



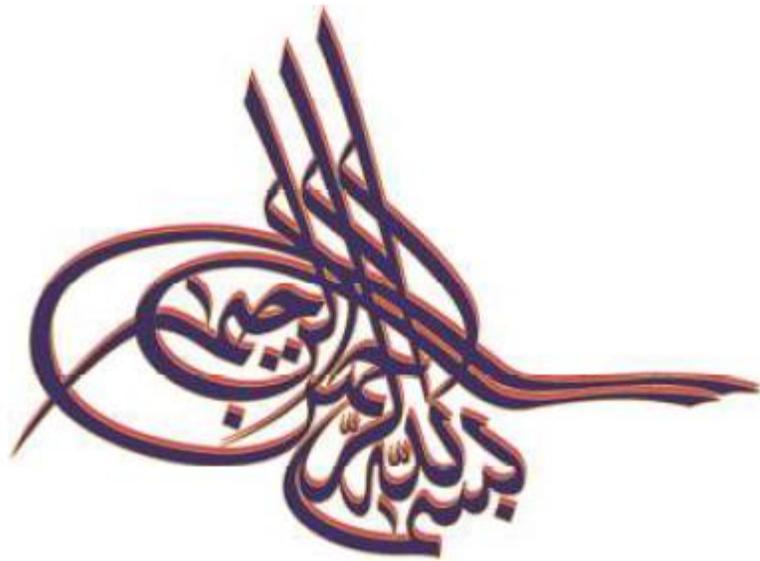
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# **Fatwaa-Making and the Use of Weak Hadith**

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"الأراء الفقهيية في هذا البحث تعبر عن رأي الباحث و ليس بالضرورة عن رأي أمجا"  
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*In the name of Allah, the Most Merciful, the Grantor of Mercy*

## **Introduction**

In the quest to make a fatwaa, an extremely important question regards the database of evidence that the mufti should resort rely upon to make his decision. Some forms of evidence are, in general, agreed upon. Others are disputed. Among the agreed upon sources, however, there exist differences concerning some of the details. In mainstream Sunni Islam, for example, the Sunnah is an agreed upon source of law. Technically speaking, the Sunnah stands for the reality that was the actual statements or practices of the Prophet (peace and blessings of Allah be upon him). That reality, though, is captured in the hadith literature. Hadith scholars have exerted great effort in sifting through the hadith material and deciding what has been preserved properly from that which has not been preserved properly. As is well-known, this led to the hadith scholars classifying hadith into *sahih* ("sound"), *hasan* ("good"), *dhaeef* ("weak"), *dhaeef jiddan* ("very weak") and *maudhoo* ("fabricated").

In general, a hadith is considered a proof in Islamic Law as long as it is graded *sahih* or *hasan* (or is deemed "acceptable"). This means that a hadith that is less than *hasan*, that is, weak, must not be considered a proof in Islamic Law. If it is not a proof in Islamic Law, does that mean that the *mufti* must not avail of it in any way or is there still some leeway to use weak hadith in *fatwaas*? This is the main theoretical issue that this paper shall seeks to explore.

Within this general theoretical issue there are these specific questions that need to be dealt with:

What should be the proper stance towards relating and acting upon weak hadith in general?

Can weak hadith establish the validity or the recommended status of a particular act?

In a conflict between analogy and weak hadith, which should take precedence?

In the absence of any other forms of evidence, can a mufti rely on weak hadith?

Behind all of these issues lies perhaps an even bigger question: Who defines what is to be classified as a *sahih/hasan/acceptable* or *weak/rejected* hadith? Since this paper is related to the issue of fatwaa-giving, it is important to discuss the definition of weak hadith according to the scholars of hadith as opposed to the jurists

or legal theorists. This is important to understand as it explains why there exists so many “weak” hadith in traditional books of *fiqh* and *fatwaa* collections. In particular, those whose background is only in the sciences of hadith are often perplexed by the existence and use of such hadith. This paper hopes to explain this phenomenon as well as suggest the best methodology, in-shaa-Allaah.

After the above topics are discussed, the author will offer his conclusions on the question of the *mufti* availing himself or herself of weak hadith.

### **The Hadith Scholars’ Definition of a Weak Hadith**

For the first part of this paper, the hadith scholars’ view of what classifies as a weak hadith shall be followed. It is important to keep in mind the goal and the purpose of the scholars of hadith. Their goal is to sift through the reports that have been attributed to the Prophet (peace and blessings of Allah be upon him) to determine which of them should be considered as actually said by the Prophet (peace and blessings of Allah be upon him) and which cannot be considered truly representing the Prophet’s words. The importance of this goal should not be under appreciated as once a statement is determined to be the Prophet’s words, it becomes an authority in Islamic Law. In conjunction with the Quran, it becomes part of the “texts” of the Shareeah.

Among the scholars of hadith, any hadith that does not meet the conditions for a *sahih* or *hasan* hadith will be deemed a rejected hadith. For a hadith to be considered acceptable “on its own merit”, it must meet the following five conditions:

- (1) the chain of narrators must be unbroken (in other words, the hadith must be traced all the way back to the Prophet (peace and blessings of Allah be upon him) without the names of any narrators missing from the chain);
  - (2) all of the narrators in the chain must be people of integrity and piety;
  - (3) all of the narrators in the chain must be either greatly or acceptably proficient;
  - (4) the narration may not contradict stronger reports or narrations;
- and,
- (5) there can be no hidden, damaging defect in the chain (for example, if it were discovered that a mistake was committed by one of the narrators).

The above are the conditions for a hadith to be *sahih lidhaatih* (*sahih* based on its own merits) or *hasan lidhaatih* (*hasan* based on its own merits).<sup>(1)</sup> There is another category of *hasan* that is of importance here. A report could be weak on its own but if it supported by other evidence, it could be raised to the level of *hasan*. This is known as *hasan lighairih* (“*hasan* due to other evidence”).

Thus, there are six conditions for an acceptable hadith from the hadith scholars’ perspective: the above five conditions plus the presence of supporting or corroborating evidence if so required.<sup>(2)</sup> If a hadith falls short of these conditions (or, in other words, being graded *hasan lidhaatih* or *hasan lighairih*), it is a rejected hadith.

There are numerous reasons why a hadith is rejected, some more damaging than others. As such, rejected hadith are also divided into three categories: weak hadith, very weak hadith and fabricated hadith. The category of particular concern here is weak hadith. The defects of weak hadith are “minor” in comparison to very weak hadith. For example, a weak hadith may contain narrators with poor memories but cannot contain narrators who have been accused of lying or whose piety is in question.

If a hadith is determined to be a fabrication, it is forbidden to narrate it as a hadith, not to speak of invoking it as a piece of evidence. In addition, according to al-Dhahabi, al-Alaaee and others, the scholars are also agreed that hadith which are “very weak”—those narrated by people implicated of lying, committers of grave sins, people who make gross errors in their narrations—are not allowed to be invoked as evidence or narrated without indicating their rejected nature.<sup>(3)</sup> Thus, al-Dhahabi stated, “Most of the Imams are very stringent when it comes to hadith related to *ahkaam* [fiqh rulings]. They make a little concession, not a complete concession, when it comes to virtues and heart-softening narrations. They accept in those cases what has a slight weakness to it but not that which is suspected [of forgery].

(1) The basic difference between *sahih* and *hasan* on their own merit has to do with the level of proficiency of the narrator. That is the only condition of the above five conditions that can be relaxed.

(2) Cf., Ahmad ibn Hajar, *al-Nukat ala Kitaab ibn al-Salaah* (Riyadh, Saudi Arabia: Daar al-Raayah, 1994), vol. 1, p. 493; Zain al-Deen al-Iraaqi, *Sharh Alfiyah al-Iraaqi al-Musammaah al-Tabsirah wa al-Tadhkirah* (Beirut, Lebanon: Daar al-Kutub al-Imiyyah, n.d.), vol. 1, p. 112.

(3) Cf., Muhammad al-Saeedi, “*Hukum al-Amal bi-l-Hadeeth al-Dhaeef wa Atharuh fi al-Ahkaam*,” (Master’s Dissertation, Jaamiah Umm al-Quraa, 1415-1416 A.H.), vol. 1, p. 222. Al-Saeedi then goes on to explain how a statement from al-Nawawi could be construed to understand that even very weak hadith, as long as they are not fabricated, may be invoked and acting upon. Al-Saeedi argues that although that is an implication of al-Nawawi’s statement, it was not what was meant. Al-Saeedi, vol. 1, p. 223.

Fabricated and greatly weak hadith are never turned to. In fact, they narrate them only to warn people about them."<sup>(4)</sup>

One of the aspects that distinguished a weak hadith from a very weak hadith—a point which is of philosophical significance here—is that the qualities of the narrators of a very weak hadith are such that even if some of them corroborated each other, they still would not be believed. However, a weak hadith which is not very weak is such that if corroborating evidence could be found for it, it could be raised to the level of *hasan*. The possibility of there being that corroborating evidence “out there” is what makes weak hadith that special case that is discussed here.

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(4) Shams al-Deen al-Dhahabi, *Siyar Alaam al-Nubalaa* (Beirut, Lebanon: Muasassah al-Risaalah, 1985), vol. 8, p. 520.

## **Scholarly Opinions on Dealing with Weak Hadith in General<sup>(5)</sup>**

There is a difference of opinion among the scholars concerning the relating of and acting in accordance with weak hadith. Basically, one may say that there are three opinions on acting in accordance with weak hadith:

(1) The first opinion states that weak hadith may be used with virtually no restrictions with respect to their subject matter. This opinion has been attributed to Ahmad and Abu Dawood.

(2) The second opinion states that weak hadith may be acted upon given certain conditions. (The conditions shall be stated below.) This is the view of a large number of scholars.

(3) The third opinion states that weak hadith are never to be acted upon. This view is held by a minority of scholars.

### **The First Opinion: Weak Hadith May Be Used Without Any Restriction on Its Subject Matter**

The first opinion, as it is generally stated, is that it is allowed to act according to weak hadith in general with virtually no further conditions restricting their subject matter, such as fiqh, the virtuousness of deeds and so on. As al-Khudair points out, there are two conditions that the scholars of this view apply to the hadith: the hadith cannot be very weak and there can be no other acceptable and contradictory text on the topic.<sup>(6)</sup> Since this is something of a special case, the details of this view will be discussed later under the heading, "The Mufit Resorting to a Weak Hadith in the Absence of Other Evidence."

### **The Second Opinion: Conditional Application of Weak Hadith**

The second view states that it is allowed to act according to weak hadith related to certain topics when those hadith meet certain conditions. This definitely seems to be the view of the majority of the scholars from the third or fourth century until modern times. However, it should be noted that, especially for some of the earliest scholars, the inclusion in this group is more by implication rather than by explicit statement.<sup>(7)</sup> (The same can be said for many whom some authors include to

(5) This author dealt with this topic in some detail in Jamaal Zarabozo, *Commentary on the Forty Hadith of al-Nawawi* (Denver, CO: Al-Basheer Publications, 1999), vol. 1, pp. 80-101. Although most of that material is presented here, this is an updated and expanded discussion of this topic.

(6) Abdul Kareem al-Khudair, *Al-Hadeeth al-Dhaeef wa Hukm al-Ihtijaj bihi* (Riyadh: Daar al-Muslim, 1997), p. 250.

(7) There is a difference between a hadith scholar stating that it is permissible to, under certain circumstances, narrate weak hadith and that scholar explicitly stating that it is permissible to act upon such weak hadith. If this difference is overlooked, it can lead to an incorrect conclusion that these early scholars allowed for acting upon such weak hadith. Cf., Abdul Rahman al-Muallimi al-Yamaani, *al-Anwaar*

be supporters of the third opinion on this issue.) According to al-Saeedi, some scholars have explicitly endorsed this view, including ibn al-Salaah, ibn Abdul-Barr, ibn Hajar<sup>(8)</sup> and al-Sakhaawi.<sup>(9)</sup> In his introduction to his forty hadith collection, Al-Nawawi claims a consensus on this point.<sup>(10)</sup> Other scholars have followed al-Nawawi in claiming agreement on this issue.<sup>(11)</sup> Recently, Aaliyah Baalatu has presented quotes from various scholars over the centuries, including many contemporary scholars, to demonstrate that this has been the only opinion of the scholars until recent times.<sup>(12)</sup>

Elsewhere, al-Nawawi elaborated, "The scholars say: In law, it is not allowed to use anything except *sahih* or *hasan* hadith nor can anything be confirmed but by such hadith. Weak hadith are not acceptable for such things but they may be acted upon concerning things that do not touch Islamic creed and law, such as the virtuousness of deeds, admonition and so on."<sup>(13)</sup>

In sum, this view states: Weak hadith that have to do with creed, the attributes of Allah, what is forbidden or permissible, and so on, cannot be related, may not be used as legal proofs, and may not be acted upon. Those weak hadith dealing with the virtuousness of deeds, exhorting and inciting people to do good deeds and intimidating them away from evil deeds, and so on, may be related and may be acted upon if they meet certain conditions.

Over time scholars were more and more explicit as to the conditions required for acting upon weak hadith. These conditions can be summarized as follows:

- (i) As described above, the topic of the hadith must be related to *al-targheeb wa al-tarheeb* ("incitement and intimidation"), *fadhaail al-amaal* ("virtues of actions") and the like. This is commented on in greater detail below.

*al-Kaashifah lima fi Kitaab Adhwaa ala al-Sunnah min al-Zilal wa al-Tadhleel wa al-Mujaazifah* (Beirut, Lebanon: Aalim al-Kitaab, 1986), pp. 87-88. See, for example, the narrations recorded in Abu Bakr Ahmad al-Khateeb al-Baghdaadi, *al-Kifaayah fi Ilm al-Riwaayah* (Madinah, Saudi Arabia: al-Maktabah al-Ilmiyyah), pp. 133-134.

(8) As shall be noted later, this author questions the attribution of this view to ibn Hajar.

(9) Cf., al-Saeedi, vol. 1, p. 237. Al-Saeedi includes ibn Taimiyyah in this category as well. Ibn Taimiyyah's views will be discussed later, in-shaa-Allaah.

(10) See Ezzedin Ibrahim and Denys Johnson-Davis, trans., *Al-Nawawi's Forty Hadith* (Beirut: Dar al-Quran al-Kareem, 1976), p. 22. Al-Nawawi has been criticized for stating there is a consensus on matters while, in reality, there are well-known differences of opinion on those issues. Al-Khudhair (pp. 299-300) gives examples of al-Nawawi claiming a consensus on a point and then al-Nawawi himself quoting those who have differing opinions.

(11) For quotes from various scholars see Abdul Fattaah al-Yaafiee, *Hukum al-Amal bi-l-Hadeeth al-Dhaeef ind al-Muhadditheen wa al-Fuqahaa* (<https://alhabibia.files.wordpress.com/2015/12/hukmul-amal-bil-hadees-ul-zaeef.pdf>) pdf, p. 4.

(12) Aaliyah Baalatu, "Al-Amal bi-l-Hadith al-Dhaeef ind al-Ulamaa min al-Muhadditheen wa al-Fuqahaa Ibr Quroon al-Ummah al-Islaamiyyah," *Majallah Markaz al-Buhooth wa al-Diraasaat al-Islaamiyyah*, No. 36), pp. 142-209.

(13) Yahya al-Nawawi, *Ma Tamassu Ilaihi Haajah al-Qaari li-Saheeh al-Imaam al-Bukhaari* (Makkah: Daar al-Baaz, n.d.), p. 87.

- (ii) The hadith in question must not be very weak but it must be from among those types of weak hadith that only have minor defects. For example, the hadith may not be one which is related solely by liars. (As noted earlier, all scholars of this view seem to agree on this condition.)
- (iii) The hadith is taken as subservient to a confirmed *as/* (foundation). Therefore, it may not be used to establish something that has no basis in the confirmed sources.
- (iv) The reward that is stated in the hadith should not be expected by the one who performs the deed but, instead, the deed should be done more out of safety and a hope for some type of reward from Allah nonetheless.
- (v) Ibn Hajar, one of the most important hadith scholars that advocates of this view attach themselves to, adds another interesting condition. In a book that he wrote about the month of Rajab, he stated the doer of the act that is based on a weak hadith should not make the act public so that no one else may act upon that hadith and think something is sanctioned while it is not sanctioned or so that no ignorant people might see the person doing the act and think that the act is an authentic sunnah.<sup>(14)</sup>
- (vi) Subhi al-Saalih adds one more condition. This is that the hadith should not be in contradiction to something that is stronger than it.<sup>(15)</sup> This condition was not mentioned by the earlier scholars. Most likely, the reason it was not mentioned by any of the earlier scholars is that if condition (iii) is applied, then this condition becomes superfluous.

### **Important Questions Concerning the Subject Matter of “Usable Weak Hadith”**

The scholars of this view are in agreement that weak hadith cannot be used to determine fiqh rulings. Instead, they may be narrated and acted upon with respect to what they term *al-targheeb wa al-tarheeb* (“incitement and intimidation”) and *fadhaail al-amaal* (“the virtues of deeds”).

(14) Ahmad ibn Hajar, *Tabyeen al-Ajab bima warad fi Fadhl Rajab* (Cairo: Maktabah Saleem al-Hadeethah, 1971), p. 22. To this author, it seems that this condition in itself should keep a person from acting upon weak hadith.

(15) Subhi al-Saalih, *Uloom al-Hadeeth wa Mustalahuh* (Beirut: Dar al-Ilm al-Malayeen, 1981), p. 212.

*Al-Targheeb wa al-tarheeb* refers to those hadith in which the Prophet (peace and blessings of Allah be upon him) has made a statement that incites a person to perform a good deed or intimidates a person away from doing an evil deed. One of the difficulties with this view is to identify which hadith would actually meet the conditions that they state, even the most fundamental question of the topic of the hadith. For example, *al-targheeb wa al-tarheeb* are sometimes derived from hadith of a fiqh ruling nature. Al-Saeedi notes how al-Mundhiri's work *al-Targheeb wa al-Tarheeb* is filled with hadith of this nature.<sup>(16)</sup>

Much more important and controversial is the understanding of the phrase *fadhaail al-amaal* فضائل الأعمال. This term is vague. It could mean, "virtues or distinguishing features of deeds," or, "virtuous deeds (الأعمال الفاضلة)." The difference between the two interpretations is significant.

If the meaning of the phrase is, "virtues of deeds," it is then in reference to deeds that are already established in the Quran and Sunnah. In other words, with respect to an established deed, there is a weak hadith that claims specific merits for that act. As al-Laknawi stated, most of the commentaries on the *Forty Hadith* of al-Nawawi (who uses this expression in his introduction) understand the phrase in this manner.<sup>(17)</sup>

Al-Laknawi rejects that interpretation on a couple of points. First, he says that it contradicts the practice of the jurists and hadith scholars who have regularly declared actions recommended based on weak hadith.<sup>(18)</sup> Al-Saeedi responds to this argument by using al-Laknawi's own statements from later in his own book. Al-Laknawi later laments that many books of fiqh use baseless hadith, including fabricated hadith, even in deriving fiqh rulings while no weight should be given to them.<sup>(19)</sup> Thus, al-Laknawi himself demonstrates that their practice then cannot be used as an indication of how this phrase is to be understood, as they improperly use hadith in general according to him.

Al-Laknawi also argues that if one understands *fadhaail al-amaal* to refer only to actions that have some already established basis in acceptable proofs, there would be no meaning to distinguishing between *fadhaail al-amaal* and *al-targheeb wa al-*

(16) See al-Saeedi, vol. 1, pp. 228-230.

(17) Abu al-Hasanaat al-Laknawi al-Hindi, *Al-Ajwibah al-Faadhilah li-l-Asilah al-Ashrah al-Kaamilah* (Beirut, Lebanon: Maktab al-Matboo'at al-Islaamiyyah, 1994), p. 54.

(18) Al-Laknawi, p. 54

(19) See al-Saeedi, vol. 1, p. 234. See al-Laknawi's very harsh criticism of the hadith used in various fiqh books, al-Laknawi, pp. 29-30.

*tarheeb*.<sup>(20)</sup> This argument was also responded by al-Saeedi, who noted that there would still be a difference between the two phrases as *al-targheeb wa al-tarheeb* would be inclusive of stories, admonitions, descriptions of Paradise and Hell and so forth. So the one term is more general than the other and it is not unusual for scholars to use a more general term followed by a more specific term in their speech.<sup>(21)</sup>

Al-Laknawi also argues that if *fadhaail al-amaal* were simply referring to the virtuousness of established deeds there would be no point in ibn Hajar's other conditions, wherein he states that the action must fall under an acceptable principle and that the doer must not expect the reward implied in the hadith. Al-Laknawi argues that if an act falls within the general scope of acceptable acts, then weak hadith can be used to affirm its recommended status.<sup>(22)</sup> Actually, as al-Saeedi notes, ibn Hajar's conditions are conditions that will ensure that one uses only hadith stating the virtuousness of proven deeds as opposed to using hadith to prop up unsupported actions.<sup>(23)</sup>

If the meaning is "virtuous deeds," the obvious question is: What is a virtuous deed that is not related to the fiqh rulings? Al-Laknawi endorses al-Dawaani's view. Al-Dawaani states that if there is an action that does not fall within the realm of prohibition or dislike, then, he says, it is permissible—in fact, recommended—to act upon such a hadith as there is no danger in it and one can hope for its benefits. If, he continues, the action could be between permissible and recommended, it is safest to act upon it and hope for its reward. If the action wavers between recommendation and prohibition, then there is no room to recommend that act. If it is between disliked and recommendation, then it needs to be further investigated to see which aspect, dislike or recommendation, is weightier.<sup>(24)</sup>

Al-Saeedi comes to the same conclusion as did the majority of commentators on the Forty Hadith of al-Nawawi, as al-Laknawi himself stated, that *fadhaail al-amaal* refers to hadith that simply state the virtuousness of actions that have been affirmed in the authentic sources. One of the reasons that he comes to this conclusion is that the earlier scholars stated that weak hadith cannot be used to establish legal rulings (*ahkaam*). Declaring an act for which there is no other

(20) Al-Laknawi, p. 54. Al-Laknawi also makes the argument that his view is consistent with a passage from al-Nawawi. However, al-Nawawi's application is different from what he is implying, as shall be noted later, in-shaa-Allaah.

(21) Al-Saeedi, vol. 1, pp. 234-5.

(22) Al-Laknawi, p. 55.

(23) Al-Saeedi, vol. 1, p. 235.

(24) Al-Dawaani was quoted at length in al-Laknawi, pp. 55-59. A portion of it as quoted in al-Saeedi, vol. 1, p. 232.

authentic report a recommended act is a legal ruling (as shall be discussed, in-shaa-Allaah). As such, when using weak hadith in the fashion that al-Laknawi suggests, it would violate their agreed upon principle not to use weak hadith to establish fiqh rulings. Second, al-Saeedi states that al-Laknawi's interpretation opens the door for innovators as every heretic believes that their deeds are virtuous and many times they have nothing but weak reports to support their acts. Al-Saeedi states, "There is no doubt that those Imams who said that it is permissible to act by weak hadith in *al-targheeb* or *fadhaail* would not be pleased with that or anything near that result."<sup>(25)</sup>

### **What is the meaning of *Asl* in the conditions?**

Ibn Daqeeq al-Eid wrote in application of this condition, "[The hadith] must fall under a general foundation. Thus, if there is a weak hadith related to praying two *rakahs* after high noon, for example, then it is to be acted upon as it falls under a general foundation, which is the Prophet's statement, 'Prayer is the best matter. If anyone can increase its number, let him do so.'<sup>(26)</sup><sup>(27)</sup> Could it possibly be the case that this condition now allows the application of any weak hadith that states the virtues of any prayer simply because prayer as a whole is established on a sound foundation?

There are two possible meanings for the word *asl* in this condition: a piece of evidence or a general principle. If *fadhaail al-amaal* is taken to mean "the virtues of deeds," then *asl* here will be understood to mean evidence that directly supports a particular deed. In other words, there is sound evidence (a verse, authentic hadith or consensus) that exists that demonstrates that Allah loves a particular deed. That would be the *asl*. Now if a weak hadith is found declaring the virtues of that deed, such a hadith could be narrated and acted upon according to this opinion. However, the other possible meaning for the word *asl* is claimed by those who say that *fadhaail al-amaal* means "virtuous deeds." For scholars like al-Laknawi, the word stated by ibn Hajar, *asl*, means a general, not specific, indication for an act. Thus, they do not require a text describing a specific action.

The correct understanding of this term definitely seems to be the first meaning, an authentic piece of evidence. Al-Saeedi states that he has no doubt that understanding it the other way would open the door for numerous innovated acts

(25) Al-Saeedi, vol. 1, p. 236.

(26) It is interesting that he uses a hadith whose authenticity is controversial to establish his point.

(27) Taqiyy al-Deen ibn Daqeeq al-Eid, *Sharh al-Arbaeen al-Nawawiyyah fi al-Ahaadeeth al-Saheehah al-Nabawiyyah* (Muasassah al-Rayaan), p. 20.

that have no source in anything authentic. In addition, by narrating hadith that describe acts that are not found in the authentic text and then stating that there is some recommendation to do that, one is now completely relying upon a weak source to establish a Shareeah ruling. That clearly and unequivocally contradicts what the early scholars stated concerning narrating weak hadith.<sup>(28)</sup>

### **Two Very Different Views within this One Opinion**

The above discussion concerning the meaning of *fadhaail al-amaal* and *asl* demonstrates that there are actually two very different variations within this group that is traditionally referred to as conditionally allowing the use of weak hadith. One set of scholars, which does seem to be the minority and which can be referred to as the liberal approach, uses the principle of weak hadith to substantiate and support actions that have no clear, direct evidence for them in the Quran or authentic reports. The other set of scholars, which could be referred to as the restrictive approach, stops far short of that and uses weak hadith to only further buttress the support for doing good deeds or remaining away from evil deeds. This latter approach is the approach of the majority and, according to al-Saeed, the intent of the early scholars.

The difference in these two approaches actually affects what can be considered evidence for this second opinion concerning weak hadith.

### **Evidence for the Second Opinion: Appeal to Authority**

The evidences offered for this view are basically three: appeal to authority, logical arguments and textual arguments.

The most common argument offered for this view is the appeal to authority.<sup>(29)</sup> The first aspect of this argument is to claim that the scholars agree on this point or that there is a consensus on this matter. The second aspect is to quote numerous scholars who were in support of this view.

Concerning the claim of consensus, Al-Nawawi has made such a claim in the introduction to his *Forty Hadith* and many have in turn quoted this claim from al-Nawawi. If there were truly a consensus on this question, then the issue would be settled. However, this claim cannot be substantiated in this case, as is the case with many claims of consensus. It shall be demonstrated shortly that there are many disagree with this view. In fact, both al-Dhahabi and ibn Rajab, while touching upon

(28) Cf., al-Saeedi, vol. 1, p. 240.

(29) "Appeal to authority" simply means that one quotes known and respected scholars who hold that view. This in itself is not a proof. It is not sufficient for the argument to be considered conclusive. An acceptable argument by the scholars must be given in order for the view to be considered acceptable. Of course, if there is a consensus, that is a different issue, as consensus is a proof in Islamic Law.

this view, stated that it is held by the majority. They did not claim a consensus.<sup>(30)</sup> Dhamurah states, "It is clear that the claim that there is an agreement on acting according to weak hadith concerning *fadhaail al-amaal* is far from being precise, especially given that the difference of opinion on this issue has been confirmed and those who opposed acting by weak hadith on such issues have expressed their opposition."<sup>(31)</sup>

The second aspect of this argument is to quote early scholars who seem to have held this view and therefore, the argument goes, the view should be accepted as it is the view of the leading hadith scholars. The proponents of this opinion point to such great scholars as Ahmad ibn Hanbal, Sufyaan al-Thauri, Abdul Rahmaan ibn Mahdi and Abdullah ibn al-Mubaarak as supporting this opinion. All of them have been reported to have said something similar to, "When it comes to permissible and forbidden, we are very tough on the chain but when it comes to virtuous acts, we ease up on our conditions."<sup>(32)</sup>

Again, scholars familiar with the history of hadith realize that during the time of the four eminent scholars mentioned above, hadith were basically divided into two types: *sahih* and *dhaeef* (weak). Ibn Taimiyyah has argued that the statements the scholars made meant only that when it came to permissible and forbidden they would accept hadith of only the highest degree of acceptability. But when it came to hadith stating the virtuousness of acts, they would drop somewhat their requirements and accept other hadith. All that the statements of the scholars mentioned above really meant is that they would accept hadith of a lower degree in virtuousness of acts and this lower degree of hadith is equivalent to al-Tirmidhi's *hasan*. Therefore, their statements in no way imply that they ever accepted or acted by what is known today as weak hadith.<sup>(33)</sup> Ibn Taimiyyah also makes the argument

(30) See the quote presented earlier from al-Dhahabi, *Siyar Alaam al-Nubalaa*, vol. 8, p. 520. For ibn Rajab, see Zain al-Deen Abdul Rahmaan ibn Rajab, *Sharh Illal al-Tirmidhi* (al-Zarqaa, Jordan: Maktabah al-Manaar, 1987), vol. 1, p. 371.

(31) Abdul Jaleel Dhamurah, "al-Istidlaal bi-I-Hadeeth al-Dhaeef fi Fadhaail al-Amaal wa Qadhaayaa al-Ahkaam," *Majallah Jaamiah al-Shaariqah li-I-Uloom al-Shariyyah wa al-Qaanooniyyah* (Vol. 8, No. 2, June 2011), p. 61.

(32) Statements like these have been recorded by al-Khateeb al-Baghdaadi, *al-Kifaayah fi Ilm al-Riwaayah* (Beirut: Daar al-Kutub al-Ilmiya, n.d.) p. 134.

(33) Ibn Taimiyyah discusses this point in many places, e.g., Ahmad ibn Taimiyyah, *Majmoo al-Fataawaa* (Madinah, Saudi Arabia: Majma Malik Fahd, 1995), vol. 1, pp. 251-2; vol. 18, p. 249; vol. 17, p. 12 and so on. Muhammad Awwama has written a long discourse refuting this interpretation of ibn Taimiyyah. He tried to show that *hasan* was a common technical term before al-Tirmidhi. Cf., Dhafar al-Thaanawi, *Qawaaid fi Uloom al-Hadeeth* (Halab, Syria: Maktab al-Matbuaat al-Islaamiyya, 1984), pp. 100f. Al-Durais demonstrates that the term *hasan* was used in many different ways before al-Tirmidhi. See Khaalid al-Durais, *Al-Hadeeth al-Hasan Lidhaatihu wa Lighairihi: Diraasah Istiqraaiyyah Naqdiyyah* (Riyadh, Saudi Arabia: Adhwa al-Salaf, 2005), vol. 1, pp. 77-395 and vol. 2, pp. 396-840. Al-Durais demonstrates that al-Tirmidhi did introduce a new concept of *hasan lighairih* but he also makes the point, given that new definition, that not every hadith which is termed *hasan* is considered an authority. Furthermore, many of the early scholars referred to *hasan lidhaatih* simply as *sahih*. Cf., al-Durais, vol. 4, pp. 1783-1801.

that all that was meant by those scholars is that for those actions that have been affirmed in the Quran or authentic hadith, they would allow narrations of weaker value since such narrations would not provide any new legal status.<sup>(34)</sup>

This interpretation is confirmed by a statement of Sufyaan al-Thauri, one of those early scholars. Al-Khateeb al-Baghdaadi quotes him as saying, "Do not accept the knowledge of what is permissible or forbidden except from the most erudite scholars, those who know what have been added to or been deleted from the hadith. For other topics, there is no problem with accepting other *shaikhs*;"<sup>(35)</sup> that is, they would only accept the highest quality of narrators, or *sahih* hadith, in legal matters while they would accept *shaikhs* for other hadith. In the terminology of judging narrators, *shaikhs* are those people whose honesty is known but who are not of the highest level of proficiency, therefore their hadith are considered *hasan* and not *sahih*.

Ibn Taimiyyah's interpretation concerning *hasan* may bring up more questions than it answers: Does that mean that they do not accept *hasan* hadith in matters of law? Are not *hasan* hadith considered proofs in Islamic law?<sup>(36)</sup> In other words, do their words demonstrate that not only did they resort to weak hadith but later scholars actually use those hadith in fiqh now and call them *hasan*?

Al-Durais, in his extremely detailed study of *hasan* hadith, has studied the reports from the early scholars that purportedly demonstrate that these scholars accepted acting upon weak hadith, as al-Nawawi and other later scholars claim. He discusses a number of possibilities for their meanings. First, for example, he notes that upon close inspection one can see that, for the most part, those narrations from early scholars do not touch upon the question of using weak hadith as evidence or about acting in accordance with weak hadith. Instead, they are speaking about the question of narrating, hearing, recording or saving for consideration hadith of that nature. The act of recording a hadith by the scholars of hadith does not necessitate that one acts upon that hadith, as they used to record hadith so that they would be

(34) Cf., ibn Taimiyyah, *Majmoo*, vol. 18, pp. 65-68.

(35) Al-Khateeb, *al-Kifaaya*, p. 134.

(36) This does leave one problematic issue with respect to *hasan lighairih* hadith. The early scholars would only resort to such hadith if they knew of nothing stronger and if there was nothing to oppose such "weak" hadith, such as a statement of a Companion or some kind of consensus. According to ibn al-Qattaan, one of the greatest hadith scholars of the Western portion of the Muslim world, such hadith are only to be accepted in exhorting to virtuous deeds and should not be accepted in legal rulings unless such a hadith has numerous chains, has been acted upon since the early years, has an authentic hadith to support it or is consistent with the apparent meaning of the Quran. After quoting ibn al-Qattaan, ibn Hajar says that he also leans toward that position expressed by ibn al-Qattaan. Allah knows best. See ibn Hajar, *al-Nukat*, vol. 1, pp. 402-403.

known (and possibly supported by other narrations).<sup>(37)</sup> (This is one of the reasons why so many weak hadith can be found in the various works of hadith.) Second, he states that such reports at most demonstrate that some early scholars considered it permissible to use weak hadith to a limited extent related for *fadhaail* and the like. They did not, though, state that it is required to abide by such hadith.<sup>(38)</sup> In other words, it is still not an authority in Islamic Law.

After discussing a couple of more points, al-Durais concludes that these early statements when studied in detail have various meanings to them: (1) The reports are in reference to hadith that state virtues for actions that have already been confirmed in the Quran or authentic hadith, as ibn Taimiyyah explained; (2) the reports are in reference only to recording the hadith or narrating them with their chains and do not imply acting upon them; (3) the reports are in reference to hadith that are at the lowest level of *hasan lidhaatih* or close to them; (4) the reports are in reference to narrations other than hadith of the Prophet (peace and blessings of Allah be upon him), such as narrations from other scholars, or related to the remembrance of Allah.<sup>(39)</sup> Al-Durais then goes on to argue that although some leeway would have been afforded to those early scholars who were still in the process of preserving, and therefore still seeking supporting narrations, that window needs to be closed today given that that need no longer exists and given the general level of ignorance among the masses concerning dealing with hadith.<sup>(40)</sup>

Importantly, al-Durais goes on further to note that it cannot be denied that some hadith scholars did distinguish between hadith related to fiqh rulings and hadith related to *fadhaail* and *al-targheeb wa al-tarheeb*. But, he says, that does not open the door to acting by weak hadith. The Hanbali scholar ibn Muflih noted that Ahmad ibn Hanbal did not consider *salaat al-tasbeeh* an acceptable act even though its reports were well-known and even some scholars concluded that they are authentic. Similarly, Ahmad did not believe in wiping twice while making *tayammum* even though there are numerous reports concerning that. Al-Durais then states that, indeed, their relaxing of their requirements only extended to certain forms of *hasan lighairih* hadith, as there are some hadith described as *hasan al-lighairih* which are not considered *hujjah* (an authority).<sup>(41)</sup>

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(37) Al-Durais, vol. 5, pp. 2333-2334.

(38) Ibid., vol. 5, pp. 2334-2335.

(39) Ibid., vol. 5, p. 2336.

(40) Ibid., vol. 5, pp. 2336-2337.

(41) Ibid., vol. 5, pp. 2338-2339.

The conclusion concerning this appeal to authority is that a number of the narrations that they quote to demonstrate how widespread and accepted this view was do not actually support the view that it is permissible to act according to weak hadith—neither its restricted view and definitely not in its more liberal understanding.

In fact, among the later scholars, one of the most prominent figures referred to as being in support of a conditional acting upon weak hadith was the very important hadith scholar ibn Hajar.<sup>(42)</sup> However, when examined closely, the quotes that are offered from ibn Hajar do not explicitly support this view. Perhaps the strongest evidence produced concerning ibn Hajar is his student al-Sakhaawi stating this his teacher stated and wrote to him that there are three conditions for acting upon weak hadith. Then he stated the three conditions of the hadith not being very weak, that it is subservient to a more general evidence and that upon acting upon it the person does not believe that it is confirmed from the Prophet (peace and blessings of Allah be upon him), in order to avoid falsely attributing something to the Prophet (peace and blessings of Allah be upon him).<sup>(43)</sup> Stating these conditions does not necessarily imply the acceptance of that view. One could easily imagine a scholar who does not follow the view of applying weak hadith stating to his students, "If you are going to apply such hadith, at least make sure that these conditions are met." Furthermore, in his work defending the *Musnad* of Ahmad from the claim that it contains fabricated hadith, he comments on a hadith about the virtues of Asqalaan. First, he states that there is nothing specific in the hadith that is clearly objectionable from a Shareeah or logical perspective, that would lead one to conclude that it is fabricated. Then he states, "The methodology of Imam Ahmad is well-known with respect to being lenient when it comes to narrating hadith related to *fadhaail*, but not hadith related to fiqh rulings, as was explained at the beginning."<sup>(44)</sup> (Note that ibn Hajar says that Ahmad allowed the narrating of those hadith, with no mention of acting by such hadith.) Here ibn Hajar is not explicitly endorsing Ahmad's methodology. He is simply stating that that was Ahmad's methodology and that is why one finds that weak or very weak—but not fabricated—hadith in *Musnad Ahmad*. In another passage that is sometimes quoted, he wrote that it has become well-

(42) Dhamurah (pp. 61-65) discusses how, as in all sciences, the attitude toward weak hadith evolved from a technical perspective and how it culminated in the writings of ibn Hajar who was one of the first to combine the conditions that were implied or stated explicitly by earlier scholars in their treatment of weak hadith.

(43) Shams al-Deen al-Sakhaawi, *al-Qaul al-Badee fi al-Salaat ala al-Habeeb al-Shafee* (Daar al-Rayyaan li-l-Turaath), p. 255.

(44) Ahmad ibn Hajar, *al-Qaul al-Musaddid fi al-Dhibb an al-Musnad lil-Imaam Ahmad* (Cairo, Egypt: Maktabah ibn Taimiyyah, 1401 A.H.), p. 27.

known that the people of knowledge were lenient when it came to recording hadith related to *fadhaail*, even if it is weak—as long as it is not fabricated.<sup>(45)</sup> Again, no explicit statement of endorsing that view. Very interestingly, ibn Hajar adds a different condition from what al-Sakhaawi narrated from him. He stated the doer must believe the hadith is weak and doer of the act that is based on a weak hadith should not make the act public so that no one else may act upon that weak hadith and think something is sanctioned while it is not sanctioned or so that no ignorant people might see the person doing the act and think that the act is an authentic sunnah.<sup>(46)</sup> He said that al-Izz ibn Abdil-Salaam made this point before and stated that it by keeping it private the person protects himself from falling under the hadith, “He who relates from me something which he deems false is one of the liars.”<sup>(47)</sup> Ibn Hajar then says, “What about the one who acts upon it?”<sup>(48)</sup> Then ibn Hajar very clearly states, “When it comes to acting upon hadith, there is no difference between fiqh rulings and *fadhaail*, as they are all [part of the] Shareeah.”<sup>(49)</sup> This explicit statement is in line with the other statements often quoted from ibn Hajar and demonstrates that ibn Hajar, although often cited, was not from those scholars who called for acting upon weak hadith, even given the conditions that he himself had stated. And Allah alone knows best.<sup>(50)</sup>

### **Evidence for the Second Opinion: A Logical Argument**

A logical argument was presented by al-Haitami in support of this opinion. He wrote,

If the hadith is actually *sahih*, then you have fulfilled its right in acting according to it. Otherwise, [if it is not *sahih*,] then acting upon it has not brought about any harm in the sense of permitting something, prohibiting something, or violation of rights, even of anybody else.<sup>(51)</sup>

(45) ibn Hajar, *Tabyeen*, p. 23.

(46) Ibid.

(47) Recorded by Ahmad and others. Al-Arnaaoot considers it *sahih*. Cf., Shuaib al-Arnaaoot, et al., footnotes to Ahmad ibn Hanbal, *Musnad al-Imaam Ahmad ibn Hanbal* (Beirut, Lebanon: Muassasah al-Risaalah, 2001), vol. 30, pp. 121f. There are two ways to read this hadith. One is as above and the above is, “Whoever narrates a hadith that is viewed to be false,” that is, viewed by the people of knowledge to be false.

(48) Ibn Hajar, *Tabyeen*, p. 24.

(49) Ibid., p. 26. This sentence immediately follows the preceding reference but due to a lengthy footnote by the editor, it appears over a page later in the book.

(50) This author is aware of al-Mubaarakfoori (vol. 4, p. 161) stating concerning a particular hadith, “Ibn Hajar said, ‘The slightly broken chain (*al-irsaal*) here does not harm it as *mursal* is a type of weak hadith that is not greatly strong and they are applied in *fadhaail al-amaal*.’” Unfortunately, al-Mubaarakfoori, who died almost six centuries after ibn Hajar, does not state his source for this quote and therefore one cannot check the context in which ibn Hajar may have made that statement. As has been demonstrated, sometimes the context changes the perspective completely. See Abu al-Hasan Ubaidullah al-Mubaarakfoori, *Miraat al-Mafaateeh Sharh Mishkaah al-Masaabeeh* (Banaras, India: Idaarah al-Buhooth al-Jaamiah al-Salafiyah, 1984), vol. 4, p. 161.

(51) Ahmad ibn Hajar al-Haitami, *Fath al-Mubeen li-Sharh al-Arbaeen* (Beirut: Daar al-Kutub al-Ilmiyyah, 1978), p. 36.

This argument is sometimes buttressed by the following hadith:

مَنْ بَلَغَهُ عَنِ اللَّهِ شَيْءٌ فِيهِ فَضِيلَةٌ فَأَخَذَ بِهِ إِيمَانًا بِاللَّهِ وَرَجَاءً ثَوَابِهِ أَعْطَاهُ اللَّهُ ذَلِكَ وَإِنْ لَمْ يَكُنْ كَذَلِكَ

“If anyone is told a statement from Allah concerning a noble act and he then takes it, believes in it and hopes for its reward, Allah will give him that reward even if it were not the case.” This hadith has been related in a number of different ways through different Companions. It has been recorded by al-Dailami and others. However, this hadith is definitely not authentic, as the scholars of hadith themselves have demonstrated.<sup>(52)</sup> There are two other hadith that are sometimes quoted to support this view. They have similar meanings to the above and they are also as weak as the above hadith.<sup>(53)</sup> Therefore, since none of these hadith are acceptable as proofs in the *shareeah*, they cannot be used as an argument to support the case of narrating and acting by weak hadith. It is perhaps the ultimate in circular reasoning to use a weak argument to prove that weak hadith should be followed.

With this hadith out of the way, al-Haitami’s logical argument can be discussed in more detail. When one thinks in terms of hypothesis testing, al-Haitami is essentially arguing that the confidence level should be relaxed for hadith of a *fadhaail* nature. Thus, when it comes to fiqh rulings, one wants to be very careful about type II errors, that is, affirming a hadith that is not actually authentic. When it comes to *fadhaail* that is of much less importance and one can be more relaxed since one is only affirming a possibly good deed. At first glance, this argument seems convincing. Keeping in mind that al-Haitami’s view is that *fadhaail* refers to “virtuous deeds” and not the “virtues of deeds,” this argument becomes not very convincing. An act that has no sound basis in the Shareeah meets the definition of an innovation. Thus, the choice is between affirming an act that is based on only weak hadith (thus performing an act that is essentially an innovation), and rejecting an act rooted in weak hadith (thus avoiding an innovation). Given that the Prophet (peace and blessings of Allah be upon him) said,

كُلُّ بَدْعَةٍ ضَالَّةٌ وَكُلُّ ضَالَّةٍ فِي النَّارِ

(52) For details about that hadith, see al-Uthaim, pp. 42ff.

(53) For the text of and details about these other hadith, see Fawwaaz Zamarli, *Al-Qaul al-Muneef fi Hukum al-Amal bi-l-Hadeeth al-Dhaeef* (Beirut: Daar ibn Hazm, 1995), pp. 46-47.

“Every innovation as an act of misguidance and every act of misguidance is in the Hell-fire,”<sup>(54)</sup> it would seem necessary to keep the same confidence level for fiqh rulings and *fadhaail*.

With respect to weak hadith related to the virtuousness of deeds that are already affirmed in the Quran or Sunnah, ibn Taimiyyah has given a similar logical argument. In the midst of explaining the scholars’ views on using weak hadith, he says that if there is a weak hadith describing a great reward for an established good deed or a great threat concerning an established evil deed, it is permissible to narrate and act upon such hadith. He explains it thus, “The individual hopes for that reward or fears that punishment and is like a person who knows that there is profit in a trade but then it reaches him that the profit is much greater. In that case, if that information is correct, it benefits him and if it is false, it does not harm him.”<sup>(55)</sup>

This argument, again, may sound compelling but it is not completely sound for a few reasons. One has to do with the concept of “opportunity cost.” A weak hadith extolling the greatness of a particular act may cloud one’s vision as to what acts to perform. Take, for example, what could be considered an innocuous hadith:

مَنْ قَامَ لَيْلَتِي الْعِيدَيْنِ مُحْتَسِبًا لِلَّهِ لَمْ يَمُتْ قَلْبُهُ يَوْمَ تَمُوتُ الْقُلُوبُ

“For the one who spends the nights before the two *Eids* in prayer, hoping for a reward from Allah, his heart will not die on the day that the hearts die.”<sup>(56)</sup> Noor al-Deen Itr, an advocate of this second opinion concerning the application of weak hadith, has given the above hadith as an example of a weak hadith that meets the conditions stated earlier concerning weak hadith. Itr admits that this is a weak hadith and then explains why there is nothing wrong in applying it:

We know concerning the late-night prayers and spending that time in worship is that such is encouraged in both the Quran and the *mutawaatir* sunnah. Also, getting closer to Allah by remembering Him and supplications is encouraged at all times and occasions. That is true in its generality for the two nights before the Days of *Eid*, that contain what they contain of virtue.

(54) Recorded by al-Nasaaeee. Al-Albaani has declared it *sahih*.

(55) Ahmad ibn Taimiyyah, *Majmoo*, vol. 18, p. 66. It is important to note that this may not be ibn Taimiyyah’s take on the issue. Prior to that he states that the scholars have differed concerning the preference to act upon weak hadith and it is in this context of explaining what those scholars were saying that he made this statement. Al-Saeedi (vol. 1, pp. 241-242) quotes only a small portion of ibn Taimiyyah’s discussion and it leaves the reader with the impression that this is ibn Taimiyyah’s argument himself rather than ibn Taimiyyah explaining what the scholars have meant.

(56) Recorded by ibn Maajah. Interestingly, al-Albaani has once declared this hadith very weak and on another occasion declared it a fabrication. See Muhammad Naasir al-Deen al-Albaani, *Dhaeef al-Targheeb wa al-Tarheeb* (Riyadh, Saudi Arabia: Maktabah al-Maarif, 2000), vol. 1, p. 334; Muhammad Naasir al-Deen al-Albaani, *Silsilat al-Ahaadeeth al-Dhaeefah wa al-Maudhooah* (Riyadh, Saudi Arabia: Maktabah al-Maarif, 1992), vol. 2, pp. 11-12.

This makes it completely clear that the hadith is not sanctioning anything new. It is only stating a portion of what is agreed upon in the foundations of the *shareeah* and general texts, leaving no room for anyone to hesitate in preferring such an act and acting in accord with what it implies.<sup>(57)</sup>

Similarly, on the islamqa website one finds the following:

Al-Nawawi said in *al-Majmoo'*:

Our companions said: It is mustahabb to spend the nights before the two Eids in prayer and doing other acts of worship. Our companions quoted as evidence for that the hadeeth of Abu Umaamah, according to which the Prophet (peace and blessings of Allaah be upon him) said: "Whoever spends the night of Eid in prayer, his heart will not die on the Day when hearts die." According to a version narrated by al-Shaafa'i and Ibn Maajah: "Whoever spends the nights of the two Eids in praying qiyaam al-layl, seeking reward from Allaah, his heart will not die on the Day when hearts will die." It was narrated from Abu'l-Darda' with a mawqoof isnaad, and it was narrated from Abu Umaamah with a mawqoof isnaad and a marfoo' isnaad, as stated above, but all the isnaads are da'eef. End quote.

Shaykh al-Islam Ibn Taymiyah said:

The ahaadeeth in which the nights before the two Eids are mentioned are falsely attributed to the Prophet (peace and blessings of Allaah be upon him). End quote.

This does not mean that it is not recommended to spend the night before Eid in prayer, rather qiyaam al-layl is prescribed on all nights. Hence the scholars agreed that it is mustahabb to spend the night before Eid in prayer, as is mentioned in *al-Mawsoo'ah al-Fiqhiyyah*, 2/235. Our point here is that the hadeeth which speaks of the virtue of spending this night in prayer is da'eef.

And Allaah knows best.<sup>(58)</sup>

If someone is not accustomed to praying *tahajjud*, these two nights may be the last nights that he should perform *tahajjud*. The Day of Eid should be a day of prayer, *dhikr*, meeting with other Muslims and joyous behavior. If one applies this hadith while not being accustomed to the late-night prayers, it may interfere with the goals of Eid. This is not a hypothetical argument the author is making here. This author knew a brother who complained of being exhausted and grouchy on Days of Eid and he explained how based on this hadith these are the only days of the year that he makes an effort to perform *tahajjud*. Had it not been for this hadith, he may

(57) Noor al-Deen Itr, *Manhaj al-Naqd fi Uloom al-Hadeeth* (Damascus: Daar al-Fikr, 1988), pp. 295-296.

(58) <https://islamqa.info/en/12504>. Last accessed December 1, 2017.

have chosen more convenient nights and been better prepared for the Day of Eid and its celebration.<sup>(59)</sup>

Zamarli refutes this argument by pointing out that by taking such an approach, one is over-burdening himself and doing acts that the *shareeah* has not required of him.<sup>(60)</sup> Long ago, ibn al-Jauzi complained about the effects of both weak and fabricated hadith and how they were distorting the views of the masses. Brown writes,

The most conscientious acknowledgment of the social consequences of promulgating weak ḥadīths comes from Ibn al-Jawzī (d. 597/1201)...In his works, Ibn al-Jawzī vents his anxieties over the effects of unreliable ḥadīths on society, most specifically on people's ability to assign moral weight to actions:

How many complexions have become yellow with hunger, and how many people fall asleep flat on their faces out of wandering in pious travel (*bi'lsiyāḥa*)? How many have forbidden to themselves what is permitted, and how many have abandoned the transmission of religious knowledge (*'ilm*), claiming that they are resisting the desire of their souls to do so? How many a person has orphaned his children by asceticism while still alive, and how many have turned away from their wives, not fulfilling their obligations to them, leaving them neither single nor women with a master?!

These are not empty concerns, Ibn al-Jawzī reminds us; such cases of neglect would come before judges in court.

Ibn al-Jawzī identifies the genre of exhortatory and dissuasive ḥadīths as the crux of this problem. Using weak or forged ḥadīths that promise outrageous rewards or punishments for actions "ruins the scales of the significance of actions."<sup>(61)</sup>

### **Evidence for the Second Opinion: Narrate from the Tribes of Israel**

The Prophet (peace and blessings of Allah be upon him) said,

حَدِّثُوا عَنِّ بَنِي إِسْرَائِيلَ وَلَا حَرَجَ

(59) Even the time taken to memorize a supplication based on a weak hadith would have been better spent on memorizing a supplication based on an authentic hadith. A peculiar occurrence is Muslims selecting the best times for actions which are based on weak hadith or which are questionable at best. Thus, it is not uncommon to see Muslims reserving the Night of *Qadr* for their performance of *Salaat al-Tasbeeh*.

(60) Zamarli, p. 62.

(61) Jonathan A. C. Brown, "Even if It's Not True It's True: Using Unreliable Hadiths in Sunni Islam," *Islamic Law and Society* (Vol. 18, 2011), pp. 20-21.

“Narrate from the Children of Israel, and there is no harm.” (Recorded by al-Bukhari.) Al-Saeedi states that if it is permissible to narrate from the Children of Israel, then it must be even more so permissible to narrate weak hadith.

That hadith is authentic but it must also be understood in the light of another authentic hadith:

مَا حَدَّثَكُمْ أَهْلُ الْكِتَابِ فَلَا تُصَدِّقُوهُمْ وَلَا تُكْذِّبُوهُمْ، وَقُولُوا آمَنَّا بِاللَّهِ وَرُسُلِهِ، فَإِنْ كَانَ بَاطِلًا لَمْ

تُصَدِّقُوهُ، وَإِنْ كَانَ حَقًّا لَمْ تُكْذِّبُوهُ

“Whatever the people of the Book tell you, do not affirm what they say or deny what they say, but say: We believe in Allah and His Apostle. If it were false, you would not have confirmed it, and if it were true, you would not have belied it.”<sup>(62)</sup>

Scholars have divided the narrations that come from the Children of Israel into three categories: those that are clearly true as they are affirmed in the Quran or Sunnah; those that are clearly false as they are belied by the Quran and Sunnah; those whose details the Quran or Sunnah are silent about

It would be hard to imagine that someone would base his or her religious practices on something that they could neither affirm nor deny. Thus, the meaning of the first hadith could not possibly imply founding a part of one’s faith on those narrations. In fact, when the hadith is taken as a whole, it seems to have a clear indication. The hadith in its entirety is,

بَلِّغُوا عَنِّي وَلَوْ آيَةً، وَحَدِّثُوا عَنِّي إِسْرَائِيلَ وَلَا حَرَجَ، وَمَنْ كَذَبَ عَلَيَّ مُتَعَمِّدًا، فَلْيَتَبَوَّأْ مَقْعَدَهُ مِنَ

النَّارِ

“Convey (my teachings) to the people even if it were a single sentence, and tell others the stories of Bani Israel (which have been taught to you), for there is no harm in that. And whoever intentionally fabricates a statement attributed to me will surely take his place in the (Hell) Fire.” If this statement of the Prophet (peace and blessings of Allah be upon him) is most specifically concerned about propagating Islam, it demonstrates that there is no harm in referring to the narrations of the Jews and Christians that point to the truth of Islam and the coming of the Prophet

(62) Recorded by Abu Dawood. According to both al-Arnaaoot and al-Albaani, it is sound. See Shuaib al-Arnaaoot, et al., footnotes to Abu Dawood al-Sijistaani, *Sunan Abi Dawood* (Damascus, Syria: Daar al-Risaaalah al-Alamiyyah, 2009), vol. 5, p. 488; Muhammad Naasir al-Deen al-Albaani, *Silsilat al-Ahaadeeth al-Saheehah* (Riyadh, Saudi Arabia: Maktabah al-Maarif, 1996), vol. 6, p. 712.

Muhammad (peace and blessings of Allah be upon him). It is also interesting to note that immediately afterwards the Prophet (peace and blessings of Allah be upon him) warns about intentionally falsely attributing anything to him.

### **Critique of the Basic Premises of the Second Opinion**

In addition to the issues related to this opinion discussed above, this view is further problematic at both the theoretical and at the practical level. In other words, the basic premises of the opinion must be questioned.

#### ***Mustahabb is a Shareeah Value***

When jurists place a value on an act, they usually place it into one of five categories: obligatory, recommended/liked (*mustahabb*), permissible, disliked or forbidden. The giving of such a value to an act must be based on some evidence. The majority of the proponents of this second opinion understand that reality and that is why they say that the hadith must not be concerning law, beliefs and so forth. It must only be concerned with the virtuosity of deeds and encouraging people to do good. However, there is that more liberal, minority view among them that does allow the bestowing of recommended status simply through weak hadith. However, this view of theirs is based on the presumption that virtuosity of acts in itself somehow differs from laws in the religion of Islam. There is no reason or proof for that presumption. Indeed, the supporters of the second opinion do not offer any such proof. In other words, statements concerning the virtuousness of an act must be based on the same types of evidence as any other deed in Islam.

Weak hadith are doubtful in nature and there are enough acceptable hadith concerning not only law but also the virtuous acts that one need not stretch his hand into the vast container of doubtful literature. This religion is built on certainty. Al-Dawaani wrote,

There is agreement that a legal ruling cannot be established or confirmed by a weak hadith. Some say that it is permissible, in fact preferred, to act in accordance with weak hadith concerning the virtuosity of deeds. Al-Nawawi clearly states that in his books, especially *al-Adhkar*. There is a problem with this view because the permissibility or preference for a deed is part of the "five legal rulings."<sup>(63)</sup> If an action is considered recommended due to a weak hadith, then this legal ruling of recommendation was confirmed by a weak hadith. This contradicts what has been accepted by the scholars that a weak hadith cannot establish or confirm a legal ruling...<sup>(64)</sup>

(63)I.e., an act may be obligatory, preferred (or liked), permissible, disliked or forbidden.

(64)Quoted in Jamaal al-Deen al-Qaasimi, *Qawaaid al-Tahdeeth* (Isa al-Halabi, n.d.), pp. 118-119.

Basically, what al-Dawaani was saying is that in order to call an act a recommended act, it must be supported by acceptable evidence. It is not acceptable to state that something is recommended or preferred on the basis of weak hadith. Those who say that *fadaail al-amaal* refers to "virtuous deeds" are specifically giving such a legal value to a specific act that is not supported by sound evidence. Ibn Taimiyyah also said,

What the scholars say about acting in accordance with weak hadith in what concerns the virtuousness of deeds does not mean that the "liked" status of that act may be established by a hadith that cannot be used as a proof. Saying that an act is liked is to apply one of the legal rulings. Such a status cannot be established or confirmed except by legally acceptable proof. Whoever states that Allah loves a certain action without legally accepted proof is making a legal statement that is not permissible in Allah's sight. It would be the same if he confirmed an act as being obligatory or forbidden [on the basis of legally unacceptable proof].<sup>(65)</sup>

Ibn Taimiyyah also said, "None of the Imams ever said that it is permissible to value something as obligatory or recommended based on a weak hadith. Whoever says that has contradicted the consensus."<sup>(66)</sup>

### **Critique of the Conditions Stated in the Second Opinion**

Beyond the questionable nature of the basic premise of the second opinion, the individual conditions must be studied in detail.

#### ***Distinguishing Weak from Very Weak Hadith***

The first condition for the acceptance of weak hadith is: The hadith in question must not be very weak; that is, the hadith must have only minor defects. It has been argued that those who narrate such hadith rarely, if ever, ensure that this condition is met. Indeed, many times even fabricated hadith are narrated under the guise that one may narrate weak hadith with respect to virtuous deeds.

Even if someone attempts to apply this condition, it must be recognized that it is not that easy to distinguish weak from very weak hadith. Al-Albaani wrote,

It is clear that these conditions require the people of knowledge of authentic and weak hadith to distinguish for the people the following: (1) Weak hadith from authentic hadith... (2) Very weak hadith from the slightly weak... The truth is that very few of the scholars of hadith— not to mention other scholars— are capable of performing the first requirement...<sup>(67)</sup> And today they are less than a few. And even less than that number are truly capable of

(65) Ibn Taimiyyah, *Majmoo*, vol. 18, p. 65.

(66) *Ibid.*, vol. 1, p. 251.

(67) He may be exaggerating when he says, "very few." He names al-Mundhiri, ibn Hajar, al-Sakhaawi and Ahmad Shaakir.

distinguishing the very weak hadith from the others. In fact, I do not know of anybody who specializes in that task.<sup>(68)</sup>

A classic example of this nature is related to Jalaal al-Deen al-Suyooti and his discussion of the Prophet's parents. Al-Suyooti has written more than one treatise to demonstrate that the Prophet's mother was given life again and afforded the opportunity to believe, thus leading her to being in Paradise. The debate centers around a number of hadith, including one that states, "I asked my Lord to resurrect my mother and then she believed in me and she was returned to being dead." Al-Suyooti admits that numerous scholars have declared this hadith to be fabricated yet he argues that it is weak and not a fabrication. At no time, though, does al-Suyooti discuss the question of whether it is weak or very weak. Reading his defense of the chains of the hadith<sup>(69)</sup>, even if one accepts the arguments that he makes concerning the chains of the hadith<sup>(70)</sup>, it is clear that he never actually proves that the hadith is weak but not very weak. Al-Suyooti starts from there and then makes other arguments concerning the state of the Prophet's parents.<sup>(71)</sup>

On this point, a fatwaa at Islamqa notes,

Al-Suyooti (may Allaah have mercy on him) was of the view that the parents of the Prophet (peace and blessings of Allaah be upon him) will be saved (from Hell), and that Allaah brought them back to life after they had died and they believed in him.

This view was rejected by the majority of scholars who ruled that the ahaadeeth which indicate that are fabricated (mawdoos) or very weak (da'eef jiddan).

It says in 'Awn al-Ma'bood:

Most of the reports that been narrated to the effect that the parents of the Prophet (peace and blessings of Allaah be upon him) were brought back to life and believed in him and were saved are fabricated and false. Some of them are very weak and cannot be saheeh under any circumstances, as the imams of hadeeth are unanimously agreed that they are fabricated, such as al-

(68) Muhammad Naasir al-Deen al-Albaani, *Saheeh al-Targheeb wa al-Tarheeb* (Beirut: al-Maktab al-Islami, 1982), vol. 1, pp. 18-19.

(69) Jalaal al-Deen al-Suyooti, *al-Tadheem wa al-Mannah fi an Abawa Rasool Allah fi al-Jannah* (Daar Jawaami al-Kalam), pp. 3-24.

(70) This is not the place to go into details concerning al-Suyooti's methodology. However, for example, in his first chain (p. 3), there is Muhammad ibn Ziyaad al-Naqqaash, for whom the scholars of hadith have very strong negative remarks, including "lying in hadith." Al-Suyooti decides not to quote any of those statements, perhaps in order to remove the hadith from being considered a fabrication. Cf., al-Husain al-Jauzriqaani, *al-Abaateel wa al-Manaakeer wa al-Sihaah wa al-Mashaaher* (Riyadh, Saudi Arabia: Daar al-Samee, 2002), vol. 1, pp. 377ff.

(71) For a more general critique of al-Suyooti's reasoning, see Ahmad al-Zahraani, *Naqdh Masaalik al-Suyooti fi Waalidai al-Mustafaa* (Daar Imaam Maalik, 2006). For a general discussion of the growth and development of thought concerning the status of the Prophet's parents, see Patrick Franke, "Are the Parents of the Prophet in Hell? Tracing the History of a Debate in Sunni Islam." His final words (p. 157) are telling, "In conclusion, it is not all together impossible that, similar to the *mawlid*, the salvation of the Prophet's parents from Hell is also a concept that originates in Shi'i milieu." See also <https://islamqa.info/en/47170>.

Daaraqutni, al-Jawzaqaani, Ibn Shaheen, al-Khateeb, Ibn 'Asaakir, Ibn Naasir, Ibn al-Jawzi, al-Suhayli, al-Qurtubi, al-Muhibb, al-Tabari, Fath al-Deen ibn Sayyid al-Naas, Ibraaheem al-Halabi and others. The scholar Ibraaheem al-Halabi explained at length the fact that the parents of the Prophet (peace and blessings of Allaah be upon him) have not been saved from Hell in a separate essay, as did 'Ali al-Qaari in *Sharh al-Fiqh al-Akbar* and in a separate essay. The basis for this opinion is the soundness of this hadeeth ("My father and your father are in Hell"). Shaykh Jalaal al-Deen al-Suyooti differed from the huffaa and scholars and affirmed that they had believed and had been saved, and he wrote numerous essays on that topic, including *al-Ta'zeem wa'l-Minnah fi Anna Abaway Rasool-Illaah (peace and blessings of Allaah be upon him) fi'l-Jannah*.<sup>(72)</sup>

### **Cannot be Related to Aqeedah**

One should never be able to make a complete break between *aqeedah* and *fiqh*. At some level, there must be a belief that Allah has commanded this deed, Allah loves that deed, Allah dislikes another deed and Allah hates other deeds. Thus, even with respect to an act being recommended, the more an act is praised in a text, the more one understands that Allah loves that deed. In fact, according to the theory of *maqasid al-Shareeah* ("the goals of the Shareeah"), one should believe that there is a noble purpose and goal between the ordering, recommending, disapproving or forbidding of any particular deed.

This reality, that should be part of the *aqeedah* of a Muslim has, unfortunately, long been lost in the discussion of *fiqh*. Even if one argues that one can make a complete distinction between *aqeedah* and *fiqh*, the application of this condition is still difficult. The previous example concerning the Prophet's parents highlights this point. Al-Suyooti did not argue that the hadith he was using was authentic. He simply argued that it was weak and not fabricated. He then implicitly argued that it is acceptable to use hadith related to *fadhaail* or "virtues," here, in this example, the virtues of the Prophet Muhammad (peace and blessings of Allah be upon him) as Allah blessed him by having his mother resurrected so that she could embrace Islam. Could accepting and declaring that the Prophet's mother is granted Paradise somehow not be related to *aqeedah*?

Another example is that of *al-tawassul* (seeking intercession) via the Prophet Muhammad (peace and blessings of Allah be upon him). Al-Albaani has convincingly argued that the hadith on which this is based are weak.<sup>(73)</sup> In personal discussions, this author has come across those who accept that the hadith are weak but, they

(72) <https://islamqa.info/en/47170>.

(73) Muhammad Naasir al-Deen al-Albaani, *Tawassul: Its Types and Rulings* (Birmingham, England: al-Hidaayah Publishing, 1996), *passim*.

argue, this is a question of fiqh and not *aqeedah*, so there is room for the use of weak hadith on this issue. Would anyone seek intercession through the Prophet (peace and blessings of Allah be upon him) after his death unless he believes that Allah has granted the Prophet (peace and blessings of Allah be upon him) this very special blessing and role? Could that practice actually be separated from *aqeedah*?

The example of al-Baijoori, it seems, demonstrates how ludicrous it is to divorce one's actions from one's beliefs. According to Brown,

In the early modern period, in fact, using weak ḥadīths took on a baroque tone among Late Sunni Traditionalists. The rector of Egypt's Azhar Mosque, the jurist and theologian Burhān al-Dīn Ibrāhīm al-Bayjūrī (d. 1860), allowed weak ḥadīths even in the lofty realm of theology. Explaining that "weak ḥadīths can be acted on in the virtues of actions" in the context of God's names and attributes, he attempted to justify this unprecedented laxity by distinguishing between the theology of belief and theology of action. Al-Bayjūrī asserted that Muslims can derive information about God's attributes from weak ḥadīths provided these ḥadīths do not affect belief about God (*sic!*) but only influence their acts.<sup>(74)</sup>

### ***Must be Subordinate to a Confirmed Foundation***

Earlier the term *asl* was defined and the dispute over its meaning was discussed. This condition, it was concluded, means that the weak hadith should be subordinate to the confirmed sources, that is, the Quran and accepted hadith, and may not be used to establish something that has no basis in the confirmed sources. In some cases, practically speaking, it could be difficult to determine if there is some source for the described act in the confirmed sources.

Al-Shaatibi explained this point further by saying that any act must fall under one of the following three cases: (1) The confirmed texts (meaning the Quran and acceptable hadith) explain both the general nature and the details of the act. (2) There is no confirmed text that supports the action, neither in general nor in detail. (3) There is a confirmed text that could be considered to describe the act in a general manner but definitely not in detail. He then goes on,

There is no problem concerning the authenticity of the first case, like the obligatory and voluntary prayers and how many they are... There are some authentic texts concerning those acts and, therefore, they are confirmed as obligatory, *sunnah* or liked. If a hadith of exhortation to perform those acts or dissuasion concerning not performing them is related and it does not reach the level of *sahih* and it is not so weak that no one accepts it<sup>(75)</sup> and it is not fabricated or unusable for support, there is no problem with mentioning it for

(74) Brown, p. 47.

(75) This almost sounds like *hasan* hadith in al-Tirmidhi's eyes.

exhortation or intimidation after the action itself has been established through sound means.<sup>(76)</sup>

[Concerning the] second case, it is clear that it is not sound and it is an innovation *in toto*...such as somebody standing in the sun for the purpose of worship... Exhortation for something like that is not sound as there is nothing in the law that gives it any basis for being exhorted to perform or for being convinced to abandon.

[Concerning the] third case, one might mistakenly believe that it is like the first case from the point of view that there is some source for the act in general. Its details are then related although they do not meet the standards for acceptability. For example, it is legally established [that it is liked] to perform voluntary prayers. Therefore, people may be exhorted to pray the night prayers during the middle of the month of Shabaan<sup>(77)</sup> as it is supported by the fact that they may be exhorted to perform voluntary prayers in general... But this is not correct. If the confirmed sources establish an act in general, it does not mean that they also confirm the details of any particular act that falls in that general category. If prayer, in general, is established, it does not mean that the noon or afternoon or *witr* prayers are also established. [In fact, they will not be established] until there is some text specifically confirming them.<sup>(78)</sup>

It is an open question as to how this principle can be applied. One can take the example of *Salaat al-Tasbeeh*<sup>(79)</sup> where the nature of the prayer is changed and performed in a unique way.<sup>(80)</sup> Granted that there is some difference of opinion

(76) This is al-Shaatibi's conclusion. It differs from this author's conclusion that shall be presented shortly.

(77) There are many weak hadith concerning such prayers.

(78) Ibraheem al-Shaatibi, *al-Itisaam* (Alexandria, Egypt: Daar Umar ibn al-Khattaab, n.d.), vol. 1, pp. 229-230. He then goes on to give some examples.

(79) The hadith related to *Salaat al-Tasbeeh* as recorded by ibn Maajah is: The Messenger of Allah (peace and blessings of Allah be upon him) said to 'Abbas: 'O uncle, shall I not give you a gift, shall I not benefit you, shall I not uphold my ties of kinship with you?' He said: 'Of course, O Messenger of Allah.' He said: 'Pray four Rak'ah, and recite in each Rak'ah the Opening of the Book (Al-Fatihah) and a Surah. When you have finished reciting, say: Subhan-Allah wal-hamdu Lillah wa la ilaha illallah wa Allahu Akbar (Glory is to Allah, praise is to Allah, none has the right to be worshipped but Allah and Allah is the Most Great) fifteen times before you bow in Ruku'. Then bow and say it ten times; then raise your head and say it ten times; then prostrate and say it ten times; then raise your head and say it ten times; then prostrate and say it ten times; then raise your head and say it ten times before you stand up. That will be seventy-five times in each Rak'ah and three hundred times in the four Rak'ah, and even if your sins are like the grains of sand, Allah will forgive you for them.' He said: 'O Messenger of Allah, what if someone cannot say it in one day?' He said: 'Then say it once in a week; if you cannot, then say it once in a month' until he said: 'Once in a year.'" Translation taken from <https://sunnah.com/urn/1314500>.

(80) The uniqueness of the form of the prayer is one of the arguments that ibn Uthaimen used against the validity of the prayer, saying, "If this prayer was prescribed, the ummah would have narrated a report concerning which there was no doubt and it would have been well known among them because of its great benefit. Moreover, it is not like any other act of worship, because there is no act of worship in which so much choice is given that it may be done once every day, or once in a week, or once in a month, or once in a year, or once in a lifetime. Because the weak hadeeth states that it is of great benefit and because it is not like any other act of worship, yet it is not well known and was not transmitted, we know that there is no basis for it, because if an act of worship is different from other acts of worship, and if it were of great benefit, people would pay attention to it and transmit it, and it would be popular and well known. Because that is not the case with regard to this prayer, we know that it is not prescribed. Hence none of the imams regarded it as mustahabb, as Shaykh al-Islam Ibn Taymiyah (may Allah have mercy on him) said. Among the *nafl* (voluntary) acts which are proven to be prescribed in Islam there is a great deal of goodness and *barakah* (blessing) for the one who wants more, so he should be content with that which is proven, and he has no need of that which is the subject of differences of opinion and doubts." Quoted from <https://islamqa.info/en/145112>.

concerning the grading of the hadith related to *Salaat al-Tasbeeh*, the majority of the scholars consider the hadith to be weak. Among those scholars who consider the hadith weak, some of them allow or recommend this prayer as it is from the *fadhaail* they say. The well-respected Hanbali scholar ibn Qudaamah, after himself quoting Imam Ahmad as disapproving of this deed since there was nothing authentically narrated about it, stated, "If a person does it, there is no harm as voluntary and virtuous (*fadhaail*) acts do not have the criteria of soundness of hadith concerning them."<sup>(81)</sup> Similarly, al-Zuhaili wrote, "Even if it is conceded that it is a weak hadith, it is related to *fadhaail al-amaal* [and therefore it is acceptable]."<sup>(82)</sup> None other than the Shafiee scholar al-Nawawi, who said that there is a consensus in acting by weak hadith, disagrees with this verdict. After referencing two Shafiee scholars who say that *salaat al-Tasbeeh* is *mustahabb*, al-Nawawi stated, "There is some issue with saying that it is *mustahabb* as its hadith are weak and it changes the well-known order of the prayer. One should not do it without a hadith [to support it] and its hadith are not founded."<sup>(83)</sup>

Numerous examples of this nature can be given, wherein a weak hadith describes an action that in its specific nature is baseless and yet under the guise of *fadhaail al-amaal* it is granted the status of being *mustahabb* (a recommended act) in one or more of the fiqh schools while the other schools reject them while invoking the same principle.

### ***Not Expecting the Reward for the Deed***

The third condition is that the reward that is stated in the hadith should not be expected by the one who performs the deed but, instead, the deed should be done more just to be on the safe side and out of a hope for a reward from Allah.

In sum, if these conditions are actually applied, then one is not actually following the weak hadith. One is simply following the authentic sources and the weak hadith has no real or great influence or effect. If that is the case, then it obviously would be safer, from the point of view of avoiding misquoting the Prophet (peace be upon him), to avoid such weak hadith since there is no real benefit from them anyway.

### ***Issues with the Practical Application of this Opinion***

A major problem with this view is that it is simply not being put into practice in the manner that the scholars have stated. For example, the scholars of this view

(81) Maufiq al-Deen ibn Qudaamah, *al-Mughni* (Cairo, Egypt: Maktabah al-Qaahirah, 1968), vol. 2, p. 98.

(82) Wahbah al-Zuhaili, *al-Fiqh al-Islaami wa Adillatuh* (Damascus, Syria: Daar al-Fikr), vol. 2, p. 1080.

(83) Yahya al-Nawawi, *al-Majmoo Sharh al-Muhadhib* (Daar al-Fikr, n.d.), vol. 4, p. 54.

state that when narrating such weak hadith, one cannot use a definitive term or active voice, such as "The Prophet (peace be upon him) said." Instead, one must use passive voice, such as, "It has been narrated that the Prophet (peace be upon him) said," or, "It has come to us that the Prophet (peace be upon him) said." They make this distinction so that the person narrating the hadith cannot be considered one who is quoting the Prophet (peace be upon him) as saying something that he did not actually say or that is not affirmed that he said.

Some contemporary scholars point out that this ruling is not sufficient. The majority of the people do not recognize the difference between saying, "The Prophet (peace be upon him) said," and, "It has been narrated that the Prophet (peace be upon him) said." Therefore, they argue, that today it is obligatory upon anyone who uses such a weak hadith, to exhort or intimidate people concerning specific acts, to explicitly mention that it is a weak hadith.<sup>(84)</sup> On this point, Abu Shaama also says that the statement that one may be lax on hadith regarding virtuous deeds is a mistake according to the experts of hadith, jurisprudence and legal theory. He says that someone must state that a hadith is weak if he knows that to be the case otherwise he will be of those people whom the Prophet (peace be upon him) warned when he said, "If someone relates a hadith on my authority and he thinks it is false, he is then one of the liars."<sup>(85)</sup>

One of the negative effects of this approach to weak hadith is that it makes people lax with respect to narrating hadith. They do not consider it very important to distinguish authentic from weak hadith. This was never the purpose of those scholars who supported this view. For example, in his introduction to *Khulaasat al-Ahkaam min Muhammaat al-Sunan wa Qawa'id al-Islam*, al-Nawawi himself wrote,

Everyone must behave in the manner of the Messenger of Allah (peace be upon him), following his statements, actions and what he approved of. [This is for] laws, manners and all the other aspects of Islam. In all of those matters one must base one's opinion on what is authentic and one must avoid what is weak. One must not be deceived by those who differ from the authentic sunnah nor may one blindly follow a person who is relying upon weak hadith... All of this is with respect to the authentic sunnah. As for what is not authentic, how can one conclude that the Messenger of Allah (peace be upon him) has said it or did it as he is not permitted to say such?... Do not be deceived by those who are very lax in actions and argue legal points on the basis of weak hadith, even if these people are authors, leaders in fiqh or otherwise. One finds this a lot in their books. If they are asked about it, they will say that they do not rely upon

(84) Such is the view of Ahmad Shaakir and al-Uthaim. See Abdul Azeez al-Uthaim, *Tahqeeq al-Qaul bi-l-Amal bi-l-Hadeeth al-Dhaeef* (al-Thuqba, Saudi Arabia: Daar al-Hijra, 1992), pp. 20-21.

(85) Abdul Rahmaan Abu Shaama, *Al-Baath ala Inkaar al-Bida wa al-Hawaadith* (Cairo: Daar al-Huda, 1978), p. 50.

what is weak. Or they will say that the scholars allow acting on the basis of weak hadith in stories and virtuous deeds, noble character, asceticism in this world and other aspects... I have asked Allah, the Noble, the Compassionate, the Merciful, for guidance in gathering together an abridged collection of hadith related to legal questions. I have relied only upon *sahih* and *hasan* hadith in it. At the end, I put a section on the weak hadith in order to point them out so that no one may be deceived by them.<sup>(86)</sup>

Finally, many reports that do not meet the standards of acceptable hadith have entered the religion through this second opinion about weak hadith. This has had many negative consequences. For example, in a short talk in a mosque, a speaker quoted the fabricated hadith, "The scholars of my Nation are like the prophets of the Tribes of Israel." When it was pointed out to that speaker that the hadith was fabricated, his answer was, "The scholars say that it is allowed to narrate weak hadith when it comes to virtuous deeds." The hadith is a fabrication not a weak hadith yet, somehow, based on this reasoning people are not careful about the hadith that they quote.

### **The Third Opinion: Non-Application of Weak Hadith**

The third opinion states that one should not act in accordance with weak hadith, no matter the subject or topic of the hadith. According to al-Khdhair, this is the opinion of Yahya ibn Maeen, Abu Zakariya al-Naisaboori, Abu Zarah, Abu Haatim, ibn Abu Haatim, al-Bukhari, Muslim, ibn Hibbaan, al-Khattaabi, ibn al-Jazui,<sup>(87)</sup> Abu Shams al-Maqdisi, Abu Bakr ibn al-Arabi, ibn Taimiyyah, al-Shaatibi, al-Shaukaani and Sideeq Hasan Khaan.<sup>(88)</sup> However, some authors have cast doubt as to whether this was truly the position of many or most of these scholars.<sup>(89)</sup> (Therefore, a discussion of some of these authorities seems warranted.) Based on the earlier discussion, ibn Hajar's name may also be added here. It seems that this was also the view of Imam Malik. In addition, this view is unequivocally held among a number of modern scholars who have researched this question in detail, from the time of Jamaal al-Deen al-Qaasimi and Ahmad Shaakir to Muhammad Ijjaaj al-Khateeb,

(86) Yahya al-Nawawi, *Kitaab Khulaasah al-Ahkaam fi Muhimmaat al-Sunan wa Qawaaid al-Isaam* (Beirut: Muassasat al-Risaalah, 1997), vol. 1, pp. 59-60.

(87) For ibn al-Jauzi, see Brown, pp. 20-22. This author's experience with ibn al-Jauzi, though, is that he is often inconsistent when it comes to applying principles he mentions in some of his works, whether it be related to hadith or *aqeedah*. With respect to hadith, Aamir Yaaseen's footnotes to ibn al-Jauzi's *Said al-Khaatir* will demonstrate how often he used weak hadith. See Aamir Yaaseen, footnotes to Abu al-Faraj Abdul Rahmaan ibn al-Jauzi, *Said al-Khaatir* (Riyadh, Saudi Arabia: Daar ibn Khuzaimah, 1997), *passim*.

(88) Cf., al-Khudhair, pp. 261-273. As was noted in an earlier footnote, ibn Taimiyyah is also usually included in this category.

(89) In a footnote, al-Saeedi, vol. 1, p. 226, fn. 5, simply says that al-Khudhair's derived conclusions from these scholars are countered by other statements from them. For example, concerning Yahya ibn Maeen, see al-Saeedi, vol. 1, pp. 223-224. In this author's view, the end result concerning Yahya ibn Maeen is uncertainty. Unfortunately, that is true for some of the others as well. In the long-run, though, the conclusion concerning this issue must be based on the merits of the case and not what position was the most popular.

Subhi al-Saalih, ibn Uthaimeen,<sup>(90)</sup> Abdul Kareem al-Khudhair,<sup>(91)</sup> Fawwaaz Zamarli,<sup>(92)</sup> and al-Albaani.<sup>(93)</sup>

Concerning Imam Malik, his student al-Shafiee once stated, "If Imam Malik had any doubt about a hadith he would leave it entirely."<sup>(94)</sup> Indeed, Imam Malik was very strict about narrating from anyone he considered weak or any narration that was considered weak. After mentioning some quotes concerning Imam Malik, al-Saeedi writes, "Based on these quotes and others, this researcher leans definitively to the view that Imam Malik was not of the opinion that it is permissible to act upon weak hadith, as if that were permissible to him why would he prevent himself from taking from weak narrators or narrating what is weak."<sup>(95)</sup>

Al-Qaasimi attributes this opinion to al-Bukhari but he surmises that from al-Bukhari requiring authenticity for his *Sahih*. Obviously, this is not a strong argument. First, one would have to demonstrate that that was al-Bukhari's approach in all of his works, not only his unique and distinct *Sahih*. One does find al-Bukhari recording weak hadith in his work *al-Adab al-Mufrad*, to the point that al-Albaani published *Dhaeef al-Adab al-Mufrad*. Al-Bukhari, as is well-known, sometimes even quotes weak hadith in his chapter headings of his *Sahih*. That, though, may have been only because their meaning was "sound" and not that the hadith itself is being used as evidence. There is nothing explicit from al-Bukhari on this question and, as such, it would be best not to attribute an opinion to him, al-Saeedi noted. Al-Saeedi only slightly leaned toward the view that al-Bukhari accepted weak hadith due to his *muallaq* narrations in his *Sahih* while Baalatu argues that al-Bukhari is definitely from the second opinion here, of partial acceptance of weak hadith.<sup>(96)</sup>

Concerning Muslim, Brown writes,

(90) Ibn Uthaimeen was very strict in his application of hadith and allowed very little for the use of weak hadith. See Nawaal al-Ghannaam, "*Mauqif al-Shaikh ibn Uthaimeen min al-Hadith al-Dhaeef*," in *Nadwah Juhood al-Shaikh Muhammad al-Uthaimeen al-Ilmiyyah* (Qassim University, n.d.), pp. 847-889.

(91) However, al-Khudair (p. 304) says, "That does not mean that weak hadith are rejected in toto. In fact, they can be acted upon while not using them as a proof. For example, one possible meaning [of another hadith] could be given more weight... if there is a weak hadith to support one possible meaning." One, though, runs into a problem here. One may give one possible meaning more weight due to a weak hadith while in reality that weak hadith is nothing but a mistaken narration that does not deserve to be taken into consideration.

(92) Zamarli, *passim*.

(93) For quotations from many of those scholars in one place, see al-Khudair, pp. 261-273 or Zamarli, pp. 26-30.

(94) Recorded with a chain of narrators back to al-Shafiee by Abu Nuaim. Abu Nuaim al-Asbahaani, *Hilyah al-Auliyyaa wa Tabaqaat al-Asfiyaa* (Cairo, Egypt: Maktabah al-Khaanji, 1996), vol. 6, p. 322.

(95) Al-Saeedi, vol. 1, p. 258. Al-Saeedi then goes on to reply to narrations that would imply the opposite from Imam Malik. It is well-known that there are numerous hadith in Malik's *Muwatta* with broken chains. This paradox will be answered in the section, "Whose Weak Hadith."

(96) Al-Saeedi, vol. 1, pp. 224-225; Baalatu, pp. 153-155.

The most salient opponent of using weak ḥadīths for any purpose was none other than Muslim b. al-Ḥajjāj al-Naysābūrī (d. 261/875). In an introductory chapter of his famous *Ṣaḥīḥ*, Muslim discusses the obligation to uncover flaws in ḥadīths and alert others to them. Ḥadīth scholars must commit themselves to this task due to their weighty responsibility of guiding the masses aright. He says about remaining silent on unreliable ḥadīths:

There is great danger in this, since the reports concern the issue of religion. For indeed they contain permission, prohibition, affirmative and negative commands, exhortation and dissuasion (*targhīb wa tarhīb*). So if their narrator is not a mine of truth (*ma'din li'l-ṣidq*) and trust, and then someone narrated it, knowing this [flaw], but did not clarify [that flaw] to others who were ignorant of this, he would be sinning in that act, cheating (*ghāshshan*) the masses of Muslims, since it is not certain that some who heard these reports would not act on them...<sup>(97)</sup>

Muslim further argues that the authentic hadith suffice and there is no necessity to rely on less than trustworthy narrations.<sup>(98)</sup> Al-Saeedi states that Muslim categorically rejects the narration of weak hadith and calls for using only what is authentically narrated from the Prophet (peace and blessings of Allah be upon him).<sup>(99)</sup>

There are conflicting conclusions that one can make from ibn al-Arabi's writings. Al-Khudhair argues that although his view of only using authentic hadith was found in his earlier works, its explicitness and the fact that no one narrated a countering view from him leads to the conclusion that he was against the use of weak hadith in general.<sup>(100)</sup> Al-Saeedi disagrees, saying that the context of ibn al-Arabi's more explicit statements still allow one to interpret his view as a limited acceptance of weak hadith.<sup>(101)</sup>

Ibn Taimiyyah is usually counted among the scholars of the third opinion. For example, al-Khudhair considers him as such but then he only quotes ibn Taimiyyah's statement, "It is not allowed, in matters related to the Shariah, to rely upon weak

(97) Brown, p. 18.

(98) Muslim ibn al-Hajjaaj al-Qushairi al-Naisaaboori, *al-Musnad al-Saheeh al-Mukhtasar bi-Naql al-Adl an al-Adl ila Rasoolilaaḥ* (Beirut, Lebanon: Daar Ihya al-Turaadh al-Arabi, 1991), vol. 1, p. 28.

(99) Al-Saeedi, vol. 1, p. 225. Baalatoo, pp. 156-159, includes Muslim in the category of those who accept weak hadith. Her conclusion is based on an incorrect view of Muslim's methodology and if her view is considered, it would actually mean that *Saḥīḥ Muslim* is filled with weak hadith. Noor al-Deen Itr quotes the same passage as above from Muslim and claims that it demonstrates that Muslim was of the second opinion, the majority view. But Itr distorts what Muslim says by stopping the above quote at, "cheating the masses of Muslims," and not continuing Muslim's statement, "since it is not certain that some who heard these reports would not act on them." (Noor al-Deen Itr, footnotes to Abdul-Rahmaan ibn Rajab, *Sharḥ Illal al-Tirmidhi* (Daar al-Malaah, n.d.), vol. 1, p. 76.) One can only hope that that was an oversight and not intentional.

(100) Al-Khudhair, pp. 265-267.

(101) Al-Saeedi, vol. 1, pp. 224-225.

hadith that are neither *sahih* or *hasan*.”<sup>(102)</sup> Upon closer inspection, though, it seems that ibn Taimiyyah may have been an advocate of the second opinion (a conditional use and narration of weak hadith) or his opinion may have changed over time.<sup>(103)</sup> Ibn Taimiyyah’s views are that one may not narrate or act upon a weak hadith that establishes an act that was not already established in the authentic sources. He does allow for narrating and acting by such weak hadith as long as one knows that it is not a falsehood and if that hadith does not establish any unprecedented deed. A weak hadith, he argues, may not specify a specific time or amount of an act if that has not already been specified in authentic reports. However, he is not concerned if said hadith specifies a specific Hereafter reward or punishment for a deed. He simply states that said reward or punishment cannot be confirmed except through authentic reports. He even states that *Israailiyyaat* (stories from the Jews and Christians) may be narrated for the purpose of exhortation or intimidation as long as it they are not known to be false reports.<sup>(104)</sup> The problem with this approach is that it only takes into consideration the possible problem of performing some act that is not established in the authentic sources. Other issues must also be taken into consideration, including: knowingly narrating from non-trustworthy narrators, being careful in attributing statements to the Messenger of Allah (peace be upon him) and possibly biasing the weights given by the Shariah to specific deeds.

Given the conflicts over who held what position and, more importantly, the different interpretations concerning early scholars’ statements—especially concerning the difference between narrating, recording and action upon a hadith as well as the dispute concerning the starting of the terminology of *hasan* hadith—it is important to note that the conclusion concerning this issue will stand on its own merit and not an appeal to authority, as should be true for all issue.

### **Evidence for the Third Opinion: Lack of Need to Turn to Weak Hadith**

The authentic reports are sufficient and there is no need to reach into weak or doubtful reports. They can add nothing to the religion. Indeed, as stated earlier, if

(102) Al-Khudhair, p. 267.

(103) With scattered writings, it is very difficult to see if there was some evolution in thought. Given that the dominant view traditionally was the second opinion, one could surmise that a scholar would have held that position originally and then may have independently held the third opinion later. That would be pure conjecture though. An example of a scholar concerning whom it is clear that he changed his views over time is al-Ghazaali and his legal reasoning as found in his earlier work *al-Mankhool* and his later work *al-Mustasfaa*. For a study of such changes, see Areej al-Jaabiri, “*al-Masaail al-Usooliyyah allati Rajahahaa al-Imaam al-Ghazaali fi al-Mustasfaa Mukhaalifaa Tarjeehuhu fi al-Mankhool: Jamaa wa Diraasaa*” (Master’s Dissertation, Umm al-Quraa, 2008), *passim*.

(104) See ibn Taimiyyah, *Majmoo*, vol. 1, pp. 250-251. Ibn Taimiyyah’s views on this question are scattered throughout his works. Some of them have been collected together in Abdul Rahmaan al-Faryawai, *Shaikh al-Islam ibn Taimiyyah wa Juhooduhu fi al-Hadeeth wa Uloomihi* (Riyadh: Daar al-Aasimah, 1996), vol. 1, pp. 374-385.

the conditions stated above for such reports are actually applied, then, in most cases, such weak reports will only be followed in a formal or theoretical matter but will have no real contribution. Hence, one is adding nothing while possibly exposing oneself to the punishment of Allah for narrating something about Allah and His Messenger concerning which he had no knowledge.<sup>(105)</sup> Logically, this argument simply states that there is no need for them but that in itself does not actually demonstrate that they should not be used. Furthermore, sometimes the more evidence that one has for a position, even if some of the evidence is not that strong, the more confident one feels with the position.

### **Evidence for the Third Opinion: The Danger of Attributing Untruths to the Prophet (peace and blessings of Allah be upon him)**

Numerous hadith warn against claiming any statement to be a statement of the Prophet (peace be upon him) when it is not so. For example, the Prophet (peace be upon him) said,

إِنَّ مِنْ أَعْظَمِ الْفِرْيِ أَنْ يَدَّعِيَ الرَّجُلُ إِلَى غَيْرِ أَبِيهِ أَوْ يُرِي عَيْنَهُ مَا لَمْ تَرَ أَوْ يَقُولَ عَلَى رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مَا لَمْ يَقُلْ

“Verily, one of the worst lies is to claim falsely to be the son of someone other than one’s real father, or to claim to have had a dream one has not had, or to attribute to me what I have not said.” (Recorded by al-Bukhari.) The Prophet (peace be upon him) also said,

مَنْ كَذَبَ عَلَيَّ فَلْيَتَّبِعُوا مَقْعَدَهُ مِنَ النَّارِ

“Whoever falsely attributes something to me shall take his seat in the Fire.” (Recorded by al-Bukhari.) In these hadith and many like it, there is no mention of that having to be intentional. The Companions understood this well as many of them used to perspire when narrating hadith on the authority of the Prophet (peace be upon him) out of fear that they would make the slightest mistake in the narration. How does this compare with the second opinion who states that one may relate and act upon hadith on the authority of the Prophet (peace be upon him) while the scholars are stating that such hadith is not confirmed to be a statement of the Prophet?

(105) See, example, *al-Baqarah* 168-169.

### **Evidence for the Third Opinion: The Religion must be Based on Knowledge**

If the scholars of hadith declare a hadith to be weak, it means that, according to their research and the evidence to them, there is no reliable evidence or preponderance of the evidence to demonstrate that the Messenger of Allah (peace be upon him) made that statement. In fact, most likely it has not been preserved properly. Had there been strong reason to accept it, even if it were through weak chains, it would have been graded *hasan lighairih* at the very least. This is the essence of what makes a hadith weak.

The general principle is that a person does not base one's actions on what goes against the preponderance of the evidence or probability. If one is told that a bridge will most likely not support his car, the rational person will avoid that bridge. Based on the hadith just quoted above, the attitude toward the Messenger of Allah (peace be upon him) must be even more cautious. One must avoid putting words into his mouth when there is no firm evidence that he said those words. One should not do that with respect to other individuals, not to speak of with respect to the Prophet (peace be upon him) himself. Al-Dhahabi quoted the hadith, "[The greatest lie] is to ascribe to me what I did not say," and then he said, "This threat is for the one who narrates from his Prophet (peace be upon him) what he did not say while the preponderance of his thought tells him that [the Prophet (peace be upon him)] did not say it."<sup>(106)</sup> This is exactly the case of a hadith that the scholars have declared to be weak. On another occasion, al-Dhahabi stated, "Everyone who narrates a hadith that he knows is not authentic, must repent [to Allah] or it will destroy him."<sup>(107)</sup>

Furthermore, Allah has promised to preserve the sunnah. Obviously, the preservation of the sunnah must imply that Allah will preserve it in such a way that the Muslim scholars can distinguish what is preserved from what is not preserved. With respect to weak hadith, the evidence in front of the scholars is that they are not preserved. Hence, they cannot be considered part of the preserved sunnah. In stating such hadith and following them, one is only following the kind of conjecture that Allah has censored in the Quran. Subhi al-Saalih wrote, "Nothing aids this religion except certain knowledge."<sup>(108)</sup> Muhammad Naasir al-Deen al-Albaani once wrote,

(106) Quoted in Aasim al-Qaryooti, *Wujoob al-Tathabbut fi al-Riwayah* (Maktaba ibn al-Jauzi, 1987), p. 17.

(107) al-Dhahabi, *Meezaan al-Itidaal*, vol. 4, p. 97. (Quoted in al-Qaryuti, p. 27.)

(108) Al-Saalih, p. 213.

I believe that what we have in the way of confirmed hadith [meaning *hasan* and *sahih* hadith] is sufficient and we do not have to resort to weak hadith.<sup>(109)</sup> [Weak hadith] do not aid us- and there is no difference on this point- except through conjecture. And conjecture is nothing but weakness as Allah says, "And they have no knowledge thereof. They follow but a guess, and lo! a guess can never take the place of truth." (*al-Najm* 27) And the Prophet said, "Avoid conjecture as conjecture is the most deceitful speech." (Recorded by al-Bukhari and Muslim.) And we cannot worship Allah by acting according to such conjecture. In fact, the Prophet (peace be upon him) has prohibited us from it as he said, "Beware of the hadith related on my authority, except for what you are knowledgeable of." (*Sahih*, recorded by al-Tirmidhi, Ahmad and ibn Abu Shaiba.) In that statement, he has disallowed us to relate weak reports. It must be even more so the case that it is prohibited to act in accordance with such reports.<sup>(110)</sup>

### **Evidence for the Third Opinion: The Way of the Sahaabah**

It is the Companions of the Prophet (peace and blessings of Allah be upon him) whose example is more deserving to be emulated than even the early hadith scholars. The Companions of the Prophet (peace and blessings of Allah be upon him) set the tone for how careful people should be when it comes to narrating statements from the Prophet (peace and blessings of Allah be upon him) as well as accepting such narrations.

Malik records the incident of Abu Musaa coming to Umar's house and asking permission to enter. When he was not granted permission to enter after three attempts, he turned away to leave. Then Umar came and asked him why he was leaving. Abu Musaa told him that such was the instruction of the Prophet (peace and blessings of Allah be upon him). Umar told him, "If you do not bring evidence for what you have just said I will do such and such to you." After Abu Musaa brought corroborating narrators to Umar, Umar told him, "I did not doubt you but I feared that people may be wrongly attributing statements to the Messenger of Allah (peace and blessings of Allah be upon him)."

In the introduction to his *Sahih*, Muslim records various relevant narrations from ibn Abbaas. In one narration, a person was narrating hadith of the Prophet (peace and blessings of Allah be upon him) and ibn Abbaas was not paying him any attention. He asked ibn Abbaas, "O ibn Abbaas, why do I see you not listening to my hadith. I am narrating to you from the Messenger of Allah (peace and blessings of

(109) Muhammad Ijaaj al-Khateeb, *Al-Mukhtasar al-Wajeez fi Uloom al-Hadeeth* (Beirut: Muassasat al-Risaalah, 1985), p. 159, makes the same point and presents a good refutation of those who think otherwise.

(110) Muhammad Naasir al-Deen al-Albaani, *Sifat Salaat al-Nabi* (Beirut: al-Maktab al-Islaami, 1971), pp. 8-9. Also see his statement in Muhammad Naasir al-Deen al-Albaani, *Ghaayat al-Maraam fi Takhreej al-Ahaadeeth al-Hallaal wa al-Haraam* (Beirut: al-Maktab al-Islaami, 1976), p. 3.

Allah be upon him) and you are not listening!” He replied, “There was a time in which if we heard someone saying, ‘The Messenger of Allah (peace and blessings of Allah be upon him) said...,’ we would rush to him to see him and listen closely with our ears. However, when the people started narrating everything, we only take that which we know.” That is, according to al-Harari, “what we know to be authentic transmitted from the Prophet (peace and blessings of Allah be upon him).”<sup>(111)</sup>

These reports and numerous others demonstrate that the Companions were very keen on preserving the hadith of the Prophet (peace and blessings of Allah be upon him) properly as well as following only that which can be ascertained as truthful and not that which is doubtful, even when it comes to statements attributed to the Prophet (peace and blessings of Allah be upon him).

**Evidence: “This knowledge is your religion, so consider who you are taking your religion from.”**

Ibn Sireen and others have made the statement concerning hadith, “This knowledge is your religion, so consider who you are taking your religion from.” (Recorded by Muslim in his introduction.) If a hadith is deemed weak, it means it has come from narrators whose individual reports are not considered trustworthy when it comes to passing on knowledge and there has not been sufficient corroborating evidence to have confidence in that narration. These narrators, even if they are otherwise pious, are, by definition, not those that one should base one’s religion on— one’s relationship with and worship of Allah.

**Evidence for the Third Opinion: Sadd al-Dharaai (Blocking the Means to Something Harmful)**

It has been demonstrated earlier that both from a theoretical and a practical perspective, it is very difficult to apply the second opinion of a partial application of weak hadith. It is that view that has opened the door for all sorts of inauthentic material to creep into the religion of the Muslims, leading to many practices that simply cannot be substantiated through any authentic means. Unfortunately, it did not stop at practices but it has actually stretched into the Muslims’ beliefs as well.

When the second opinion is applied properly with its restrictive meaning, the most that one gets is some texts that further encourage or discourage people to perform those deeds that are established in authentic texts. In the restricted sense, one is risking attributing statements to the Prophet (peace and blessings of Allah be upon him) that are not sound simply for the sake of further emphasis in teaching.

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(111) Muhammad al-Ameen al-Alawi al-Harari, *al-Kaukab al-Wahhaaj Sharh Sahih Muslim* (Daar al-Minhaaj, 2009), vol. 1, p. 227.

That is hardly a great benefit. At the same time, as mentioned, one is also biasing the scales of the Shareeah as one is improperly buttressing a position with evidence which is not authentic.

Furthermore, when the second opinion is applied in its more liberal form, as just alluded to, it opens the door for actions and beliefs that are not substantiated in the Shareeah. This opens the door for innovations and deviation. This is hardly a risk one should be willing to state.

The principle of "blocking the means" essentially states that sometimes it is better to prevent an otherwise acceptable deed if there is a strong probability that it could lead to greater harm. In the case of the second opinion on applying weak hadith, the benefits are minimal at best while the harms can be great. Hence, the principle of "blocking the means" is an appropriate principle to apply in this case.

### **Critique of the Third Opinion: Weak Hadith cannot be Equated to Fabricated Hadith**

In a paper for an international conference on the Hadith of the Prophet (peace and blessings of Allah be upon him) and Contemporary Challenges, Khaleel Mullakhaatir al-Azzaami argues that giving weak hadith the same ruling as fabricated hadith is "an affront to the scholars of this Ummah, early and later scholars who differentiated between weak and fabricated. Thus, it is obligatory to distinguish between them, both respect to ruling about them and practice."<sup>(112)</sup>

At first glance, this argument sounds very convincing. However, it is not exactly precise. He is basically arguing that hadith of the third opinion are giving 0 or 1 values only. *Sahih* and *hasan* hadith are given a value of one while all other hadith are given a value of zero, thus equating weak hadith to fabricated hadith. That is not quite the position of the scholars of the third opinion or of the hadith scholars as a whole. They do assign different values to weak, very weak and fabricated hadith. In particular, weak hadith are putting into a special category: On their own, they are not reliable but they are ready to be raised to acceptable if they can be corroborated. That is not true for very weak or fabricated hadith.

What the scholars of the third opinion are saying is that weak hadith are equivalent to faulty or unreliable data while fabricated hadith are equivalent to falsified data. In that sense, they have some similarity to fabricated hadith. Definitely no one should rely upon falsified information ("fake news"). Similarly, though, no one should base their religion or life upon data that has been shown to be faulty or

(112) Khaleel Mullakhaatir al-Azzaami, "*Khutoorah Masaawaah al-Hadeeth al-Dhaeef bi-l-Maudhoo*," (1428 A.H.), p. 116.

unreliable. In that sense, and in that sense only, weak hadith are similar to fabricated hadith.

### **Preliminary Conclusions**

In this author's view, there seems to be little doubt that this third opinion is the strongest opinion. It is the strongest opinion and it is the safest opinion. The second opinion has no strong evidence for it and it is replete with both theoretical and practical problems. Hence, the third opinion is the only alternative that is left and it is the way of the Companions, Allah willing, who were the most careful in narrating anything from the Prophet (peace be upon him).

## Whose Weak Hadith?

Ibn al-Qayyim once wrote that every fiqh Imam gives precedence to weak hadith over analogy (*qiyaas*).<sup>(113)</sup> What he said is both true and false—depending on how one wishes to interpret it.

When it comes to the hadith of the Prophet (peace and blessings of Allah be upon him), the jurists/legal theorists and the hadith scholars had different intentions behind their disciplines.<sup>(114)</sup> Abu Abdullah Al-Haakim (d. 405) and ibn Daqeeq al-Eid (d. 704) are two scholars who highlighted the fact that the approach of the fuqahaa in accepting hadith was different from that of the muhaditheen. Ibn Daqeeq al-Eid is quoted to have said, "Each of the Imams of fiqh and hadith followed a methodology different from the other."<sup>(115)</sup> Perhaps nothing captures the differences in approaches more than the statement by the Maliki Abu al-Hasan ibn al-Hisaar al-Andalusi (d. 611),

The hadith scholars have specific goals in their methodology and they are cautious therein, cautious to a great extent. It is not mandatory that the jurists follow them in that methodology. Such as [when the hadith scholars] declare a hadith of the Prophet (peace and blessings of Allah be upon him) defective because sometimes it is narrated as a statement of a Companion or narrated without a complete chain or when they cast doubt on a narrator when he is solitary in his narration or adds something to the narration or contradicts someone who is more righteous or more proficient than him. The jurist knows the soundness of a hadith by its agreement with the foundations or with a verse of the Book of Allah. That is what leads them to accept the hadith, act upon it and believe in its soundness. As long as there is no liar in the chain, there is no harm in declaring the soundness of the statement as long as it is consistent with the Book of Allah and the rest of the Shareeah foundations.<sup>(116)</sup>

The jurists and legal theorists were concerned with identifying those hadith that should be considered acceptable for basing laws on them. Thus, they divided hadith into "accepted" (*maqbool*) and "rejected" (*mardood*).<sup>(117)</sup> Their concern was

(113) Shams al-Deen ibn al-Qayyim, *Ilaam al-Muwaqieen an Rabb al-Aalameen* (Beirut, Lebanon: Daar al-Kutub al-Ilmiyyah, 1996), vol. 1, pp. 25f. Actually, ibn al-Qayyim's discussion is not consistent. First, he states, like ibn Taimiyyah, that the meaning of the acceptable "weak" in Ahmad's terminology was what later became termed *hasan*. Then he makes the above quoted statement, followed by examples from each fiqh school wherein they accept and apply weak hadith. The inconsistency is that the hadith in the examples are not from the category of *hasan* but are truly from the category of weak hadith.

(114) In contemporary times, self-proclaimed progressive Muslims are calling for new methods to determine the authenticity of hadith. That fringe movement will not be discussed here.

(115) Quoted in al-Ameer al-Sanaani, *Taudheeh al-Afkaar li-Maani Tanqeeh al-Andhaar* (Beirut, Lebanon: Daar al-Kutub al-Ilmiyyah, 1997), vol. 1, p. 23.

(116) Quoted in Badr al-Deen al-Zarkashi, *al-Nukat ala Muqaddimah ibn al-Salaah* (Riyadh, Saudi Arabia: Adhwa al-Salaf, 1998), vol. 1, pp. 106-7.

(117) Al-Saeedi (vol. 1, p. 46) states that the legal theorists use the term "rejected" (*mardood*) and rarely use the word "weak" (*dhaeef*). He says that this may have been because they did not want their discussion of hadith to be confused with the treatment of the hadith scholars.

mostly with meaning and consistency with the "law" as they envisioned it. The scholars of hadith were much more interested in a precise determination of what the Prophet (peace and blessings of Allah be upon him) said or did. When it comes to authentication or verification, they were much more detailed than others due to their overriding goal of determining what the Prophet (peace and blessings of Allah be upon him) actually said or did. As a result, they divided hadith narrations into many more categories than the legal theorists did.

The differences between the various disciplines did not stop there. Unfortunately, the actual criteria of determining what is an acceptable hadith was not the same as the criteria for determining a *sahih* or *hasan* hadith. This explains why the jurists used so many hadith that the scholars of hadith rejected as weak or even very weak. This is a very important difference to note as it explains why so many jurists and others were using weak hadith. In addition, the criteria for rejecting hadith was also different between the two sets of scholars. This explains why jurists refused to apply or overrode hadith which hadith scholars were declaring *sahih* or *hasan*. It is very likely that the two sets of scholars were somewhat independently of each other and it was not until centuries had passed before some of the criteria of the hadith scholars began to be applied to the fiqh works.

The jurists/legal theorists differ on both how they deal with the chain of the report as well as the text of the report. It is beyond the scope of this paper to discuss the details of how the jurists/legal theorists and hadith scholars differed but a few examples are needed to have some grasp of the issue.<sup>(118)</sup>

### **Differences in Accepting Hadith**

When it comes to the chains of a hadith, the jurists/legal theorists are much more accommodating in accepting narrators that the hadith scholars would declare questionable at best and they are also much more accommodating when it comes to accepting narrations with broken chains. For example, especially within the Hanafi school, a narrator is essentially considered "innocent until proven guilty." Thus, for example, Abu Haneefah is quoted to have said, "If one's Islam is known, it is

(118) A number of works are now available that discuss the differences between the jurists/legal theorists and hadith scholars in their approach to grading hadith. See, for example, al-Saeedi, vol. 1, *passim*; Abdullaah Shabaan Ali, *Ikhtilaafaat al-Muhadditheen wa al-Fuqahaa fi al-Hukum ala al-Hadeeth* (Cairo, Egypt: Daar al-Hadeeth, n.d.), *passim*. This is not meant to imply that the scholars of hadith are always on the same page concerning these various issues. As a whole, there is consistency or clearly identified dominant views among the scholars of hadith but there are definitely levels of differences of opinion among them as well. One of the best discussions of the differences among the hadith scholars is the two-volume work Khaldoon al-Ahdab, *Asbaab Ikhtilaaf al-Muhadditheen* (Jeddah, Saudi Arabia: Daar al-Saoodiyyah, 1985). Of course, there is no uniformity among the jurists/legal theorists as well, even within one fiqh school. Furthermore, the jurists have been accused, with some good reason, as being inconsistent in their approach to hadith.

permissible to accept his narrations."<sup>(119)</sup> The hadith scholars, in general, would insist to go beyond that and verify the person's integrity and religiousness. This different approach highlights the hadith scholars' importance on identifying and analyzing each narrator in the chain, which was not that great of a concern for many of the legal theorists. This difference is one of many that would lead to different grading of hadith.

Similarly, the concept and the effects of a broken chain are very different from the two perspectives. For many of the jurists/legal theorists, a broken chain is not that egregious as long as they have confidence that the one who is narrating it had confidence that it is correct. Needless to say, this is very different from the hadith scholars who consider virtually any type of break in the chain enough to make the narration weak.

In addition, jurists/legal theorists took a very different view of what constitutes supporting or corroborating evidence.<sup>(120)</sup> For the hadith scholars, narrations would support other narrations to strengthen each other and raise a hadith to *hasan lighairih*, for example. For the legal theorists, a hadith would be considered acceptable although its chain is weak if it were supported by aspects like the hadith is accepted by the Ummah as a whole<sup>(121)</sup>, the meaning of the hadith being supported by general principles, the meaning of the hadith being acted upon, the meaning of the hadith being consistent with analogy, the meaning of the hadith being consistent with the practices of the people of Madinah and so on. This demonstrates how very different the approaches are, as the hadith scholars seek evidence that the Prophet (peace and blessings of Allah be upon him) actually said something while the jurists/legal theorists are content to find evidence that indicate that the report should be acted upon. However, there is a clearly a logical flaw here. Simply because a statement is found to be true or correct, it does not mean that it can be attributed to the Prophet (peace and blessings of Allah be upon him). To accept the meaning of a statement is one thing but to then raise it to an absolute

(119) Abu Ishaq al-Sheeraazi, *al-Tabsirah fi Usool al-Fiqh* (Damascus, Syria: Daar al-Fikr, 1403 A.H.), p. 337. This author is not certain about the veracity of this quote but it does reflect the approach of many Hanafi scholars.

(120) An important discussion of the differences between the jurists and hadith scholars on this issue is Muhammad Baazamool, "Taqiyyah al-Hadith al-Dhaeef bain al-Fuqahaa wa al-Muhadditheen," *Majallah Jaamiah Umm al-Quraa li-Uloom al-Shareeah wa al-Lughah al-Arabiyyah wa Adaabihaa* (Vol. 15, No. 26, 2003), *passim*.

(121) There is a difference between the Ummah accepting that the meaning of a hadith is sound and the Ummah agreeing that the hadith is sound. If there is a consensus that a hadith is *sahih*, no one should then reject that hadith. However, the meaning of the hadith being accepted as sound does not necessarily indicate that the Prophet (peace and blessings of Allah be upon him) said it. A narration could have a sound meaning to it but that does not mean it can be attributed to the Prophet (peace and blessings of Allah be upon him).

proof in Islamic law—a hadith of the Prophet (peace and blessings of Allah be upon him)—is something quite different.

The jurists/legal theorists have virtually no concept of *shaadh*.<sup>(122)</sup> A hadith is declared by hadith scholars *shaadh* when how it is narrated or the information it contains contradicts stronger authorities. Sometimes, one narrator may contradict others by narrating a statement as a statement of the Prophet (peace and blessings of Allah be upon him) as opposed to a statement of a Companion. On other occasions, a trustworthy narrator may narrate a report with more text or information than how others narrated it. All of these are cause for concern for the hadith scholars while, in general, they are not issues for the jurists/legal theorists.

### **Differences in Rejecting Hadith**

At the same time that jurists/legal theorists are willing to accept hadith that the hadith scholars would call weak, due to their different standards, they also reject hadith that scholars of hadith declare *sahih*. In particular, their concepts of *illah* or “defects” in the hadith are very different. For hadith scholars, “defects” are mostly about identifying how narrators have committed errors in the specific manner in which they transmitted hadith. Jurists/legal theorists, as ibn Daqeeq al-Eid noted, are scarcely concerned with those transmission-related issues.<sup>(123)</sup> For many jurists/legal theorists, the sign that a report is “defective” is that it contradicts established principles that they are not willing to compromise on. Thus, among the various fiqh schools they would possibly reject a hadith, even if it had a sound chain, if the narrator acted against what he narrated, if it contradicts a clear analogy, if it contradicts a general principle of the Shareeah, if it goes against the actions of the people of Madinah, if the hadith is not “widespread” yet it touches upon a topic that afflicts everyone, if the hadith is not “widespread” and it contradicts the general meaning of the Quran<sup>(124)</sup> and so on. In a sense, though, it can be argued that the jurists/legal theorists are working backwards. They are starting with what they consider an established point of fiqh and using it to overrule what actually should be the foundation of their fiqh if it is sound. This is a very precarious approach to say the least.

(122) See Abdul Kareem Sabbaah, *Al-Hadeeth al-Saheeh wa Manhaj Ulamaa al-Muslimeen fi al-Tasheeh* (Riyadh, Saudi Arabia: Maktabah al-Rushd, 1998), pp. 183ff.

(123) Taqiyy al-Deen ibn Daqeeq al-Eid, *al-Iqtiraah fi Bayaan al-Istilaah* (Beirut: Daar al-Kutub al-Ilmiyyah, 1986), p. 5.

(124) These principles have put the Hanafis in particular in a very difficult position. From an authenticity perspective, they cannot deny the veracity of many narrated hadith but since those narrations do not meet these criteria they have established, they “accept” the hadith but, in essence, do not allow the hadith to have its “full force.”

## So whose weak hadith?

The above discussion was meant to be very brief. The differences between the jurists/legal theorists and hadith scholars are quite extensive. In this author's view, to be very frank, the differences between the two approaches are essentially the difference between those who are specialists in a field and deal with the subject "on the ground" and those who are not truly specialists in the field, and therefore do not appreciate the nuances that accompany the passing on of hadith. Like all other fields, those who are specialists understand their discipline better than others. In particular, the hadith scholars are well aware of how trustworthy narrators are capable of making mistakes. Therefore, they do their best to weed out those mistakes. Although that seems like an obvious point, that is one of the aspects that distinguishes the jurists/legal theorists from the hadith scholars.

For example, jurists/legal theorists are apt to accept *mursal* hadith. One definition for a *mursal* hadith, which places it as the strongest of the weak hadith, is a hadith in which the chain is completely intact except for the name of the Companion who originally narrated it from the Prophet (peace and blessings of Allah be upon him). It is, then, a hadith in which one of the Followers stated that the Prophet (peace and blessings of Allah be upon him) said or did something. Someone could argue that all of the Companions are considered trustworthy so there is no harm in lacking the name of the Companion and, thus, such a hadith should be accepted. The hadith scholars, who have the experience on the ground, know full well that between that Follower and the Prophet (peace and blessings of Allah be upon him) there could be as many as six or seven narrators other than the Companion.<sup>(125)</sup> In fact, there are even hadith where a Follower narrated from a Companion from another Follower from a different Companion from the Prophet (peace and blessings of Allah be upon him). In other words, the simple *mursal* hadith could possibly have a lot of gaps to them and a lot could possibly go wrong. Hence, they need to be investigated and understood analyze in order to attribute that statement to the Prophet (peace and blessings of Allah be upon him). One should not simply assume that everything is fine simply because the last narrator himself is trustworthy, which is what some of the jurists/legal theorists seem to assume.

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(125) Ibn Hajar says that theoretically speaking, there could be numerous narrators missing but in practice the most that has been noted of Followers narrating from other Followers in the same chain is a link of six or seven. Ahmad ibn Hajar, *Nuzhah al-Nadhar fi Taudheeh Nukhbah al-Fikr fi Mustalah Ahl al-Athar* (Abdullah al-Ruhaili, ed., 2001), p. 101.

On the other hand, once a hadith does pass the rigid tests of the hadith scholars—which includes both a test of the chain as well as the text—the bar has now been set very high for anyone to critique or reject that grading. The scholars of hadith understood well that the most pious and the most trustworthy narrator could make a mistake. Hence, they examined any report to ensure that no mistake was made and to ensure that it does not contradict stronger sources. They did not take their decision to declare a hadith *sahih* or *hasan* lightly. This was their expertise and their methods demonstrate that they understood the concept of preservation of a statement of the Prophet (peace and blessings of Allah be upon him) much better than the jurists or legal theorists did.

In the light of that background, one can understand ibn al-Qayyim’s statement at the beginning of this section. It is further elaborated upon below.

## Qiyaas and Ijtihad Vis-A-Vis Weak Hadith

In the process of making a legal decision on a question in which there is no explicit, authentic textual evidence, the mufti may have to decide which takes precedence: a weak hadith or *ijtihad* (personal juristic reasoning), in particular *qiyaas* or analogy. In this author's view, the decision here should be clear. Interestingly, as quoted earlier, ibn al-Qayyim makes the argument that virtually all of the Imams preferred a weak hadith over *qiyaas* or *ijtihad*.

Ibn al-Qayyim starts by quoting some well-known statements from Imam Ahmad. Ahmad stated, "A weak hadith is more loved to me than a person's opinion."<sup>(126)</sup> In addition, he narrates that one time Ahmad was asked about a person who had a choice of going to a person who knew hadith but did not know the authentic from the weak or a person who resorted to personal reasoning. Ahmad said that the person should go ask the one who knew hadith and not the other one.<sup>(127)</sup> Ibn al-Qayyim then argues that Abu Haneefah and his followers all agree that a weak hadith is preferred to *qiyaas* and personal opinion. He says that Abu Haneefah builds his *madhhab* upon this principle. He then lists some examples from the Hanafi School demonstrating his point.<sup>(128)</sup> (Ibn Hazm points out that it was also the view of all of the Hanafis that a "weak" hadith takes precedence over personal opinion and analogy.<sup>(129)</sup>) Ibn al-Qayyim also argues that it was Imam Malik's and al-Shafiee's view to give preference to weak hadith over *qiyaas*.<sup>(130)</sup>

There is no question that there is something peculiar here. It can be proven via the Quran and hadith that *qiyaas* is an authority (*hujjah*) in Islamic Law, as agreed upon by all the schools of fiqh (except for the Dhahiris). At the same time, a weak hadith, also by agreement, is not an authority (*hujjah*). How is it possible that these scholars would give preference to something which is not an authority over something which is an authority? Various interpretations have been given.

The case of Imam Ahmad has to be dealt with separately from the others because he is the only one who explicitly states his preference for weak hadith over personal opinion. One interpretation given to Ahmad's statement that weak hadith

(126) He did not mean very weak or fabricated hadith. A complete discussion of Ahmad's opinion on weak hadith is beyond the scope of this paper. The interested reader is referred to Abdullah al-Turki, *Usool Madhhab al-Imaam Ahmad* (Riyadh: Maktaba al-Riyaadh al-Hadeetha, 1977), pp. 274-281.

(127) Ibn al-Qayyim, *Ilaam*, vol. 1, pp. 76-77. See also Ahmad Ibn Hajar, *al-Nukat ala Kitaab ibn al-Salaah* (Madinah: al-Jaamiat al-Islamiya, 1984), vol. 1, p. 437.

(128) Ibn al-Qayyim, *Ilaam*, vol. 1, p. 77.

(129) Quoted by al-Uthaim, p. 31.

(130) Ibn al-Qayyim, *Ilaam*, vol. 1, p. 32.

are preferred over analogy is that it is in reference to a blatantly wrong analogy (*qiyaas faasid*); that is, an analogy between two actions that do not share important common characteristics or an analogy that violates established principles or rulings of the Quran and Sunnah. In such cases, Ahmad would rightly reject the analogy, and, if that were the only alternative open to him, he would prefer to follow a weak narration.

However, an even more important question is the meaning of “weak hadith” in Ahmad’s statement quoted above. One thing is certain, Ahmad did not mean by that hadith which are very weak. Ibn al-Qayyim points out that when Ahmad used “weak” hadith, he never used erroneous hadith, *munkar* (“rejected”) hadith or hadith coming from completely non-acceptable sources; he would only use a strong kind of weak hadith, which is similar to what was later called *hasan*.<sup>(131)</sup>

According to Ibn Taimiyyah and others, before the time of al-Tirmidhi (and Ahmad was before the time of al-Tirmidhi), in general, hadith were divided into only two categories: *sahih* and *dhaeef* (weak). However, the *dhaeef* were of different levels. There were *dhaeef* that were absolutely rejected and there were *dhaeef* that were close to but not to the level of *sahih*. This latter category could be accepted and acted upon. According to this theory, this stronger category of *dhaeef* is what is known today as *hasan*. Ibn Taimiyyah wrote,

Weak [among those early scholars] were of two types: weak that cannot be used as evidence, and this is weak in al-Tirmidhi’s terminology, and weak that could be used as evidence, and this is *hasan* in al-Tirmidhi’s terminology. This is similar to the case of two different levels of illness in fiqh. One type of illness is where the person is considered to be on his deathbed and he is not allowed to give more than one-third of his wealth in charity. The other is where he is barely sick and may do what he wishes with all of his wealth. That is why one finds in Ahmad’s and other jurists’ statements that they are using weak hadith as proofs. They use as evidence hadith like those of Amr ibn Shaib, Ibraaheem al-Hujari and others. This is what those [early] scholars called weak while they are superior to many *hasan* hadith. In fact, some scholars consider such hadith to be *sahih*.<sup>(132)</sup>

As was stated earlier, this explanation from Ibn Taimiyyah is still problematic and leaves some questions left unanswered.

In any case, if it were truly Imam Ahmad’s *madhhab* to give preference to weak hadith—what today would be called weak hadith—over *qiyaas*, then, as al-

(131) Ibid., vol. 1, p. 31.

(132) Ahmad ibn Taimiyyah, *Sharh Hadith Innama al-Amaal bi-l-Niyyaat wa Innamaa likulli Amrin ma Nawa* (Maktaba al-Salaam al-Alamiyah, 1981), p. 11.

Shaatibi stated, "This is the view of a *mujtahid* and his *ijtihaad* could be wrong or right."<sup>(133)</sup> Al-Shaatibi also points out that Imam Ahmad may have been responding to the phenomenon of preferring *qiyaas* to authentic hadith, thus leading him to make this strong statement. Furthermore, this may have been Imam Ahmad's earlier view based on the understanding of how people were abusing the application of *qiyaas*. Ahmad stated that they used to curse the "people of opinion" (those known for making *qiyaas*) and those people would curse the people of hadith until al-Shafiee came to them and made them understand how *qiyaas* and *ijtihaad* are also necessary when performed properly.<sup>(134)</sup>

With respect to the Hanafi school<sup>(135)</sup>, the Hanafi scholar al-Thaanawi also argues that all of the hadith that ibn al-Qayyim uses as examples of the Hanafis preferring weak hadith over *qiyaas* are all hadith which are either *hasan lidhaatih* or *hasan lighairih* according to the later scholars.<sup>(136)</sup> Without going into details, this author finds al-Thaanawi's claims untenable.<sup>(137)</sup> The hadith ibn al-Qayyim mentioned included the hadith about making ablution due to laughing aloud in the prayer and the hadith about making ablution using fruit nectar. These hadith are, to this author's knowledge, universally rejected as weak among the scholars of hadith and not *hasan lidhaatih* or *lighairih*.

The correct view—and Allah knows best—with respect to both the Hanafi and the Maliki schools goes back to the section, "Whose Weak Hadith?" None of these schools applied what they would consider to be rejected hadith. They were acceptable hadith according to their looser standards of grading hadith. Since they were, in their view, acceptable hadith, they should take precedence over *qiyas*, as texts take precedence over *ijtihaad*. Hence, for them, it was never a case of preferring a weak—in their terms, rejected—hadith over *qiyas*.

(133) Ibraaheem ibn Moosaa al-Shaatibi, *al-Itisaam* (al-Khobr, Saudi Arabia: Daar ibn Affaan, 1992), vol. 1, p. 289.

(134) Ibid.

(135) In his Ph.D. dissertation, al-Haarithi argues that the expression, "a weak hadith takes precedence over *rai* (opinion, personal reasoning)," does not refer to the case where there is contradiction between but the two, but only when there is agreement. He says that if there is an issue in which *rai* and a weak hadith lead to the same conclusion, then it is better to base one's opinion on the weak hadith rather than on one's opinion. However, if there is a contradiction between "sound analogy" and a weak hadith, then the weak hadith is to be ignored and the sound analogy is to be followed. [See Muhammad Qaasim al-Haarithi, *Makaanah al-Imaam Abu Haneefah bain al-Muhaditheen* (1993), p. 565.] His argument renders the statement, "A weak hadith is more beloved to us than *rai*," virtually meaningless or useless. If one only follows a weak hadith if *rai* or personal reasoning accepts it, then the true judge or authority is *rai* and not the hadith. *Rai*, therefore, takes precedence and is, in reality, the thing that is more beloved to the person. If al-Haarithi's interpretation is correct, and this author is not convinced of that, then this author's discussion in the text above is inaccurate. Allah knows best.

(136) Dhafar al-Uthmaani al-Thaanawi, *Qawaaid fi Uloom al-Hadeeth* (Beirut, Lebanon: Daar al-Qalam, 1972), p. 108.

(137) In his defense, he does say (p. 108), "I have found them all to be *hasan lidhaatih* or *lighairih*." He could be arguing that it is his own personal conclusion on these hadith.

In sum, *qiyas* is an authority in Islamic Law. In cases of *qiyas*, sometimes the *illah* (effective legal cause) is actually stated in the text while in other cases it is derived. When the *illah* has been properly derived from the original case and when the *illah* is identified in the parallel case, the mufti should feel confident to apply the *qiyas*. In other words, a sound *qiyas* should be accompanied with confidence in its correctness. On the other hand, weak hadith are, by definition, reports concerning which the *mufti* lacks confidence in their correctness, that is why they have been deemed weak. When comparing a sound analogy with a weak hadith, it is comparing something the *mufti* should have confidence in vis-à-vis something the *mufti* does not have confidence in. Hence, there can be no conflict. A valid *qiyas* should always take precedence over a weak hadith.

## The Mufti Resorting to Weak Hadith in the Absence of Other Evidence

As noted above, *qiyas* is an authority in Islamic Law. Thus, if the *mufti* can find an analogous parallel in one of the texts of the Quran and Sunnah, he should resort to *qiyas*. But suppose a *mufti* exerts himself or herself to find any evidence related to a specific issue and is not able to find any acceptable proof. However, he or she is able to find a weak hadith which is specifically related to the question at hand. In the absence of any other evidence, should a *mufti* rely upon a weak hadith? In other words, it is at least *something* to rely on.

The opinion that one should resort to weak hadith under this scenario is most commonly attributed to and most well-known as being the opinion of Ahmad ibn Hanbal and his close student Abu Dawood, the compiler of the *Sunan*. Al-Zarkashi also attributes this view to al-Shaafiee but that is definitely disputable.<sup>(138)</sup>

In addition to quotes from Ahmad in the previous section, it is also said about him that he would act on the basis of weak hadith if he could not find any other basis to act upon and there was nothing contradictory to the weak hadith.<sup>(139)</sup> He never resorted to analogy (*Ar., qiyaas*) unless he found no textual source whatsoever and even in that case he would prefer to remain quiet than to give his opinion. Similarly, it is claimed that if Abu Dawood found no *sahih* or *hasan* hadith on a topic, he would record a weak hadith for he considered that stronger than a person's individual opinion.<sup>(140)</sup>

According to al-Wazeer, Ahmad would resort to weak hadith in the absence of any other evidence as a precautionary act (*ihitiyaat*) and not as an obligatory step nor out of ignorance concerning the weakness of the hadith.<sup>(141)</sup> Interestingly, al-Wazeer also gives a number of examples wherein Ahmad, upon being asked why he ruled in accord with a weak hadith, stated that "it is the rule that is acted upon." This is rather ambiguous. It could mean that he is accepting that ruling regardless of the existence of the hadith and not due to the hadith. It could also mean that he is accepting the fact that the meaning of a hadith is acted upon as one of the reasons to raise the level of a hadith. Al-Wazeer argued that Ahmad was declaring the hadith weak in terms of how the hadith scholars judged it and declared it enforceable in

(138) See al-Saeedi, vol. 1, p. 267.

(139) Quoted in Abdul Azeez al-Uthaim, *Tahqeeq al-Qaul bi-l-Amal bi-l-Hadeeth al-Dhaeef* (al-Thuqba, Saudi Arabia: Dar al-Hijra, 1992), p. 30.

(140) Ibn Hajar, *al-Nukat*, vol. 1, p. 436.

(141) Muhammad Ibraaheem al-Wazeer, *al-Awaasim wa al-Qawaasim fi al-Dhibb an Sunnah Abi al-Qaasim* (Beirut, Lebanon: Muasassah al-Risaalah, 1994), vol. 2, pp. 89-90.

terms of how the jurists deal with hadith. Other examples clearly seem to indicate that Ahmad refers to hadith as weak when they are weak on their own, even though there is supporting evidence for them. In other words, he calls hadith which would later be called *hasan lighairih* weak.<sup>(142)</sup>

With respect to Abu Dawood, he made it clear in the introduction to his work that if there was any defect in a hadith, he would point it out. He stated that if he made no comment, the hadith was *saalih* (صالح) or acceptable. Al-Nawawi states that what Abu Dawood meant by that is that the hadith was *hasan*.<sup>(143)</sup> If what al-Nawawi said is correct, if he considered it acceptable to act on weak hadith there would be no reason for him to point out defects in hadith and to use only *saalih* hadith. However, ibn Hajar has shown, through examples, that this is not the correct interpretation of Abu Dawood's approach. What Abu Dawood meant by *saalih* was that the hadith was acceptable to be used as supporting evidence or to be supported by other narration. Hence, it was not actually very weak.<sup>(144)</sup> Furthermore, simply because he recorded weak hadith when he could not find stronger evidence does not necessarily imply that he meant that such hadith are to be considered proofs or to be acted upon. Scholars of hadith recorded weak hadith for many different reasons and one cannot assume from a person's recording of a weak hadith that he means by it that some weak hadith are acceptable as evidence or are to be followed.

Someone may argue that if a person has a choice between two views, one being supported by a weak hadith and the other not having any such support, the weak hadith would give extra strength to the first opinion and it should automatically be followed. However, that is not necessarily the case. It could be the case that the reasoning supporting the opinion that has no weak hadith to support it is very strong while the reasoning behind the other opinion is very frail. If one then follows an opinion simply because it is supported by a weak hadith—which is not considered an acceptable evidence in Islamic law—one will actually be going against what logic dictates. This type of methodology, where one goes against the stronger argument in favor of something that is not considered an evidence in the *shareeah*, could not be approved of by Islamic legal theory.

One question though that remains to be addressed is the issue of applying weak hadith simply as a precautionary step and what that would imply.

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(142) Ibid.

(143) Al-Nawawi, *al-Majmoo*, vol. 7, p. 168.

(144) ibn Hajar, *al-Nukat*, vol. 1, p. 435. What this necessarily implies is that one cannot conclude that if Abu Dawood was silent about a hadith that such a hadith is at least *hasan*. Indeed, it could be weak but it is not so weak that it cannot be supported or be used as supporting evidence.

## Applying Weak Hadith out of Precautionary (*Ihtiyaat*)<sup>(145)</sup>

Al-Nawawi wrote in *al-Adhkaar*, "As for rulings of what is permissible or forbidden, and concerning business, marriage, divorce and the like, only *sahih* or *hasan* hadith are acted upon—unless there is some aspect of precaution. For example, if there is a weak hadith stating that a type of business transaction or a type of marriage is disliked, then it is preferred to avoid it but it is not obligatory to do so."<sup>(146)</sup>

In this passage, al-Nawawi has stated a different concept. In the previous pages, the question has been mostly about whether weak hadith can be considered an authority or if they should be applied under specific circumstances. Al-Nawawi here is essentially building upon the doubt created by a weak hadith (the speculation that it could be sound although it has been rejected as weak). When faced with doubt, one response is to be cautious and even be willing to "err on the side of caution." As noted earlier, this is why, according to al-Wazeer, Ahmad would apply weak hadith. Al-Suyooti also wrote, "Weak hadith are to be applied in rulings as well if done out of precaution."<sup>(147)</sup>

Apparently within the Hanbali school there is a principle that if there is a weak hadith that is commanding an action, that action is to be taken as recommended and not obligatory as there is doubt concerning its being ordered. Thus, people should not be considered sinful if they do not do that act since it is based on a weak hadith. Hence, it moves from being obligatory to being recommended due essentially only to the weakness of the hadith. Similarly, if a weak hadith prohibits an act, that act becomes dislike due to the doubt over whether it truly was prohibited. Again, people cannot be considered sinful for doing an act unless the evidence for that sinfulness is sound. According to ibn Uthaimen, this was a principle laid out by ibn Muflih, the student of ibn Taimiyyah.<sup>(148)</sup>

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(145) Since it was concluded that the approach of the hadith scholars is the appropriate approach in dealing with hadith, the *usooli* (legal theory) issues related to hadith and *ihitiyaat* will not be touched upon here. For example, al-Raazi and Safi al-Deen al-Hindi were of the view that *mursal* hadith should be followed as a precautionary act. Legal theorists have even questioned the veracity of following non-*mutawaatir* hadith except as a question of *ihitiyaat*. For details of this nature, see Muhammad ibn Ibraaheem al-Shaami, "*Al-Akhdh bi-l-Ihtiyaat ind al-Usooliyyeen*," (Master's Thesis: Jaamiah al-Imaam Muhamad ibn Saood al-Islaamiyyah, 1435-36 A.H.), pp. 263-336.

(146) Yahya al-Nawawi, *al-Adhkaar* (Beirut, Lebanon: Daar al-Fikr, 1994), p. 8.

(147) Jalaal al-Deen al-Suyooti, *Tadreeb al-Raawi fi Sharh Taqreeb al-Nawaawi* (Riyadh, Saudi Arabia: Maktabah al-Kauthar, 1415 A.H.), vol. 1, p. 351.

(148) See al-Ghannaam, p. 888.

Al-Saeedi argues that using weak hadith for recommended acts would open the door too widely and could lead to accepting and applying all weak hadith. This could be used as proofs for the heretics and innovators. Due to this fear, he concludes that the door to that should be blocked ("blocking the means") but then immediately says, "I say that weak hadith are not to be acted upon in any rulings except to establish that something is disliked."<sup>(149)</sup>

*Ihtiyaat* is defined as, "Guarding from falling into what is prohibited or leaving what one has been ordered to do when faced with uncertainty."<sup>(150)</sup> In his extensive dissertation, Autuyoo went much further in his definition, stating, "The legally bound individual protects himself from falling into an uncertain state of prohibition or disliked by removing himself from that uncertainty by that which is certain."<sup>(151)</sup> In Autuyoo's definition he highlights the fact that acting out of precaution must be done by moving into a situation that there is no room left for uncertainty, doubt or question.

Acting out of precaution must be based on some true uncertainty or doubt. There is such a thing as "blameworthy precaution" (*al-ihtiyaat al-madhmoon*), where the signs and evidence are clear and there is no call to act in a cautious fashion. Acting in a precautious manner when the signs are clear is nothing more than pure delusion or baseless suspicion, to the point that it could lead to a serious condition akin to obsessive-compulsive behavior.

With respect to the issue at hand, if the hadith scholars are in general agreement that a hadith is weak, there should be no reason to suspect that they are all wrong. This would go against the concept that Allah has preserved this religion. In a case like that, there should be no reason to resort to acting cautiously and still acting upon that weak hadith.

Similar is the case where the individual himself is trained in the sciences of hadith, studies the hadith in detail, concludes that it is conclusive to him or her that the hadith is weak. To then still have doubt and act upon that doubt would be irrational.

There could be other cases where the situation may not be so clear and the scholar is not that confident concerning the grading of the hadith. For example, the jurist may not be trained in hadith sciences so he usually follows one or two well-

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(149) Al-Saeedi, vol. 1, p. 282.

(150) Muneeb Shaakir, *al-Amal bi-l-Ihtiyaat fi al-Fiqh al-Islaami* (Riyadh, Saudi Arabia: Daar al-Nafaais, 1998), p. 48.

(151) Ibraaheem Autuyoo, *al-Ihtiyaat fi al-Fiqh al-Islaami* (Riyadh, Saudi Arabia: Jaamiah al-Imaam Muhammad ibn Saood al-Islaamiyyah, 2014), vol. 1, p. 47.

known hadith scholars in their judgment on hadith. However, sometimes these scholars may differ in their judgments, leading to confusion or doubt on the part of the jurist. In this case, there could be call for acting on a hadith that is weak due to the doubt that has arisen. But this is a very particular case and should not be used to justify using weak hadith in general due to doubt. Even in a restricted sense, like that referred to by al-Nawawi of a business transaction or marriage contract prohibited in a weak hadith, there is no need to act according to the weak hadith unless there is some question concerning the actual weakness of the hadith, such as the scholars differing over its weakness.

### **Ihtiyaat and Fatwaas**

There are some occasions in which *ihitiyaat* may be considered obligatory but, in general, it is an option for the individual to decide if he or she wishes to be extra cautious concerning his or her faith. Thus, if given one of the scenarios just stated, a mufti gives a fatwaa on the bases of *ihitiyaat*, it should be explained that it is the result of *ihitiyaat* and it needs to be left to the person's conscience as to whether they will apply it or not.

## Weak Hadith and Fatwaas

### Definition of Fatwaa

*Fatwaa*<sup>(152)</sup> lexically means, “to make something clear, to clarify something.” As a technical term, *fatwaa* has been defined in various ways by scholars. Al-Ashqar defines *fatwaa* as, “The informing of the ruling of Allah based on Shareeah evidences for the one who has asked about it concerning an issue that has arisen.”<sup>(153)</sup> Al-Ashqar’s definition does not state that the *fatwaa* need be based on *ijtihaad*, as a *fatwaa* is a response to a query and sometimes it does not require *ijtihaad* but simply a passing on of a text, for example. Al-Ashqar also includes in his definition that a *fatwaa* is related to an issue that has arisen, as opposed to an unprecedented issue—as not every question put to a *mufti* is related to an unprecedented issue. One point that al-Ashqar did not include in his definition which others did include (although al-Ashqar did explain it later) is that a *fatwaa* is non-binding, as opposed to a court ruling.<sup>(154)</sup> Al-Kindi further notes that a difference between fiqh and *fatwaa* is that fiqh is static and not concerned with particular circumstances while in the case of *fatwaa* the *mufti* has to analyze the particular circumstances, determine what driving legal cause is present and make a ruling based upon that reality.<sup>(155)</sup>

Above and beyond the definition given, Al-Shaatibi and ibn al-Qayyim emphasize an aspect related to *fatwaas* that should never be forgotten: The *mufti* is essentially acting on behalf of Allah. Al-Shaatibi stated, “The position of the *mufti* in the Ummah is like the position of the Prophet (peace and blessings of Allah be upon him).”<sup>(156)</sup> He explains further that the *mufti*’s role is to convey the truth from Allah like the Prophet (peace and blessings of Allah be upon him) had done so. Ibn al-Qayyim’s famous work *Ilaam al-Muwaqieen an Rabb al-Aalameen* is essentially entire a reminder to the *mufti* that when he “signs” his *fatwaa* he is actually signing on “behalf of Allah.” No doubt, this is a heavy burden on the *mufti*’s shoulders and the only one he can escape sin is if he approaches his role with the proper intention and by attempting to follow the proper methodology to reach his conclusion.

(152) The word *futyaa* is considered more proper Arabic (*afsaah*). However, *fatwaa* is also sound and has become predominant in the English literature. Cf., Muhammad al-Ashqar, *al-Futyaa wa Manaahij al-Iftaa* (Kuwait: Maktabah al-Manaar al-Islaamiyyah, 1976), p. 7.

(153) Al-Ashqar, p. 9.

(154) Adding “non-binding” nature to the definition was done by al-Qaraafi and others. Cf., Qutub al-Raisooni, *Sinaah al-Fatwaa fi al-Qadhaayaa al-Muaasirah* (Beirut, Lebanon: Daar ibn Hazm, 2014), p. 26; Muhammad Ibraaheem, *Al-Fatwaa: Ahamiyyatuhaa, Dhawaabituhaa, Athaaruhaa* (2008), p. 30.

(155) See Abdul Razzaaq al-Kindi, *al-Taiseer fi al-Fatwaa: Asbaabuhu wa Dhawaabituh* (Beirut, Lebanon: Resalah Publishers, 2008), p. 105.

(156) Ibraaheem ibn Moosaa al-Shaatibi, *al-Muwaafaqaat* (Al-Khobr, Saudi Arabia: Daar ibn Affaan, 1997), vol. 5, p. 253.

**Can this obligation be fulfilled based on Faulty Data?**

The *mufti* has a heavy responsibility. He must make sure that his or her methodology is correct. The database that he or she uses must also be sound and authentic. The *mufti* must fear Allah with respect to what the *fatwaa* is based on and have a strong level of confidence in the sources being used. This is why the scholars have agreed that when it comes to fiqh rulings, weak hadith cannot be used as an authority. With perhaps the rare of exception of sometimes resorting to acting out of caution, there seems to be very little reason for a mufti to delve into or use weak hadith.

## Fatwaas, Weak Hadith and Muslims of America

The question of applying weak hadith is not an issue that is specific to the Muslim minorities of the West. It plagues the entire Muslim Ummah. However, some specific examples can still be highlighted in relation to the Muslims of Western non-Muslim lands and America, in particular.

### **Ribaa in non-Muslim Lands**

The case of *riiba* (interest) in non-Muslim lands highlights the discrepancy between the hadith scholars and jurists when it comes to judging hadith. The main textual evidence relied upon for the permission of engaging in some forms of *riiba* in non-Muslim lands is the hadith,

لَا رِبَا بَيْنَ الْمُسْلِمِ وَالْحَرْبِيِّ فِي دَارِ الْحَرْبِ

“There is no *riiba* between a Muslim and a combatant non-Muslim (*harbi*) in the combatant non-Muslim lands (*daar al-harb*).” The leading Hanafi scholar, al-Sarakhsi, states in *al-Mabsoot*,

It is mentioned from Makhool on the authority of the Messenger of Allah (peace and blessings of Allah be upon him) who said, “There is no *riiba* between Muslims and the inhabitants of the combatant non-Muslim lands in the combatant non-Muslim lands.” Although this hadith is *mursal*, Makhool was a jurist and trustworthy person and *mursal* reports from someone like him are acceptable. It is the evidence for Abu Haneefah and Muhammad, may Allah have mercy on them, that it is permissible for a Muslim to sell one gold coin for two to a non-Muslim combatant in the combatant land. According to Abu Yoosuf and al-Shaafiee, this is not permissible.<sup>(157)</sup>

Makhool, a trustworthy narrator and jurist, was one of the “minor Followers,” meaning he only met one or a few of the Companions. Most of his narrations from the Companions as well as many of his narrations from the Followers are in *mursal* form—that is, they are missing the names of Makhool’s direct source.<sup>(158)</sup> That means that there is a minimum of one individual missing (the Companion) but most likely at least two, if not more. Additionally, Al-Shaafiee stated that Abu Yoosuf, Abu Haneefah’s student, stated that Abu Haneefah followed that view become one<sup>(159)</sup> of the Shaikhs narrated to them that Makhool narrated that the Prophet (peace and

(157) Muhammad ibn Ahmad al-Sarakhsi, *al-Mabsoot* (Beirut, Lebanon: Daar al-Marifah, 1993), vol. 14, p. 56. After presenting the statements of those who reject this hadith, al-Sarakhsi is quoted and seemingly followed in another Hanafi fiqh standard: Kamaal al-Deen ibn al-Humaam, *Fath al-Qadeer* (Beirut, Lebanon: Daar al-Kutub al-Ilmiyyah, n.d.), vol. 7, p. 38.

(158) For details about Makhool, see Ahmad ibn Hajar, *Tahdheeb al-Tahdheeb* (Hyderabad, India: Majlis Daairah al-Maarif al-Nidhaamiyyah, 1327 A.H.), vol. 10, pp. 289-293.

(159) The word used was بعض that could mean some but usually in these contexts it means one.

blessings of Allah be upon him) made that statement.<sup>(160)</sup> Thus, it was not even the case that Abu Haneefah heard this narration from Makhool. There are three issues, then, with respect to this hadith:

- (1) It is missing the name(s) of the narrator(s) between Makhool and the Prophet (peace and blessings of Allah be upon him).
- (2) It is missing the name(s) of the narrator(s) between Abu Haneefah/Abu Yoosuf and Makhool.
- (3) Absolutely no other narrator corroborates this report from Makhool.

Those issues are clearly enough for the hadith scholars and many jurists to reject this hadith. However, these issues clearly did not dissuade al-Sarakhsi and those who follow him from rejecting this hadith or acting upon it. Indeed, these jurists even particularize the generality of the verses of the Quran and hadith that clearly prohibit *riba*. (This is quite an ironic twist given that sometimes Hanafi scholars refuse to allow some of the strongest hadith to particularize the generality of the Quran.<sup>(161)</sup>)

This weak hadith and the Hanafi position based on it has had and still has the potential to influence Muslims' attitudes toward *riba* in non-Muslim lands, such as the United States. For example, in The Fourth Ordinary Session of the European Council for Fatwa and Research, they dealt with the question of buying a house via an interest-bearing mortgage. Although they did not specifically mention this hadith, their view was partially based on the Hanafi opinion which is directly based on this hadith. They wrote, "The Second criterion upon which the fatwa was based is the juristic verdict which claims that it is permissible for Muslims to trade with usury and other invalid contracts in countries other than Islamic countries. This opinion is held by a number of renowned scholars such Abu-Hanifah, his colleague Muhammad As-Shaybani..."<sup>(162)</sup>

It is important for a *mufti* to recognize the weakness of this hadith and therefore not base any view, either on a secondary basis, on this hadith.

### **Memorizing the Quran**

There is a hadith attributed to the Prophet (peace and blessings of Allah be upon him) which states,

(160) Ibn al-Humaam, vol. 7, p. 39.

(161) Thus, al-Nawawi, the Shaafiee, in his refutation of this view of Abu Haneefah, wrote, "And our scholars argue on the basis of the generality of the texts of the Quran and Sunnah that prohibit *riba* without any distinction [of the place] as what is *riba* in the land of Islam is also forbidden *riba* in the land of non-Muslim combatants." al-Nawawi, *al-Majmoo*, vol. 9, p. 392.

(162) <https://www.e-cfr.org/fourth-ordinary-session-european-council-fatwa-research/>

مَنْ قَرَأَ الْقُرْآنَ وَاسْتَظْهَرَهُ فَأَحَلَّ حَلَالَهُ وَحَرَّمَ حَرَامَهُ أَدْخَلَهُ اللَّهُ بِهِ الْجَنَّةَ وَشَفَعَهُ فِي عَشْرَةٍ مِنْ أَهْلِ بَيْتِهِ

كُلُّهُمْ وَجَبَتْ لَهُ النَّارُ

Narrated Ali ibn Abi Taalib: The Messenger of Allah (peace and blessings of Allah be upon him) said: "Whoever recites the Qur'an and memorizes it, making lawful what it makes lawful, and unlawful what it makes unlawful, Allah will admit him to Paradise due to it, and grant him intercession for ten of his family members who were to be consigned to the Fire."<sup>(163)</sup> This hadith was recorded by al-Tirmidhi who himself noted its weakness, writing, "This Hadith is *Gharib* [weak], we do not know of it except through this route, and its chain is not *sahih*. Hafs bin Sulaiman (a narrator in the chain) is Abu Umar Bazzar from al-Kufah who was graded weak in hadith."<sup>(164)</sup> Ahmad Shaakir, Shuaib al-Arnaoot and al-Albaani have all declared this hadith "very weak."<sup>(165)</sup> (It being very weak means it does not meet the criteria that ibn Hajar and others have stipulated for the use of weak hadith.)

The ramifications of this very weak hadith are obviously not limited to Muslims living in the United States. From anecdotal evidence, this author can say that in some Muslim cultures this hadith is something of an insurance policy, as parents have their children memorize the entire Quran so that they will be able to intercede for the parent on the Day of Judgment, who otherwise may be deserving of Hell.

No one will doubt the wonderfulness of memorizing the entire Quran. It is definitely a communal obligation upon the Muslim Nation to preserve the Quran. As a result, numerous mosques throughout the United States have classes on reading and memorizing the Quran. Indeed, there are even institutions that are essentially only Quran-memorization schools.

At the same time, though, one can question the amount of energy and resources that have gone into simply memorizing the Quran—with not much more than simply the process of memorization. Since many of the attendees are non-Arabs, they focus only on the memorization, with an emphasis on not making

(163) This translation is from Abu Khaliyl, trans, *English Translation of Jami at-Tirmidhi* (Riyadh, Saudi Arabia: Darussalam, 2007), vol. 5, p. 238.

(164) Ibid.

(165) Cf., Ahmad Shaakir, footnotes to Ahmad ibn Hanbal, *Musnad al-Imaam Ahmad ibn Hanbal* (Cairo, Egypt: Daar al-Hadeeth, 1995), vol. 2, p. 127; Arnaoot, et al., *Musnad*, vol. 2, p. 416; Muhammad Naasir al-Deen al-Albaani, *Dhaeef al-Jaami al-Sagheer wa Ziyaadatih* (Beirut, Lebanon: al-Maktab al-Islaami, 1988), p. 831.

mistakes, and there is little focus on meaning.<sup>(166)</sup> As a result, beyond perhaps leading the prayers (and the Taraweeh Prayers in particular), there is very little that these individuals can contribute to the Muslim community in the United States whose youth are dealing with many issues of identity and belief. The Muslim community is in need of individuals who have a deep understanding of the Quran and Islam, able to guide others through the difficulties they are facing. Unfortunately, the people of that caliber is not who are being produced when the emphasis is simply on memorization as a result of this very weak hadith.

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(166) This emphasis on memorization without errors leads to a situation where they do not even develop an understanding of the Arabic language as a result of their memorization of the Quran. See Amjad Saleem, "Does memorization without comprehension result in language learning?" (Ph.D. thesis, Cardiff University, 2015).

## Conclusions

Jonathan Brown wrote, "Sunni Islam is at heart a cult of authenticity."<sup>(167)</sup> One of the aspects that sets Islam apart from the previous messages is that of preservation.<sup>(168)</sup> This has been a great blessing of Allah upon this Ummah, as He has allowed this Ummah the ability to distinguish what is sound from what is not sound. It then behooves the *mufti* to use that sound material as the basis of *fatwaas* and not delve into questionable and doubtful material that can bring deviation and confusion. The other approaches to weak hadith, discussed in detail in this paper, are plagued with both practical<sup>(169)</sup> and theoretical issues. In the end, in this author's view, adhering to what is sound and can be trusted is both the way of the Companions and also the demand of logic.

And Allah alone knows best.

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(167) Brown, p. 1.

(168) This author is a convert from Christianity. He has witnessed how unreliable information can completely transform a faith.

(169) The misapplication of a theory does not in and of itself disprove a theory. In the text, there were examples of clear misapplication of the theory of applying weak hadith. However, at a theoretical level there are issues with the theory as well.

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