a particular ruling. And this, as Imam Nawawi has said, "is very difficult," for Shafi'i was aware of a great deal. We have heard the opinion of Shafi'i's student Ahmad ibn Hanbal about how many hadiths a faqih must know, and he unquestionably considered Shafi'i to be such a scholar, for Shafi'i was his sheikh in fiqh. Ibn Khuzayma, known as "the Imam of Imams" in Ḥadīth memorization, was once asked, "Do you know of any rigorously authenticated (sahih) Ḥadīth that Shafi'i did not place in his books?" And he said "No" (Nawawi: al-Majmu', 1.10). And Imam Dhahabi has said, "Shafi'i did not make a single mistake about a hadith" (Ibn Subki: Tabaqat al-Shafi'iyya, 9.114). It is clear from all of this that Imam Shafi'i's statement "When a Ḥadīth is sahih, it is my position" only makes sense—and could result in meaningful corrections—if addressed to scholars at a level of Ḥadīth mastery comparable to his own.

HADITH AUTHENTICATION. The last point raises another issue that few people are aware of today, and I shall devote the final part of my speech to it. Just as the mujtahid Imam is not like us in his command of the Qur'ān and Ḥadīth evidence and the principles needed to join between it and infer rulings from it, so too he is not like us in the way he judges the authenticity of hadiths. If a person who is not a Ḥadīth specialist needs to rate a hadith, he will usually want to know if it appears, for example, in Sahih al-Bukhari, or Sahih Muslim, or if some Ḥadīth scholar has declared it to be sahih or hasan. A mujtahid does not do this.

Rather, he reaches an independent judgment as to whether a particular Ḥadīth is truly from the Prophet (ﷺ) through his own knowledge of Ḥadīth narrators and the sciences of hadith, and not from taqlid or "following the opinion of another Ḥadīth scholar."

It is thus not necessarily an evidence against the positions of a mujtahid that Bukhari, or Muslim, or whoever, has accepted a Ḥadīth that contradicts the mujtahid's evidence. Why? Because among Ḥadīth scholars, the reliability rating of individual narrators in Ḥadīth chains of transmission are disagreed about and therefore hadiths are disagreed about in the same manner that particular questions of fiqh are disagreed about among the scholars of fiqh. Like the schools of fiqh, the extent of this disagreement is relatively small in relation to the whole, but one should remember that it does exist.

Because a mujtahid scholar is not bound to accept another scholar's ijtiḥad regarding a particular hadith, the ijtiḥad of a Ḥadīth specialist of our own time that, for example,

a Ḥadīth is weak (da'if), is not necessarily an evidence against the ijtihad of a previous mujtahid that the Ḥadīth is acceptable. This is particularly true in the present day, when specialists in Ḥadīth are not at the level of their predecessors in either knowledge of Ḥadīth sciences, or memorization of hadiths.

We should also remember what sahih means. I shall conclude my essay with the five conditions that have to be met for a Ḥadīth to be considered sahih, and we shall see, in sha' Allāh, how the scholars of Ḥadīth have differed about them, a discussion drawn in its outlines from contemporary Syrian Ḥadīth scholar Muhammad 'Awwama's *Athar al-Ḥadīth al-sharif fi ikhtilaf al-A'imma al-fuqaha* [The effect of Ḥadīth on the differences of the Imams of fiqh] (21–23):

- (a) The first condition is that a Ḥadīth must go back to the Prophet (ﷺ) by a continuous chain of narrators. There is a difference of opinion here between Bukhari and Muslim, in that Bukhari held that for any two adjacent narrators in a chain of transmission, it must be historically established that the two actually met, whereas Muslim and others stipulated only that their meeting have been possible, such as by one having lived in a particular city that the other is known to have visited at least once in his life. So some hadiths will be acceptable to Muslim that will not be acceptable to Bukhari and those of the mujtahid imams who adopt his criterion.
- (b) The second condition for a sahih Ḥadīth is that the narrators be morally upright. The scholars have disagreed about the definition of this, some accepting that it is enough that a narrator be a Muslim who is not proven to have been unacceptable. Others stipulate that he be outwardly established as having been morally upright, while other scholars stipulate that this be established inwardly as well. These different criteria are naturally reasons why two mujtahids may differ about the authenticity of a single hadith.
- (c) The third condition is that the narrators must be known to have had accurate memories. The verification of this is similarly subject to some disagreement between the Imams of hadith, resulting in differences about reliability ratings of particular narrators, and therefore of particular hadiths.
- (d) The fourth condition for a sahih Ḥadīth is that the text and transmission of the Ḥadīth must be free of shudhudh, or "variance from established standard narrations of it." An example is when a Ḥadīth is related by five different narrators who are contemporaries of one another, all of whom relate the same Ḥadīth from the same sheikh through his chain of transmission back to the Prophet (ﷺ). Here, if we find that four of the hadiths have the same wording but one of them has a variant wording, the Ḥadīth with the variant wording is called shadhhdh or "deviant," and it is not accepted, because the difference is naturally assumed to be the mistake of the one narrator, since all of the narrators heard the Ḥadīth from the same sheikh.

There is a Ḥadīth (to take an example researched by our Ḥadīth teacher, sheikh Shu'ayb al-Arna'ut) related by Ahmad (4.318), Bayhaqi (2.132), Ibn Khuzayma (1.354), and Ibn Hibban, with a reliable chain of narrators (thiqat)—except for Kulayb ibn Hisham, who is a merely “acceptable” (saduq), not “reliable” (thiqa)—that the Companion Wa'il ibn Hujr al-Hadrami said that when he watched the Prophet (ﷺ) kneeling in the Tashahhud or “Testification of Faith” of his prayer, the Prophet (ﷺ) lifted his [index] finger, and I saw him move it, supplicating with it. I came [some time] after that and saw people in [winter] over-cloaks, their hands moving under the cloaks (Ibn Hibban, 5.170–71).

Now, all of the versions of the Ḥadīth mentioning that the Prophet (ﷺ) moved his finger have been related to us by way of Za'ida ibn Qudama al-Thaqafi, a narrator who is considered reliable, and who transmitted it from the Ḥadīth sheikh 'Asim ibn Kulayb, who related it from his father Kulayb ibn Shihab, from Wa'il ibn Hujr al-Hadrami. But we find that this version of “moving the finger” contradicts versions of the Ḥadīth transmitted from the same sheikh, 'Asim ibn Kulayb, by no less than ten of 'Asim's other students, all of them reliable, who heard 'Asim report that the Prophet (ﷺ) did not move but rather pointed (ashara) with his index finger (towards the qibla or “direction of prayer”).

These companions of 'Asim (with their hadiths, which are well authenticated (hasan)) are: Sufyan al-Thawri: “then he pointed with his index finger, putting the thumb to the middle finger to make a ring with them” (al-Musannaf 2.68–69); Sufyan ibn 'Uyayna: “he joined his thumb and middle finger to make a ring, and pointed with his index finger” (Ahmad, 4.318); Shu'ba ibn al-Hajjaj: “he pointed with his index finger, and formed a ring with the middle one” (Ahmad, 4.319); Qays ibn al-Rabi': “then he joined his thumb and middle finger to make a ring, and pointed with his index finger” (Tabarani, 22.33–34); 'Abd al-Wahid ibn Ziyad al-'Abdi: “he made a ring with a finger, and pointed with his index finger” (Ahmad, 4.316); 'Abdullah ibn Idris al-Awdi: “he had joined his thumb and middle finger to make a ring, and raised the finger between them to make du'a (supplication) in the Testification of Faith” (Ibn Majah, 1.295); Zuhayr ibn Mu'awiya: “and I saw him ['Asim] say, 'Like this,'—and Zuhayr pointed with his first index finger, holding two fingers in, and made a ring with his thumb and second index [middle] finger” (Ahmad, 4.318–19); Abu al-Ahwas Sallam ibn Sulaym: “he began making du'a like this—meaning with his index finger, pointing with it—” (Musnad al-Tayalisi, 137); Bishr ibn al-Mufaddal: “and I saw him ['Asim] say, 'Like this,'—and Bishr joined his thumb and middle finger to make a ring, and pointed with his index finger” (Abi Dawud, 1.251); and Khalid ibn Abdullah al-Wasiti: “then he joined his thumb and middle finger to make a ring, and pointed with his index finger” (Bayhaqi, 2.131).

All of these narrators are reliable (thiqat), and all heard 'Asim ibn Kulayb relate that the Prophet (ﷺ) "pointed with (ashara bi) his index finger" during the Testimony of Faith in his prayer. There are many other narrations of "pointing with the index finger" transmitted through sheikhs other than 'Asim, omitted here for brevity—four of them, for example, in Sahih Muslim, 1.408–9). The point is, for illustrating the meaning of a shadhdh or "deviant hadith," that the version of moving the finger was conveyed only by Za'ida ibn Qudama from 'Asim. Ibn Khuzayma says: "There is not a single Ḥadīth containing yuharrikuha ('he moved it') except this Ḥadīth mentioned by Za'ida" (Ibn Khuzayma, 1.354).

So we know that the Prophet (ﷺ) used to point with his index finger, and that the version of "moving his finger" is shadhdh or "deviant," and represents a slip of the narrator, for the word ishara in the majority's version means only "to point or gesture at," or "to indicate with the hand," and has no recorded lexical sense of wiggling or shaking the finger (Lisan al-'Arab, 4.437 and al-Qamus al-muhit (540). This interpretation is explicitly borne out by well authenticated hadiths related from the Companion Abdullah ibn al-Zubayr that "the Prophet (ﷺ) used to point with his index finger when making supplication [in the Testification of Faith], and did not move it" (Abi Dawud, 1.260) and that he "used to point with his index finger when making supplication, without moving it" (Bayhaqi, 2.131–32).

Finally, we may note that Imam Bayhaqi has joined between the Za'ida ibn Qudama Ḥadīth and the many hadiths that apparently contradict it by suggesting that moving the finger in the Za'ida Ḥadīth may mean simply lifting it (rafa'a), a wording explicitly mentioned in one version recorded by Muslim that the Prophet (ﷺ) "raised the right finger that is next to the thumb, and supplicated with it" (Muslim, 1.408). So according to Bayhaqi, the contradiction is only apparent, and raising the finger is the "movement" that Wa'il saw from the Prophet (ﷺ) and the people's hands under their cloaks, according to Za'ida's version, which remains, however, shadhdh or "deviant" from a Ḥadīth point of view, unless understood in this limitary sense.

- (e) The fifth and final condition for a sahih Ḥadīth is that both the text and chain of transmission must be without 'illa or "hidden flaw" that alerts experts to expect inauthenticity in it. We will dwell for a moment on this point not only because it helps illustrate the processes of ijtihad, but because in-depth expertise in this condition was not common even among top Ḥadīth Imams. The greatest name in the field was 'Ali al-Madini, one of the sheikhs of Bukhari, though his major work about it is now unfortunately lost. Daraqutni is perhaps the most famous specialist in the field whose works exist. In the words of Ibn al-Salah, a hafiz or "Ḥadīth master" (someone with at least 100,000 hadiths by memory), the knowledge of the 'illa or "hidden flaw" is: among the greatest

of the sciences of ḥadīth, the most exacting, and highest: only scholars of great memorization, ḥadīth expertise, and penetrating understanding have a thorough knowledge of it. It refers to obscure, hidden flaws that vitiate ḥadīths, “flawed” meaning that a defect is discovered that negates the authenticity of a ḥadīth that is outwardly “rigorously authenticated” (ṣaḥīḥ). It affects ḥadīths with reliable chains of narrators that outwardly appear to fulfill all the conditions of a ṣaḥīḥ ḥadīth (‘Ulum al-ḥadīth).

It may surprise some people to learn that one example often cited in ḥadīth textbooks of such a hidden flaw (**‘illa**) is from Ṣaḥīḥ Muslim, all of whose ḥadīths are rigorously authenticated (ṣaḥīḥ), as Ibn al-Salāḥ has said, “except for a very small number of words, which ḥadīth masters of textual evaluation (naqd) such as Daraqutni and others have critiqued, and which are known to scholars of this level” (‘Ulum al-ḥadīth). The ḥadīth of the present example was related by Muslim from the Companion Anas ibn Malik in several versions, which might convince those unaware of its flaw to believe that someone at prayer should omit the Basmala or “Bismi Llāhi r-Rahmani r-Rahim” at the beginning of the Fatiha. According to the ḥadīth, Anas ibn Malik (Allāh be well pleased with him) said,

I prayed with the Messenger of Allāh (ﷺ), Abu Bakr, ‘Umar, and ‘Uthman, and they opened with “al-Hamdu li Llāhi Rabbi l-‘Alamin,” not mentioning “Bismi Llāhi r-Rahmani r-Rahim” at the first of the recital or the last of it [and in another version, “I didn’t hear any of them recite ‘Bismi Llāhi r-Rahmani r-Rahim’”] (Muslim, 1.299).

Scholars say the ḥadīth’s flaw lies in the negation of the Basmala at the end, which is not the words of Anas, but rather one of the subnarrators explaining what he thought Anas meant. Ibn al-Salāḥ says: “Its subnarrator related it with the above-mentioned wording in accordance with his own understanding of it” (Muqaddima Ibn al-Salāḥ (b01), 99). This ḥadīth is given as an example of a “hidden flaw” in a number of manuals of ḥadīth terminology such as ḥadīth master (ḥafīz) Suyutī’s Tadrīb al-rawī (1.254–57); ḥadīth master Ibn al-Salāḥ’s Ulum al-ḥadīth; ḥadīth master Zayn al-Dīn al-‘Irāqī’s al-Taḥfīd wa al-idāḥ (98–103); and others. Al-‘Irāqī says, “A number of ḥadīth masters (ḥuffāz) have judged it to be flawed, including Shafi’i, Daraqutni, Bayhaqi, and Ibn ‘Abd al-Barr” (ibid., 98).

Now, Bukhari has related the ḥadīth up to the words “and they opened with ‘al-Hamdu li Llāhi Rabbi l-‘Alamin’”; without mentioning omitting the Basmala (Bukhari, 1.189), and Tirmidhi and Abu Dawud relate no other version. Scholars point out, in this connection, that the words “al-Hamdu li Llāhi Rabbi l-‘Alamin” were in fact the name of the Fatiha, for the Prophet (ﷺ) and his Companions often used the opening words of suras as names for them; for example, in the ḥadīth in Ṣaḥīḥ al-Bukhari of Abu Sa’id ibn al-Mu’alla, who relates that the Prophet (ﷺ) said:

“I will teach you a sura that is the greatest sura of the Qur’ān before you leave the mosque.” Then he took my hand, and when he was going out, I said to him, “Didn’t you say, ‘I will teach you a sura that is the greatest sura of the Qur’ān before you

leave the mosque’?” And he said: “‘Al-Hamdu li Llahi Rabbi l-‘Alamin’: it is the Seven Oft-Recited [Verses] (al-Sab’ al-Mathani) and the Tremendous Recital (al-Qur’ān al-‘Adhim) that I have been given” (ibid., 6.20–21).

In this hadith, “Al-Hamdu li Llahi Rabbi l-‘Alamin” is plainly the name of the Fatiha, and means nothing besides, for otherwise, it is one verse, not seven. ‘A’isha, who was one of the ulama of the Sahaba, also referred to names of suras in this way, as in the Ḥadīth of Bukhari that the Prophet (ﷺ), when he went to bed each night, joined his hands together, blew a light spray of saliva upon them, and read over them “Qul huwa Llahu Ahad,” “Qul a’udhu bi Rabbi l-Falaq,” and “Qul a’udhu bi Rabbi n-Nas”; then wiped every part of his body he could with them (ibid., 233–34), which clearly shows that she named the suras by their opening words (after the Basmala), as did other early Muslims (such as Bukhari in his chapter headings in the section of his Sahih on the Virtues of the Qur’an, for example). So there is no indication, in the portion of the Anas hadith’s wording that is agreed upon by both Bukhari and Muslim; namely, “I prayed with the Messenger of Allāh (ﷺ), Abu Bakr, ‘Umar, and ‘Uthman, and they opened with ‘al-Hamdu li Llahi Rabbi l-‘Alamin,’” that the Basmala was not recited aloud. Says Tirmidhi: “Imam Shafi’i has said, ‘Its meaning is that they used to begin with the Fatiha before the sura, not that they did not recite “Bismi Llahi r-Rahmani r-Rahim.”’ And Shafi’i held that the prayer was begun with ‘Bismi Llahi r-Rahmani r-Rahim,’ and that it was recited aloud in prayers recited aloud” (Tirmidhi, 2.16).

Hadith scholars who are masters of textual critique, like Daraqutni and others, consider the words of the Anas hadith “not mentioning ‘Bismi Llahi r-Rahmani r-Rahim,’” which outwardly seem to suggest omitting the Basmala, to be vitiated by an ‘illa or “hidden flaw” for many reasons, a few of which are:

—It is established by numerous intersubstantiative channels of transmission (tawatur), that the Prophet (ﷺ) said, “There is no prayer for whoever does not recite the Fatiha” (Bukhari, 1.192). That the Basmala is the Fatiha’s first verse is shown by several facts:

First, the Sahaba affirmed nothing in the collation of the Qur’ān (mushaf) of ‘Uthman’s time except what was Qur’an, and they unanimously placed the Basmala at the beginning of every sura except surat al-Tawba.

Second, the Prophet (ﷺ) said, “When you recite ‘al-Hamdu li Llah,’ recite ‘Bismi Llahi r-Rahmani r-Rahim,’ for it is the Sum of the Qur’ān (Umm al-Qur’an), and the Compriser of the Scripture (Umm al-Kitab), and the Seven Oft-Repeated [Verses] (al-Sab’ al-Mathani)—and ‘Bismi Llahi r-Rahmani r-Rahim’ is one of its verses” (Bayhaqi, 2.45; and Daraqutni, 1.312), a Ḥadīth related with a rigorously authenticated (sahih) channel of transmission to the Prophet (ﷺ), and through another chain to Abu Hurayra alone (Allāh be well pleased with him).

Third, Umm Salama relates: “The Prophet (ﷺ) used to recite: ‘Bismi Llahi r-Rahmani r-Rahim. al-Hamdu li Llahi Rabbi l-‘Alamin,’ separating each phrase”; a Ḥadīth

which Hakim said was rigorously authenticated (sahih) according to the conditions of Bukhari and Muslim, which Imam Dhahabi corroborated (al-Mustadrak, 1.232). Daraqutni also relates from Umm Salama that “the Prophet (ﷺ) when he used to recite the Qur’ān would pause in his recital verse by verse: ‘Bismi Llāhi r-Rahmani r-Rahim: al-Hamdu li Llāhi Rabbi l-‘Alamin: ar-Rahmani r-Rahim: Maliki yawmi d-din.’” Daraqutni said, “Its ascription is rigorously authenticated (sahih); all of its narrators are reliable” (Daraqutni, 1.312–13). These hadiths show that the Basmala was recited aloud by the Prophet (ﷺ) as part of the Fatiha.

Fourth, Bukhari relates in his Sahih that when Anas was asked how the Prophet (ﷺ) used to recite, “he answered: ‘By prolonging [the vowels]’—and then he [Anas] recited ‘Bismi Llāhi r-Rahmani r-Rahim,’ prolonging the Bismi Llah, prolonging the r-Rahman, and prolonging the r-Rahim” (Bukhari, 6.241), indicating that Anas regarded this as part of the Prophet’s Qur’ān recital and that the Prophet (ﷺ) recited it aloud.

Fifth, Daraqutni has recorded two hadiths, both from Ibn ‘Abbas, and has said about each of them, “This is a rigorously authenticated (sahih) chain of transmission, there is not a weak narrator in it,” of which the first is: “The Prophet (ﷺ) used to recite ‘Bismi Llāhi r-Rahmani r-Rahim,’ aloud”; and the second is: “The Prophet (ﷺ) used to begin the prayer with ‘Bismi Llāhi r-Rahmani r-Rahim’” (al-Nawawi: al-Majmu’, 3.347).

— Imam al-Mawardi summarizes: “Because it is established that it is obligatory to recite the Fatiha in the prayer, and that the Basmala is part of it, the ruling for reciting the Basmala aloud or to oneself must be the same as that of reciting the Fatiha aloud or to oneself” (al-Hawi al-kabir, 2.139).

— Imam Nawawi says: “Concerning reciting ‘Bismi Llāhi r-Rahmani r-Rahim’ aloud, we have mentioned that our position is that it is praiseworthy to do so. Wherever one recites the Fatiha and sura aloud, the ruling for reciting the Basmala aloud is the same as reciting the rest of the Fatiha and sura aloud. This is the position of the majority of the ulama of the Sahaba and those who were taught by them (Tabi’in) and those after them. As for the Sahaba who held the Basmala is recited aloud at prayer, the Ḥadīth master (hafiz) Abu Bakr al-Khatib reports that they included Abu Bakr, ‘Umar, ‘Uthman, ‘Ali, ‘Ammar ibn Yasir, Ubayy ibn Ka’b, Ibn ‘Umar, Ibn ‘Abbas, Abu Qatada, Abu Sa’id, Qays ibn Malik, Abu Hurayra, ‘Abdullah ibn Abi Awfa, Shaddad ibn Aws, ‘Abdullah ibn Ja’far, Husayn ibn ‘Ali, Mu’awiya, and the congregation of Emigrants (Muhajirin) and Helpers (Ansar) who were present with Mu’awiya when he prayed in Medina but did not say the Basmala aloud, and they censured him, so he returned to saying it aloud” (al-Majmu’, 3.341).

These are some reasons why scholars regard the Anas Ḥadīth in Sahih Muslim to be mu’all or “flawed.” We cannot here discuss other aspects of the Ḥadīth such as the

flaws in its chain of narrators, which are explained in detail in Zayn al-Din 'Iraqi's al-Taḥyid wa al-idāh (100–101), though the foregoing may give a general idea why it has been considered flawed by Ḥadīth masters (huffaz) such as Suyuti, 'Iraqi, Ibn Salah, Ibn 'Abd al-Barr, Daraqutni, and Bayhaqi—and why the shari'a ruling apparently deducible from the end of the hadith; namely, omitting the Basmala when reciting the Fatiha at prayer, has been rejected by al-Shafi'i, Nawawi, and others, who hold that the Basmala is recited aloud whenever the Fatiha is. (The position of Abu Hanifa and Ahmad ibn Hanbal, it may be noted, is that one recites the Basmala to oneself before the Fatiha, thus joining between hadiths on both sides by interpreting the "omitting" in the Anas Ḥadīth in other than its apparent sense, to mean merely "reciting to oneself.") In any case, it is clearly not a story of "the Ḥadīth in Sahih Muslim that the Imams didn't know about," as some of the unlearned seriously suggest today, but rather a difference of opinion in Ḥadīth authentication involving the highest levels of shari'a scholarship.

Studying the five conditions above for a sahih Ḥadīth and the differences about them among specialists shows us why the mujtahid Imams of the schools sometimes differ with one another about whether a particular Ḥadīth is really from the Prophet (ﷺ). Whoever believes that a single scholar, whether Bukhari, Muslim, or a contemporary sheikh, can finish off all differences of opinion about the acceptability of particular hadiths, should correct his impressions by going and studying the sciences of hadith. What we can realize from this is that when we find a Ḥadīth in Sahih Bukhari that one school of fiqh seems to follow and another does not, it may well be that differences in fiqh methodology, Ḥadīth methodology, or both, play a role.

CONCLUSIONS. Let me summarize everything I have said tonight. I first pointed out that the knowledge you and I learn from the Qur'ān and Ḥadīth may be divided into three categories. The first is the knowledge of Allāh and His attributes, and the basic truths of Islamic belief such as the messengerhood of the Prophet (ﷺ), the belief in the Last Day, and so on. Every Muslim can and must learn this knowledge from the Book of Allāh and the Sunnah, which is also the case for the second kind of knowledge: that of general Islamic laws to do good, to avoid evil, to perform the prayer, pay zakat, fast Ramadan, to cooperate with others in good works, and so on. Anyone can and must learn these general prescriptions for him or herself.

Then we discussed a third category of knowledge, which consists of fiqh or "understanding" of specific details of Islamic practice. We found in the Qur'ān and sahih hadiths that people are of two types respecting this knowledge, those qualified to do ijtihad and those who are not. We mentioned the sahih Ḥadīth about "a man who judges for people while ignorant: he shall go to hell," showing that would-be mujtahids are criminals when they operate without training.

We heard the Qur'anic verse that established that a certain group of the Muslim community must learn and be able to teach others the specific details of their religion.

We heard the Qur'anic verse that those who do not know must ask those who do, as well as the verse about referring matters to "those whose task it is to find it out."

We talked about these scholars, the mujtahid Imams, firstly, in terms of their comprehensive knowledge of the whole Qur'ān and Ḥadīth textual corpus, and secondly, in terms of their depth of interpretation, and here we mentioned Qur'ān and Ḥadīth examples that illustrate the processes by which mujtahid Imams join between multiple texts, and give precedence when there is ostensive conflict. Our concrete examples of ijtihad enabled us in turn to understand to whom the Imams addressed their famous remarks not to follow their positions without knowing the proofs. They addressed them to the first rank scholars they had trained and who were capable of grasping and evaluating the issues involved in these particular proofs.

We then saw that the Imams were also mujtahids in the matter of judging hadiths to be sahih or otherwise, and noted that, just as it is unlawful for a mujtahid Imam to do taqlid or "follow another mujtahid without knowing his evidence" in a question of fiqh, neither does he do so in the question of accepting particular hadiths. Finally, we noted that the differences in reliability ratings of hadiths among qualified scholars were parallel to the differences among scholars about the details of Islamic practice: a relatively small amount of difference in relation to the whole.

The main point of all of this is that while every Muslim can take the foundation of his Islam directly from the Qur'ān and hadith; namely, the main beliefs and general ethical principles he has to follow—for the specific details of fiqh of Islamic practice, knowing a Qur'anic verse or Ḥadīth may be worlds apart from knowing the shari'a ruling, unless one is a qualified mujtahid or is citing one.

As for would-be mujtahids who know some Arabic and are armed with books of hadith, they are like the would-be doctor we mentioned earlier: if his only qualification were that he could read English and owned some medical books, we would certainly object to his practicing medicine, even if it were no more than operating on someone's little finger. So what should be said of someone who knows only Arabic and has some books of hadith, and wants to operate on your akhira?

To understand why Muslims follow madhhabs, we have to go beyond simplistic slogans about "the divinely-protected versus the non-divinely-protected," and appreciate the Imams of fiqh who have operationalized the Qur'ān and Sunnah to apply in our lives as shari'a, and we must ask ourselves if we really "hear and obey" when Allāh tells us "Ask those who know if you know not" (Qur'ān 16:43). •••

Understanding the four madhabs

— the problem with anti-madhabism

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The Ummah's greatest achievement over the past millennium has undoubtedly been its internal intellectual cohesion. From the fifth century of the Hijra almost to the present day, and despite the outward drama of the clash of dynasties, the Sunni Muslims have maintained an almost unfailing attitude of religious respect and brotherhood among themselves. It is a striking fact that virtually no religious wars, riots or persecutions divided them during this extended period, so difficult in other ways.

The history of religious movements suggests that this is an unusual outcome. The normal sociological view, as expounded by Max Weber and his disciples, is that religions enjoy an initial period of unity, and then descend into an increasingly bitter factionalism led by rival hierarchies. Christianity has furnished the most obvious example of this; but one could add many others, including secular faiths such as Marxism. On the face of it, Islam's ability to avoid this fate is astonishing, and demands careful analysis.

There is, of course, a straightforwardly religious explanation. Islam is the final religion, the last bus home, and as such has been divinely secured from the more terminal forms of decay. It is true that what Abdul Wadod Shalabi has termed spiritual entropy has been at work ever since Islam's inauguration, a fact which is well-supported by a number of hadiths. Nonetheless, Providence has not neglected the ummah. Earlier religions slide gently or painfully into schism and irrelevance; but Islamic piety, while fading in quality, has been given mechanisms which allow it to retain much of the sense of unity emphasised in its glory days. Wherever the antics of the emirs and politicians might lead, the brotherhood of believers, a reality in the initial career of Christianity and some other faiths, continues, fourteen hundred years on, to be a compelling principle for most members of the final and definitive community of revelation in Islam. The reason is simple and unarguable: God has given us this religion as His last word, and it must therefore endure, with its essentials of tawhid, worship and ethics intact, until the Last Days.

Such an explanation has obvious merit. But we will still need to explain some painful exceptions to the rule in the earliest phase of our history. The Prophet himself (pbuh) had told his Companions, in a hadith narrated by Imam Tirmidhi, that "Whoever among you outlives me shall see a vast dispute". The initial schisms: the disastrous revolt against Uthman (r.a.), the clash between Ali (r.a.) and Muawiyah, the bloody scissions of the Kharijites - all these drove knives of discord into the Muslim body politic almost from the outset. Only the inherent sanity and love of unity among scholars of the ummah assisted, no doubt, by Providence overcame the early spasms of factionalism, and created a strong and harmonious Sunnism which has, at least on the purely religious plane, united ninety percent of the ummah for ninety percent of its history.

It will help us greatly to understand our modern, increasingly divided situation if we look closely at those forces which divided us in the distant past. There were many of these, some of them very eccentric; but only two took the form of mass popular movements, driven by religious ideology, and in active rebellion against majoritarian faith and scholarship. For good reasons, these two acquired the names of Kharijism and Shi'ism. Unlike Sunnism, both were highly productive of splinter groups and sub-movements; but they nonetheless remained as recognisable traditions of dissidence because of their ability to express the two great divergences from mainstream opinion on the key question of the source of religious authority in Islam.

Confronted with what they saw as moral slippage among early caliphs, posthumous partisans of Ali (r.a.) developed a theory of religious authority which departed from the older egalitarian assumptions by vesting it in a charismatic succession of Imams. We need not stop here to investigate the question of whether this idea was influenced by the Eastern Christian background of some early converts, who had been nourished on the idea of the mystical apostolic succession to Christ, a gift which supposedly gave the Church the unique ability to read his mind for later generations. What needs to be appreciated is that Shi'ism, in its myriad forms, developed as a response to a widely-sensed lack of definitive religious authority in early Islamic society. As the age of the Righteous Caliphs came to a close, and the Umayyad rulers departed ever more conspicuously from the lifestyle expected of them as Commanders of the Faithful, the sharply-divergent and still nascent schools of fiqh seemed inadequate as sources of strong and unambiguous authority in religious matters. Hence the often irresistible seductiveness of the idea of an infallible Imam.

This interpretation of the rise of Imamism also helps to explain the second great phase in Shi'i expansion. After the success of the fifth-century Sunni revival, when Sunnism seemed at last to have become a fully coherent system, Shi'ism went into a slow eclipse. Its extreme wing, as manifested in Ismailism, received a heavy blow at the hands of Imam al-Ghazali, whose book "Scandals of the Batinites" exposed and refuted their secret doctrines with devastating force. This decline in Shi'i fortunes was only arrested after the mid-seventh century, once the Mongol hordes under

Genghis Khan had invaded and obliterated the central lands of Islam. The onslaught was unimaginably harsh: we are told, for instance, that out of a hundred thousand former inhabitants of the city of Herat, only forty survivors crept out of the smoking ruins to survey the devastation. In the wake of this tidal wave of mayhem, newly-converted Turcoman nomads moved in, who, with the Sunni ulama of the cities dead, and a general atmosphere of fear, turbulence, and Messianic expectation in the air, turned readily to extremist forms of Shi'i belief. The triumph of Shi'ism in Iran, a country once loyal to Sunnism, dates back to that painful period.

The other great dissident movement in early Islam was that of the Kharijites, literally, the seceders, so-called because they seceded from the army of the Caliph Ali when he agreed to settle his dispute with Muawiyah through arbitration. Calling out the Quranic slogan, "Judgement is only Gods", they fought bitterly against Ali and his army which included many of the leading Companions, until Ali defeated them at the Battle of Nahrawan, where some ten thousand of them perished.

Although the first Kharijites were destroyed, Kharijism itself lived on. As it formulated itself, it turned into the precise opposite of Shi'ism, rejecting any notion of inherited or charismatic leadership, and stressing that leadership of the community of believers should be decided by piety alone. This was assessed by very rudimentary criteria: the early Kharijites were known for extreme toughness in their devotions, and for the harsh doctrine that any Muslim who commits a major sin is an unbeliever. This notion of takfir (declaring Muslims to be outside Islam), permitted the Kharijite groups, camping out in remote mountain districts of Khuzestan, to raid Muslim settlements which had accepted Umayyad authority. Non-Kharijis were routinely slaughtered in these operations, which brought merciless reprisals from tough Umayyad generals such as al-Hajjaj ibn Yusuf. But despite the apparent hopelessness of their cause, the Kharijite attacks continued. The Caliph Ali (r.a.) was assassinated by Ibn Muljam, a survivor of Nahrawan, while the hadith scholar Imam al-Nasai, author of one of the most respected collections of sunan, was likewise murdered by Kharijite fanatics in Damascus in 303/915.

Like Shi'ism, Kharijism caused much instability in Iraq and Central Asia, and on occasion elsewhere, until the fourth and fifth centuries of Islam. At that point, something of historic moment occurred. Sunnism managed to unite itself into a detailed system that was now so well worked-out, and so obviously the way of the great majority of ulama, that the attraction of the rival movements diminished sharply.

What happened was this. Sunni Islam, occupying the middle ground between the two extremes of egalitarian Kharijism and hierarchical Shi'ism, had long been preoccupied with disputes over its own concept of authority. For the Sunnis, authority was, by definition, vested in the Quran and Sunnah. But confronted with the enormous body of hadiths, which had been scattered in various forms and narrations throughout the length and breadth of the Islamic world following the migrations of the Companions and Followers, the Sunnah sometimes proved difficult to interpret. Even

when the sound hadiths had been sifted out from this great body of material, which totalled several hundred thousand hadith reports, there were some hadiths which appeared to conflict with each other, or even with verses of the Quran. It was obvious that simplistic approaches such as that of the Kharijites, namely, establishing a small corpus of hadiths and deriving doctrines and law from them directly, was not going to work. The internal contradictions were too numerous, and the interpretations placed on them too complex, for the qadis (judges) to be able to dish out judgements simply by opening the Quran and hadith collections to an appropriate page.

The reasons underlying cases of apparent conflict between various revealed texts were scrutinised closely by the early ulama, often amid sustained debate between brilliant minds backed up with the most perfect photographic memories. Much of the science of Islamic jurisprudence (*usul al-fiqh*) was developed in order to provide consistent mechanisms for resolving such conflicts in a way which ensured fidelity to the basic ethos of Islam. The term *taarud al-adilla* (mutual contradiction of proof-texts) is familiar to all students of Islamic jurisprudence as one of the most sensitive and complex of all Muslim legal concepts. Early scholars such as Ibn Qutayba felt obliged to devote whole books to the subject.

The ulama of **usul** recognised as their starting assumption that conflicts between the revealed texts were no more than conflicts of interpretation, and could not reflect inconsistencies in the Lawgiver's message as conveyed by the Prophet (pbuh). The message of Islam had been perfectly conveyed before his demise; and the function of subsequent scholars was exclusively one of interpretation, not of amendment.

Armed with this awareness, the Islamic scholar, when examining problematic texts, begins by attempting a series of preliminary academic tests and methods of resolution. The system developed by the early ulama was that if two Quranic or hadith texts appeared to contradict each other, then the scholar must first analyse the texts linguistically, to see if the contradiction arises from an error in interpreting the Arabic. If the contradiction cannot be resolved by this method, then he must attempt to determine, on the basis of a range of textual, legal and historiographic techniques, whether one of them is subject to *takhsis*, that is, concerns special circumstances only, and hence forms a specific exception to the more general principle enunciated in the other text. The jurist must also assess the textual status of the reports, recalling the principle that a Quranic verse will overrule a hadith related by only one *isnad* (the type of hadith known as *ahad*), as will a hadith supplied by many *isnads* (*mutawatir* or *mashhur*). If, after applying all these mechanisms, the jurist finds that the conflict remains, he must then investigate the possibility that one of the texts was subject to formal abrogation (*naskh*) by the other.

This principle of *naskh* is an example of how, when dealing with the delicate matter of *taarud al-adilla*, the Sunni ulama founded their approach on textual policies which had already been recognised many times during the lifetime of the Prophet (pbuh). The Companions knew by *ijma* that over the years of the Prophets ministry,

as he taught and nurtured them, and brought them from the wildness of paganism to the sober and compassionate path of monotheism, his teaching had been divinely shaped to keep pace with their development. The best-known instance of this was the progressive prohibition of wine, which had been discouraged by an early Quranic verse, then condemned, and finally prohibited. Another example, touching an even more basic principle, was the canonical prayer, which the early ummah had been obliged to say only twice daily, but which, following the Miraj, was increased to five times a day. Mutah (temporary marriage) had been permitted in the early days of Islam, but was subsequently prohibited as social conditions developed, respect for women grew, and morals became firmer. There are several other instances of this, most being datable to the years immediately following the Hijra, when the circumstances of the young ummah changed in radical ways.

There are two types of naskh: explicit (sarih) or implicit (dimni). The former is easily identified, for it involves texts which themselves specify that an earlier ruling is being changed. For instance, there is the verse in the Quran (2:142) which commands the Muslims to turn in prayer to the Kaba rather than to Jerusalem. In the hadith literature this is even more frequently encountered; for example, in a hadith narrated by Imam Muslim we read: "I used to forbid you to visit graves; but you should now visit them." Commenting on this, the ulama of hadith explain that in early Islam, when idolatrous practices were still fresh in peoples memories, visiting graves had been forbidden because of the fear that some new Muslims might commit shirk. As the Muslims grew stronger in their monotheism, however, this prohibition was discarded as no longer necessary, so that today it is a recommended practice for Muslims to go out to visit graves in order to pray for the dead and to be reminded of the akhira.

The other type of naskh is more subtle, and often taxed the brilliance of the early ulama to the limit. It involves texts which cancel earlier ones, or modify them substantially, but without actually stating that this has taken place. The ulama have given many examples of this, including the two verses in Surat al-Baqarah which give differing instructions as to the period for which widows should be maintained out of an estate (2:240 and 234). And in the hadith literature, there is the example of the incident in which the Prophet (pbuh) once told the Companions that when he prayed sitting because he was burdened by some illness, they should sit behind him. This hadith is given by Imam Muslim. And yet we find another hadith, also narrated by Muslim, which records an incident in which the Companions prayed standing while the Prophet (pbuh) was sitting. The apparent contradiction has been resolved by careful chronological analysis, which shows that the latter incident took place after the former, and therefore takes precedence over it. This has duly been recorded in the fiqh of the great scholars.

The techniques of naskh identification have enabled the ulama to resolve most of the recognised cases of taarud al-adilla. They demand a rigorous and detailed

knowledge not just of the hadith disciplines, but of history, sirah, and of the views held by the Companions and other scholars on the circumstances surrounding the genesis and exegesis of the hadith in question. In some cases, hadith scholars would travel throughout the Islamic world to locate the required information pertinent to a single hadith.

In cases where in spite of all efforts, abrogation cannot be proven, then the ulama of the salaf recognised the need to apply further tests. Important among these is the analysis of the matn (the transmitted text rather than the isnad of the hadith). Clear (sarih) statements are deemed to take precedence over allusive ones (kinayah), and definite (muhkam) words take precedence over words falling into more ambiguous categories, such as the interpreted (mufassar), the obscure (khafi) and the problematic (mushkil). It may also be necessary to look at the position of the narrators of the conflicting hadiths, giving precedence to the report issuing from the individual who was more directly involved. A famous example of this is the hadith narrated by Maymunah which states that the Prophet (pbuh) married her when not in a state of consecration (ihram) for the pilgrimage. Because her report was that of an eyewitness, her hadith is given precedence over the conflicting report from Ibn Abbas, related by a similarly sound isnad, which states that the Prophet was in fact in a state of ihram at the time.

There are many other rules, such as that which states that prohibition takes precedence over permissibility. Similarly, conflicting hadiths may be resolved by utilising the fatwa of a Companion, after taking care that all the relevant fatwa are compared and assessed. Finally, recourse may be had to qiyas (analogy). An example of this is the various reports about the solar eclipse prayer (salat al-kusuf), which specify different numbers of bowings and prostrations. The ulama, having investigated the reports meticulously, and having been unable to resolve the contradiction by any of the mechanisms outlined above, have applied analogical reasoning by concluding that since the prayer in question is still called salaah, then the usual form of salaah should be followed, namely, one bowing and two prostrations. The other hadiths are to be abandoned.

This careful articulation of the methods of resolving conflicting source-texts, so vital to the accurate derivation of the Shariah from the revealed sources, was primarily the work of Imam al-Shafi'i. Confronted by the confusion and disagreement among the jurists of his day, and determined to lay down a consistent methodology which would enable a fiqh to be established in which the possibility of error was excluded as far as was humanly possible, Shafi'i wrote his brilliant Risala (Treatise on Islamic jurisprudence). His ideas were soon taken up, in varying ways, by jurists of the other major traditions of law; and today they are fundamental to the formal application of the Shariah.

Shafi'i's system of minimising mistakes in the derivation of Islamic rulings from the mass of evidence came to be known as usul al-fiqh (the roots of fiqh). Like most

of the other formal academic disciplines of Islam, this was not an innovation in the negative sense, but a working-out of principles already discernible in the time of the earliest Muslims. In time, each of the great interpretative traditions of Sunni Islam codified its own variation on these roots, thereby yielding in some cases divergent branches (i.e. specific rulings on practice). Although the debates generated by these divergences could sometimes be energetic, nonetheless, they were insignificant when compared to the great sectarian and legal disagreements which had arisen during the first two centuries of Islam before the science of *usul al-fiqh* had put a stop to such chaotic discord.

It hardly needs remarking that although the Four Imams, Abu Hanifa, Malik ibn Anas, al-Shafi'i and Ibn Hanbal, are regarded as the founders of these four great traditions, which, if we were asked to define them, we might sum up as sophisticated techniques for avoiding innovation, their traditions were fully systematised only by later generations of scholars. The Sunni ulama rapidly recognised the brilliance of the Four Imams, and after the late third century of Islam we find that hardly any scholars adhered to any other approach. The great *hadith* specialists, including al-Bukhari and Muslim, were all loyal adherents of one or another of the *madhhabs*, particularly that of Imam al-Shafi'i. But within each *madhhab*, leading scholars continued to improve and refine the roots and branches of their school. In some cases, historical conditions made this not only possible, but necessary. For instance, scholars of the school of Imam Abu Hanifah, which was built on the foundations of the early legal schools of Kufa and Basra, were wary of some *hadiths* in circulation in Iraq because of the prevalence of forgery engendered by the strong sectarian influences there. Later, however, once the canonical collections of Bukhari, Muslim and others became available, subsequent generations of Hanafi scholars took the entire corpus of *hadiths* into account in formulating and revising their *madhhab*. This type of process continued for two centuries, until the Schools reached a condition of maturity in the fourth and fifth centuries of the Hijra.

It was at that time, too, that the attitude of toleration and good opinion between the Schools became universally accepted. This was formulated by Imam al-Ghazali, himself the author of four textbooks of Shafi'i *fiqh*, and also of *Al-Mustasfa*, widely acclaimed as the most advanced and careful of all works on *usul al-fiqh* fil *madhhab* (*Ihya Ulum al-Din*, III, 65) While it was necessary for the Muslim to follow a recognised *madhhab* in order to avert the lethal danger of misinterpreting the sources, he must never fall into the trap of considering his own school categorically superior to the others. With a few insignificant exceptions, the great scholars of Sunni Islam have followed the ethos outlined by Imam al-Ghazali, and have been conspicuously respectful of each others *madhhab*. Anyone who has studied under traditional ulama will be well-aware of this fact.

The evolution of the Four Schools did not stifle, as some Orientalists have suggested, the capacity for the refinement or extension of positive law. On the contrary,

sophisticated mechanisms were available which not only permitted qualified individuals to derive the Shariah from the Quran and Sunnah on their own authority, but actually obliged them to do this. According to most scholars, an expert who has fully mastered the sources and fulfilled a variety of necessary scholarly conditions is not permitted to follow the prevalent rulings of his School, but must derive the rulings himself from the revealed sources. Such an individual is known as a mujtahid, a term derived from the famous hadith of Muadh ibn Jabal.

Few would seriously deny that for a Muslim to venture beyond established expert opinion and have recourse directly to the Quran and Sunnah, he must be a scholar of great eminence. The danger of less-qualified individuals misunderstanding the sources and hence damaging the Shariah is a very real one, as was shown by the discord and strife which afflicted some early Muslims, and even some of the Companions themselves, in the period which preceded the establishment of the Orthodox Schools. Prior to Islam, entire religions had been subverted by inadequate scriptural scholarship, and it was vital that Islam should be secured from a comparable fate.

In order to protect the Shariah from the danger of innovation and distortion, the great scholars of usul laid down rigorous conditions which must be fulfilled by anyone wishing to claim the right of **ijtihad** for himself. These **conditions** include:

- (a) mastery of the Arabic language, to minimise the possibility of misinterpreting Revelation on purely linguistic grounds;
- (b) a profound knowledge of the Quran and Sunnah and the circumstances surrounding the revelation of each verse and hadith, together with a full knowledge of the Quranic and hadith commentaries, and a control of all the interpretative techniques discussed above;
- (c) knowledge of the specialised disciplines of hadith, such as the assessment of narrators and of the **matn** [text];
- (d) knowledge of the views of the Companions, Followers and the great imams, and of the positions and reasoning expounded in the textbooks of **fiqh**, combined with the knowledge of cases where a consensus (**ijma**) has been reached;
- (e) knowledge of the science of juridical analogy (**qiyas**), its types and conditions;
- (f) knowledge of ones own society and of public interest (**maslahah**);
- (g) knowing the general objectives (**maqasid**) of the Shariah;
- (h) a high degree of intelligence and personal piety, combined with the Islamic virtues of compassion, courtesy, and modesty.

A scholar who has fulfilled these conditions can be considered a mujtahid fil-shar, and is not obliged, or even permitted, to follow an existing authoritative madhhab.

This is what some of the Imams were saying when they forbade their great disciples from imitating them uncritically. But for the much greater number of scholars whose expertise has not reached such dizzying heights, it may be possible to become a mujtahid fil-madhab, that is, a scholar who remains broadly convinced of the doctrines of his school, but is qualified to differ from received opinion within it. There have been a number of examples of such men, for instance Imam al-Nawawi among the Shafi'is, Qadi Ibn Abd al-Barr among the Malikis, Ibn Abidin among the Hanafis, and Ibn Qudama among the Hanbalis. All of these scholars considered themselves followers of the fundamental interpretative principles of their own madhabs, but are on record as having exercised their own gifts of scholarship and judgement in reaching many new verdicts within them. It is to these experts that the Mujtahid Imams directed their advice concerning ijtihad, such as Imam al-Shafi'i's instruction that if you find a hadith that contradicts my verdict, then follow the hadith. It is obvious that whatever some writers nowadays like to believe, such counsels were never intended for use by the Islamically-uneducated masses.

Other categories of mujtahids are listed by the usul scholars; but the distinctions between them are subtle and not relevant to our theme. The remaining categories can in practice be reduced to two: the muttabi (follower), who follows his madhab while being aware of the Quranic and hadith texts and the reasoning, underlying its positions, and secondly the muqallid (emulator), who simply conforms to the madhab because of his confidence in its scholars, and without necessarily knowing the detailed reasoning behind all its thousands of rulings.

Clearly it is recommended for the muqallid to learn as much as he or she is able of the formal proofs of the madhab. But it is equally clear that not every Muslim can be a scholar. Scholarship takes a lot of time, and for the ummah to function properly most people must have other employment: as accountants, soldiers, butchers, and so forth. As such, they cannot reasonably be expected to become great ulama as well, even if we suppose that all of them have the requisite intelligence. The Holy Quran itself states that less well-informed believers should have recourse to qualified experts: So ask the people of remembrance, if you do not know (16:43). (According to the tafsir experts, the people of remembrance are the ulama.) And in another verse, the Muslims are enjoined to create and maintain a group of specialists who provide authoritative guidance for non-specialists: A band from each community should stay behind to gain instruction in religion and to warn the people when they return to them, so that they may take heed (9:122). Given the depth of scholarship needed to understand the revealed texts accurately, and the extreme warnings we have been given against distorting the Revelation, it is obvious that ordinary Muslims are duty bound to follow expert opinion, rather than rely on their own reasoning and limited knowledge. This obvious duty was well-known to the early Muslims: the Caliph Umar (r.a.) followed certain rulings of Abu Bakr (r.a.), saying I would be ashamed before God to differ from the view of Abu Bakr. And Ibn Masud (r.a.), in turn, despite

being a mujtahid in the fullest sense, used in certain issues to follow Umar (r.a.). According to al-Shabi: Six of the Companions of the Prophet (pbuh) used to give fatwas to the people: Ibn Masud, Umar ibn al-Khattab, Ali, Zayd ibn Thabit, Ubayy ibn Kab, and Abu Musa (al-Ashari). And out of these, three would abandon their own judgements in favour of the judgements of three others: Abdallah (ibn Masud) would abandon his own judgement for the judgement of Umar, Abu Musa would abandon his own judgement for the judgement of Ali, and Zayd would abandon his own judgement for the judgement of Ubayy ibn Kab.

This verdict, namely that one is well-advised to follow a great Imam as ones guide to the Sunnah, rather than relying on oneself, is particularly binding upon Muslims in countries such as Britain, among whom only a small percentage is even entitled to have a choice in this matter. This is for the simple reason that unless one knows Arabic, then even if one wishes to read all the hadith determining a particular issue, one cannot. For various reasons, including their great length, no more than ten of the basic hadith collections have been translated into English. There remain well over three hundred others, including such seminal works as the Musnad of Imam Ahmad ibn Hanbal, the Musannaf of Ibn Abi Shayba, the Sahih of Ibn Khuzayma, the Mustadrak of al-Hakim, and many other multi-volume collections, which contain large numbers of sound hadiths which cannot be found in Bukhari, Muslim, and the other works that have so far been translated. Even if we assume that the existing translations are entirely accurate, it is obvious that a policy of trying to derive the Shariah directly from the Book and the Sunnah cannot be attempted by those who have no access to the Arabic. To attempt to discern the Shariah merely on the basis of the hadiths which have been translated will be to ignore and amputate much of the Sunnah, hence leading to serious distortions.

Let me give just two examples of this. The Sunni Madhhab, in their rules for the conduct of legal cases, lay down the principle that the canonical punishments (hudud) should not be applied in cases where there is the least ambiguity, and that the qadi should actively strive to prove that such ambiguities exist. An amateur reading in the Sound Six collections will find no confirmation of this. But the madhhab ruling is based on a hadith narrated by a sound chain, and recorded in the Musannaf of Ibn Abi Shayba, the Musnad of al-Harithi, and the Musnad of Musaddad ibn Musarhad. The text is: "Ward off the hudud by means of ambiguities." Imam al-Sanani, in his book Al-Ansab, narrates the circumstances of this hadith: "A man was found drunk, and was brought to Umar, who ordered the hadd of eighty lashes to be applied. When this had been done, the man said: Umar, you have wronged me! I am a slave! (Slaves receive only half the punishment.) Umar was grief-stricken at this, and recited the Prophetic hadith, Ward off the hudud by means of ambiguities."

Another example pertains to the important practice, recognised by the madhhab, of performing sunnah prayers as soon as possible after the end of the Maghrib obligatory prayer. The hadith runs: Make haste to perform the two rakas

after the Maghrib, for they are raised up (to Heaven) alongside the obligatory prayer. The hadith is narrated by Imam Razin in his Jami.

Because of the traditional pious fear of distorting the Law of Islam, the overwhelming majority of the great scholars of the past - certainly well over ninety-nine percent of them - have adhered loyally to a madhhab. It is true that in the troubled fourteenth century a handful of dissenters appeared, such as Ibn Taymiyyah and Ibn al-Qayyim; but even these individuals never recommended that semi-educated Muslims should attempt ijtihad without expert help. And in any case, although these authors have recently been resurrected and made prominent, their influence on the orthodox scholarship of classical Islam was negligible, as is suggested by the small number of manuscripts of their works preserved in the great libraries of the Islamic world.

Nonetheless, social turbulences have in the past century thrown up a number of writers who have advocated the abandonment of authoritative scholarship. The most prominent figures in this campaign were Muhammad Abduh and his pupil Muhammad Rashid Rida. Dazzled by the triumph of the West, and informed in subtle ways by their own well-documented commitment to Freemasonry, these men urged Muslims to throw off the shackles of taqlid, and to reject the authority of the Four Schools. Today in some Arab capitals, especially where the indigenous tradition of orthodox scholarship has been weakened, it is common to see young Arabs filling their homes with every hadith collection they can lay their hands upon, and poring over them in the apparent belief that they are less likely to misinterpret this vast and complex literature than Imam al-Shafi'i, Imam Ahmad, and the other great Imams. This irresponsible approach, although still not widespread, is predictably opening the door to sharply divergent opinions, which have seriously damaged the unity, credibility and effectiveness of the Islamic movement, and provoked sharp arguments over issues settled by the great Imams over a thousand years ago. It is common now to see young activists prowling the mosques, criticising other worshippers for what they believe to be defects in their worship, even when their victims are following the verdicts of some of the great Imams of Islam. The unpleasant, Pharisaic atmosphere generated by this activity has the effect of discouraging many less committed Muslims from attending the mosque at all. No-one now recalls the view of the early ulama, which was that Muslims should tolerate divergent interpretations of the Sunnah as long as these interpretations have been held by reputable scholars. As Sufyan al-Thawri said: If you see a man doing something over which there is a debate among the scholars, and which you yourself believe to be forbidden, you should not forbid him from doing it. The alternative to this policy is, of course, a disunity and rancour which will poison and cripple the Muslim community from within.

In a Western-influenced global culture in which people are urged from early childhood to think for themselves and to challenge established authority, it can sometimes be difficult to muster enough humility to recognise one's own limitations.

We are all a little like Pharaoh: our egos are by nature resistant to the idea that anyone else might be much more intelligent or learned than ourselves. The belief that ordinary Muslims, even if they know Arabic, are qualified to derive rulings of the Shariah for themselves, is an example of this egotism running wild. To young people proud of their own judgement, and unfamiliar with the complexity of the sources and the brilliance of authentic scholarship, this can be an effective trap, which ends by luring them away from the orthodox path of Islam and into an unintentional agenda of provoking deep divisions among the Muslims. The fact that all the great scholars of the religion, including the hadith experts, themselves belonged to madhhabs, and required their students to belong to madhhabs, seems to have been forgotten. Self-esteem has won a major victory here over common sense and Islamic responsibility.

The Holy Quran commands Muslims to use their minds and reflective capacities; and the issue of following qualified scholarship is an area in which this faculty must be very carefully deployed. The basic point should be appreciated that no categorical difference exists between *usul al-fiqh* and any other specialised science requiring lengthy training. Shaykh Said Ramadan al-Buti, who has articulated the orthodox response to the anti-Madhhab trend in his book: *Non-Madhhabism: The Greatest Bida Threatening the Islamic Sharia*, likes to compare the science of deriving rulings to that of medicine. "If one's child is seriously ill", he asks, "does one look for oneself in the medical textbooks for the proper diagnosis and cure, or should one go to a trained medical practitioner?" Clearly, sanity dictates the latter option. And so it is in matters of religion, which are in reality even more important and potentially hazardous: we would be both foolish and irresponsible to try to look through the sources ourselves, and become our own muftis. Instead, we should recognise that those who have spent their entire lives studying the Sunnah and the principles of law are far less likely to be mistaken than we are.

Another metaphor might be added to this, this time borrowed from astronomy. We might compare the Quranic verses and the hadiths to the stars. With the naked eye, we are unable to see many of them clearly; so we need a telescope. If we are foolish, or proud, we may try to build one ourselves. If we are sensible and modest, however, we will be happy to use one built for us by Imam al-Shafi'i or Ibn Hanbal, and refined, polished and improved by generations of great astronomers. A madhhab is, after all, nothing more than a piece of precision equipment enabling us to see Islam with the maximum clarity possible. If we use our own devices, our amateurish attempts will inevitably distort our vision.

A third image might also be deployed. An ancient building, for instance the Blue Mosque in Istanbul, might seem imperfect to some who worship in it. Young enthusiasts, burning with a desire to make the building still more exquisite and well-made (and no doubt more in conformity with their own time-bound preferences), might gain access to the crypts and basements which lie under the structure, and, on

the basis of their own understanding of the principles of architecture, try to adjust the foundations and pillars which support the great edifice above them. They will not, of course, bother to consult professional architects, except perhaps one or two whose rhetoric pleases them nor will they be guided by the books and memoirs of those who have maintained the structure over the centuries. Their zeal and pride leaves them with no time for that. Groping through the basements, they bring out their picks and drills, and set to work with their usual enthusiasm.

There is a real danger that Sunni Islam is being treated in a similar fashion. The edifice has stood for centuries, withstanding the most bitter blows of its enemies. Only from within can it be weakened. No doubt, Islam has its intelligent foes among whom this fact is well-known. The spectacle of the disunity and fitnas which divided the early Muslims despite their superior piety, and the solidity and cohesiveness of Sunnism after the final codification of the Shariah in the four Schools of the great Imams, must have put ideas into many a malevolent head. This is not to suggest in any way that those who attack the great madhhabs are the conscious tools of Islam's enemies. But it may go some way to explaining why they will continue to be well-publicised and well-funded, while the orthodox alternative is starved of resources. With every Muslim now a proud mujtahid, and with taqlid dismissed as a sin rather than a humble and necessary virtue, the divergent views which caused such pain in our early history will surely break surface again. Instead of four madhhabs in harmony, we will have a billion madhhabs in bitter and self-righteous conflict. No more brilliant scheme for the destruction of Islam could ever have been devised.●●●

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