



# Difference of Opinion: Where Do We Draw the Line?

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## Author Biography

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## Introduction

The core tenets of Islam are established by unequivocal statements of the Qur'an and the teachings of the Prophet Muḥammad ﷺ. On those subsidiary matters that are subject to interpretation, the Islamic tradition has always recognized a scope of legitimate difference of opinion. Muslim scholars, having dedicated their lives to the study of the sacred texts under the tutelage of esteemed masters, are well acquainted with the parameters of such differences. To the lay Muslim, however, being presented with differing opinions on a subject can often be a source of confusion. Without knowing what constitutes valid versus invalid opinions, they may inadvertently adopt erroneous ideas that are antithetical to Islam or be lured into following preachers who lack credibility and academic expertise.

Even legitimate differences of opinion can be a source of confusion, as Muslims feel conflicted over which opinion to follow in their day-to-day practice of the faith. Some may even find the mere existence of differing opinions to be a source of religious doubt, wondering why God allows such disagreement to exist in the first place. The advent of the digital era of global communication and social media has only intensified this confusion as both information and mass misinformation abound and there has been an exponential increase in the multitude of contradictory online voices clamoring for followers.

This article is, of course, not going to solve the phenomenon of confusion, nor can it provide an exhaustive summary of vast tomes written on the principles of Islamic jurisprudence (*uṣūl al-fiqh*) that constitute the methodology for the derivation of Islamic rulings. It does, however, aim to provide a very basic way of thinking about difference of opinion for those who have not undertaken traditional study so as to aid in navigating the confusion. The present article provides an overview of why differences exist, and the principles and parameters for differences of opinion discussed within traditional Sunni Islam.<sup>1</sup>

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<sup>1</sup> This article does not delve into, nor attempt to adjudicate, contemporary or classical competing claims to Sunni orthodoxy between different theological approaches (e.g., *kalām* versus anti-*kalām*), spiritual approaches (e.g., *sufism* versus anti-*sufism*), or jurisprudential approaches (e.g., *madhhabism* versus non-*madhhabism*).

## Beginning with the basics

The essential methodology for following Islam is evident from the very meaning of the word ‘Islam.’<sup>2</sup> Islam means submitting to the way of God, and striving to do that which God has asked of us. That necessarily entails following the guidance that God has revealed, which is found within the two foundational sources of Islamic teachings—the Qur’an and the teachings of the Prophet Muḥammad ﷺ (his Sunnah).<sup>3</sup>

O You who believe, answer the call of God and His Messenger when they call you to that which will give you life! (Qur’an 8:24)

This necessitates that God has given us a system of guidance that is meant to be followed and, in order for one to understand that guidance, one must study it and acquire knowledge. This is a crucial point which leads to the concept of *textual intentionalism*—namely, that there is an intended meaning to the words of the scripture.<sup>4</sup> In other words, we do not *invent* the meaning of scripture, rather we seek to *discover*—to the best of our human capacities—the meaning of scripture through study and scholarship. This stands in stark contrast to the post-modernist<sup>5</sup> notion that there is no ‘correct’ way of understanding any text, or that Islam can be altered to mean whatever an interpretive community chooses for it to mean, a sentiment characteristic of much progressive Muslim thought.<sup>6</sup> Any word whose

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<sup>2</sup> Some material in this section has been previously posted by the author on spiritualperception.org, and is presented here in an adapted and modified form with greater detail.

<sup>3</sup> Many Muslims are unaware that the Sunnah is divinely revealed guidance (Qur’an 53:3). See also ‘Sunnah as revelation’ in Hamdeh, Emad, Are Hadith Necessary? Yaqeen Institute, <https://yaqeeninstitute.org/emadhamdeh/are-hadith-necessary/#.XdX6DjKQHs2>

<sup>4</sup> Not only is intentionalism the most sensible way of viewing human communication (Martin Montminy, Context and communication: a defense of intentionalism, *Journal of Pragmatics*, 42 (2010): 2910-18), but it is the only theologically coherent way of viewing revelation—as a message that God sent to humanity intended to serve as guidance. After all, the very first description the Qur’an provides of itself is “a guidance to those with *taqwá* (God-consciousness)” (Qur’an 2:2).

<sup>5</sup> In this context, post-modernism refers to the philosophical movement that has created an epistemology that countenances no such thing as objective truth, drawing upon Immanuel Kant’s critique of reason, Hegel’s phenomenological prioritization of the subject, Jacques Derrida’s deconstructionist shift from authorial intent, and Foucault’s description of historical meta-narratives.

<sup>6</sup> Although a critical analysis of progressivism is beyond the scope of this article, such methodologies suffer from arbitrary judgments about the constitutive elements of the allegedly universal (though inevitably westernized) moral philosophy, hermeneutical indeterminacy whereby any conceivable concocted reinterpretation can be justified, and finally, a failure to find any theological or rational justification as to why it should be taken as more authoritative



meaning can be altered on a whim in actuality becomes meaningless. If Islam is to have any coherent meaning at all, then it has to involve following the faith as it was revealed by Allah in the Qur'an and explained and implemented by the Prophet Muḥammad ﷺ. Moreover, the collective understanding of those who learned Islam directly from the Prophet Muḥammad ﷺ, namely his companions, should be taken as authoritative since we believe that the Prophet was successful in communicating and clarifying his message to his audience.<sup>7</sup>

The mainstream understanding of Islam transmitted generation after generation throughout the history of this *ummah* therefore carries immense epistemological weight. It is illogical for someone to posit that fourteen hundred centuries of Muslim scholars have been blinded from the plain sense meaning of the Qur'an or the core teachings of the faith and that only in the modern era have we discovered what Islam 'really' means. Following the faith on the basis of the Prophetic teachings and the mainstream understanding is what is meant by the term "*Ahl al-Sunnah wa-al-Jamā'ah*"<sup>8</sup> (the People who follow the Prophetic way and the mainstream community of scholars),<sup>9</sup> or 'Sunni Islam.' A tradition attributed to the

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than the traditional faith of fourteen centuries of scholarship upheld by 1.8 billion Muslims who revere God's revelation and His Prophet ﷺ.

<sup>7</sup> In his work *I'lām al-Muwaqqi'īn 'an Rabb al-'Ālamīn*, Ibn al-Qayyim uses the exegesis of several verses from the Qur'an to establish the need to follow the companions, including that God praises those who follow them for guidance (9:100); He commands following those who are guided (36:21) and affirms this for the companions (3:103; 47:5-6, 16-17, 29:69; 42:13); the Prophet ﷺ and those who follow him are upon *basīrah* (spiritual perception) in their call to God (12:108) and answering the callers is required (46:31); they are those chosen by God (27:51, 35:32, 22:78) and possessors of knowledge (58:11) and virtue (3:110) and certitude and patience (32:24), the balanced nation (2:143), and the truthful whom we must join (9:119). See Ibn al-Qayyim, ed. Mashūr Ḥasan Āl Salmān, *I'lām al-Muwaqqi'īn*, Dammam: Dar Ibn al-Jawzi 2002, vol. 5, pp. 556-74.

<sup>8</sup> The usage of the term became commonplace in the early community for the majority to self-identify in contradistinction to other early groups and identify accurate sources of knowledge (See Introduction to *Saḥīḥ Muslim* 27, [online](#)). The attribution of this term to the Prophet's companion Ibn Abbas is not authentic (see editor's annotation in Ibn al-Qayyim, *I'lām al-Muwaqqi'īn*, vol. 2, p. 475).

<sup>9</sup> In *Saḥīḥ Bukhārī*, the preeminent canonical work of Hadith for Sunni Muslims, Imam al-Bukhārī (d. 256 AH) titled one of his chapters, "Chapter concerning God's saying 'And thus have we made you a balanced nation' and what the Prophet commanded with respect to adhering to the mainstream community (*al-jama'ah*), and they are the people of knowledge." *Saḥīḥ Bukhārī* 7311, *Kitāb al-I'tisām bil-Kitāb wal-Sunnah*, [online](#). The extension to include those who follow the scholarly community can be seen as a logical consequence. Abu Ishāq al-Shāṭibī (d. 790 AH) writes, "Concerning this view, the *jamā'ah* includes the *mujtahids* and scholars of the *ummah* along with the people of the *Shari'ah* (religious law) acting upon it, and those besides them who follow them are included in it as well." al-Shāṭibī, *al-I'tisām*, Maktabah al-Tawheed, vol. 3, p. 302.

Prophet Muḥammad ﷺ states, “My nation will not unite on misguidance, so if you see them differing, follow the great majority.”<sup>10</sup>

Thus, for Sunni Muslims, an authoritative discourse on Islam necessarily demonstrates reliance on Qur’an and authentic Ḥadīth, and must demonstrate continuity with the established understanding of the mainstream community by citing relied-upon historical authorities in Islamic jurisprudence (*fiqh*), exegesis (*tafsīr*), hadith, or theology (*‘aqīdah*).<sup>11</sup> Note that the extent to which the vicissitudes of society require adaptation of the Islamic tradition is discussed later in the course of this essay. Refer to **Appendix I** for a listing of major historical figures in the Islamic tradition, including those of each major jurisprudential school, and **Appendix II** for a framework for interrogating the validity of a viewpoint according to the methodology outlined below.

## Why doesn’t Islam have a central authority?

Islam is not a human institution like a company, business, or organization that is run based on the personal decisions of a central human figure. To give one person such unilateral authority would entail declaring that they have privileged access to God through divine revelation like a Prophet or Messenger which would nullify one’s belief in the Prophet Muhammad ﷺ as the last and final messenger. Rather, the teachings of Islam are known through learning the Qur’an and Sunnah, and therefore acquiring knowledge of scripture is akin to the manner of attaining mastery in other academic disciplines—medicine, science, mathematics, etc. These

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<sup>10</sup> *Sunan Ibn Mājah* 3950, [online](#). Although the chain of transmission for this narration is weak, the meaning has been upheld as authentic within the Muslim tradition due to supporting evidence. As for the statement of Ibn Mas’ūd “The *Jamā’ah* is what agrees with the truth, even if you are alone” (al-Lālikā’ī, *Sharh Uṣūl I’tiqād Ahl al-Sunnah wal-Jamā’ah*, no. 160), it is best understood by a similar statement from Nu’aym ibn Ḥammād, “If the *Jamā’ah* becomes corrupt, then follow what the *Jamā’ah* was upon before it was corrupt even if you are alone” (See Ibn al-Qayyim, *Ighāthah al-Lahfān*, Mecca: Dar Alam al-Fawa’id 2011, p. 115). This maintains the authority of the mainstream understanding of the Islamic tradition.

<sup>11</sup> See footnote 77 below on the discussion of competing claims about who does and does not belong to mainstream Sunnism. A commitment to the Sunnah entails agreed-upon sources (such as the corpus of authentic hadith encompassed by six works: *Bukhārī*, *Muslim*, *Abū Dāwūd*, *al-Tirmidhī*, *al-Nasā’i*, *Ibn Mājah* in addition to those found in ancillary collections), a recognition of the significance of four famous schools of jurisprudence (Ḥanafī, Shafī’ī, Mālikī, Ḥanbalī), a reliance on transmission from the early Muslim community in Qur’anic exegesis (as in the *tafsīr* works of Ibn Jarīr al-Ṭabarī, al-Baghawī, al-Qurṭubī, and Ibn Kathīr), as well as certain universally recognized creedal statements (e.g., *‘Aqīdah al-Ṭaḥāwīyah* with certain nuances). That which is subject to debate is beyond the scope of this introductory article.

are fields based on learning, research, and study. Conclusions are not based on personal opinion, but are contingent on the strength of the evidence that one provides. It doesn't make sense in these disciplines, therefore, to ask for central authorities. Instead, one should seek rigorous standards to ensure sufficient knowledge of the scholars of these fields.

In an age in which many people are drawn towards the views of those with the greatest number of social media followers, many people today disregard the notion of scholarship altogether and consider anyone capable of issuing Islamic rulings and edicts without the faintest familiarity with the nuances of scriptural hermeneutics.

Say: Are those equal, those who have knowledge and those who do not know? Only the people of understanding take heed. (Qur'an 39:9)

The great scholar Abu Ishāq al-Shāṭibī (d. 790 AH) writes,

*Ijtihād* that occurs in religious matters is of two types. The first is legitimate *ijtihād*, namely that which arises from those who are well-versed in the requisites of *ijtihād* as the preceding discussion has described. The second type is that which arises from one who is not proficient in the requirements of *ijtihād*. This is invalid *ijtihād*, for in reality it constitutes an opinion based on nothing more than conjecture, desires, and personal whims.<sup>12</sup>

## Are all matters in Islam subject to difference of opinion?

If we agree that the religion is intended as guidance for us, then anything that is definitively established in the Qur'an and the Sunnah is not subject to opinion.

It is not for a believing man or believing woman, when Allah and His Messenger have decided a matter, that they should [thereafter] have any choice about their affair. And whoever disobeys Allah and His Messenger has certainly strayed into clear error. (Qur'an 33:36)

Matters that are decisively established in Islam are termed *qaṭ'īyat*. *Ijtihād*—the exercise of scholarly effort in interpretation by one qualified—only applies to those matters that are open to interpretation, where conclusions are established on the basis of probabilistic judgment (termed *ẓannīyat*). Shaykh Waḥba al-Zuhaylī

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<sup>12</sup> al-Shāṭibī, *al-Muwāfaqat*, vol. 5, p. 131.

writes, “*Ijtihād* is not permitted in those matters universally known to be from the religion,<sup>13</sup> or established by definitive evidence... *Ijtihād* is permitted in those matters in which there is a text that is probabilistic in its authenticity and import, or one of the two, or in those matters concerning which there is neither text nor consensus.”<sup>14</sup>

Just as in any other academic field of study, the main concepts and principles are well known and are established with certainty, while the precise application of those principles are often open to interpretation. For instance, doctors will often disagree over which course of chemotherapy is best for a particular cancer. They will agree, however, that treating it with other types of drugs like antibiotics or antifungals would be inappropriate—because cancer is not infection.

Likewise, there are fundamental aspects of Islam that are unequivocal and not subject to debate—that there is only One God, that Prophet Muḥammad ﷺ is His Final Messenger, the articles of faith and the pillars of practice, doctrinal and legal matters subject to consensus, and so on. No one can read the verse that says, “There is only one God” (16:51) and claim that the assertion that there is only one God is nothing more than the ‘opinion’ of scholars and that ‘one’ can actually mean ‘two or more.’ Such a claim would be irrational and absurd; the verse leaves no room for a conclusion other than monotheism.

There are other matters that are open to interpretation, some of which even the companions of the Prophet Muḥammad ﷺ differed over—what was the first thing God created, when is the Night of Decree in Ramadan, raising the hands in

<sup>13</sup> The Arabic phrase used here, *ma ‘lūm min al-dīn bi-ḍarūrah* (i.e., those things that are known by necessity to be a part of the religion of Islam) is mentioned ubiquitously by Muslim scholars and includes matters such as the core beliefs (belief in God, the Angels, the Books, the Messengers, the Day of Judgment, Paradise and Hell, Divine decree), well-known major sins (like the fact that alcohol and adultery are forbidden), widely-known practices (like the fact that fasting and prayer are obligations), and so on.

<sup>14</sup> Zuḥaylī, *Taghayyur al-Ijtihād*, Dar al-Maktabi Damascus: 2000, p. 17. It is common to find classical jurists of each school mentioning this point. For instance, the Ḥanafī jurist Ibn Nujaym (d. 970 AH) writes, “The ruling based on *ijtihād* is determined by the most probable interpretation while acknowledging the possibility of error. Therefore, *ijtihād* does not apply in *qatī’yyat* and in that which requires certain faith from the core tenets of the religion (*uṣūl al-dīn*)” (Ibn Nujaym, *Fatḥ al-Ghaffār*, Beirut DKI 2001, p. 391).



prayer, when to shorten prayers while travelling, and so on. Most of the matters that are open to interpretation are matters of practical application.<sup>15</sup>

## **Why is there sometimes disagreement about what Islam teaches?**

Experts in any academic discipline will agree on the fundamentals but disagree on particular details. Doctors are not all of the same mind when it comes to the efficacy of various treatment options. Nor do scientists all posit the same explanatory hypothesis for a particular observed phenomenon. Disagreement between qualified and capable scholars occurs because some matters are open to interpretation and are not definitive. People study evidence and then seek to develop an understanding based on the strongest interpretation of that evidence. The same process takes place when scholars study the Qur'an and the Sunnah.

Ask the people of knowledge if you do not know. (Qur'an 16:43, 21:7)

## **Why didn't God just tell us everything explicitly – why leave some matters open to interpretation?**

God values human learning so greatly that He favored Adam over the angels with the gift of knowledge (Qur'an 2:31), He began the revelation of the Qur'an with the instruction to "Read!" (Qur'an 96:1), and He praised the virtue of education and scholarship (Qur'an 20:114, 34:6, 29:43, etc.). Learning, contemplation, analysis, and research are acts of worship in Islam and help a person appreciate the finite wisdom and reasoning of human beings and the infinite perfection of the Divine Omniscient Lord. Islam is an academic faith—the better one studies it, the better one understands it. To excel in one's journey towards God requires intellectual, moral, and spiritual engagement with the revelation.

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<sup>15</sup> An oft-repeated though somewhat inaccurate statement is that difference of opinion is tolerated in matters of *fiqh* and not in matters of *'aqidah*. What should be said is that difference of opinion is tolerated in subsidiary issues and *dhanniyyat* and not in major issues and *qat'iyyat*. There are some subsidiary issues even in *'aqidah* that the companions differed over; e.g., whether the Prophet ﷺ saw Allah during the ascension, whether wailing over the grave affects the deceased, etc. There are numerous legitimate theological differences that later Muslim scholars discussed and debated concerning every article of faith. These include what is the first thing God created, what is the greatest name (*ism al-a'dham*) of God, what is the distinction between a Prophet and a Messenger, how many times will the horn be blown on the day of judgment, can the dead hear, does the *ḥawḍ* come before or after the *ṣirāt*, etc.

Moreover, many realities that God has created in this life serve as a spiritual test for the believers, including the existence of differences. God states, “And We have made some of you people as a trial for others—will you have patience?” (Qur’an 25:20). The test manifests itself in different ways: whether we will manage our disagreement in a manner that is pleasing to Allah; whether we will adopt a position because we believe it is closest to the truth or because it is more self-serving or politically expedient; whether we will elevate our scholars to infallibility on account of our overzealousness or whether we give them due respect for their expertise while acknowledging their humanity.

## **Is difference of opinion a bad thing?**

When difference of opinion occurs in matters that are open to interpretation, and is based on sincerity in finding the truth and proper knowledge, it is a mercy from God and an opportunity to worship Him by using the minds He has gifted us with. This process of sincere scholarly research in such matters is called *ijtihād*. When difference of opinion is based on cultural influences, partisanship, insufficient knowledge, political motivations, personal desires and conveniences, it is blameworthy and serves only to harm the community. The contemporary Muslim scholar and senior member of the American Muslim Jurists Assembly (AMJA), Shaykh Hatem al-Haj writes:

If intentions are sincere, differences of opinion could bring about a greater awareness of the various possible aspects and interpretations of evidence in a given case. Such differences could generate intellectual vitality and a cross-fertilization of ideas. The process is likely to bring into the open a variety of hypotheses in tackling specific issues.

Such a process is likely to present a variety of solutions for dealing with a particular situation so that the most suitable solution can be found. This is in harmony with the facilitating nature of the religion of Islam which takes into account the reality of people’s lives.

These and other benefits can be realized if differences remain within the limits and the ethical norms which must regulate them. If these limits and norms are not observed, differences could easily degenerate into disputes and schisms and become a negative and evil force producing more rifts in

the Muslim Ummah, which already has more than enough of such fragmentation. In this way, differences of opinion can change from being a constructive force to being elements of destruction.<sup>16</sup>

In leaving certain matters open to interpretation, there is greater flexibility in matters that may be contingent on circumstances and human experiences as Islam crosses various civilizations, generations, and eras. A person once informed the great jurist Imām Aḥmad ibn Ḥanbal (d. 241 AH) that a book had been written called “The Book of Differences,” and he responded that it should instead have been called “The Book of Flexibility.”<sup>17</sup> When the Caliph Hārūn al-Rashīd asked to implement Imām Mālik’s works of jurisprudence across the *ummah* for everyone to follow, Imām Mālik objected, saying: “O Leader of the Believers, differences between the scholars is a mercy from God for this *ummah*. Each follows what he believes to be correct, each upon guidance, each seeking Allah.”<sup>18</sup>

Sufyān al-Thawrī (d. 161 AH) said, “Verily, *fiqh* according to us is when a trustworthy scholar provides a legitimate concession (*rukḥṣah*); as for being strict (*tashdīd*), then anyone can do that well.”<sup>19</sup> Knowing the spectrum of opinions allows the scholar to serve as a true spiritual leader, not presenting multiple opinions to confuse the masses, but rather selecting the view that is most correct and most pertinent to the needs of the community at that juncture. It is reported that the early scholar Ṭāwūs Ibn Kaysān (d. 106 AH) would attempt to strike a balance in his rulings for people—when they were strict in a matter, he would show leniency and when they were lenient, he would be strict. After mentioning this, al-Layth commented, “That is (true) knowledge.”<sup>20</sup> Just as communities vacillate between trends of rigidity and flexibility, conservatism and liberalism, so must the wise scholar counteract extremes by striking a balance and guiding others back to the middle path.

<sup>16</sup> Al-Haj, Hatem. Managing our disagreements, pp. 15-16. AMJA 12th Annual Conference, March 20th-23rd 2015. <https://www.amjaonline.org/wp-content/uploads/2019/02/Fiqh-of-Disagreement-Hatem.pdf>

<sup>17</sup> Ibn Taymīyah, *Majmū‘ al-Fatāwā*, al-Mansura: Dar al-Wafa' lil-Taba'a wal-Nashr, 1998, vol. 30, p. 79.

<sup>18</sup> Ismā‘īl al-‘Ajlūnī (d. 1163 AH), *Kashf al-Khafā’*, Maktabah Ilm al-Hadith, vol. 1, p. 80.

<sup>19</sup> Ibn ‘Abd al-Barr, *Jāmi‘ Bayān al-‘Ilm wa Faḍlihī*, p. 784, #1467.

<sup>20</sup> Ibn Abī Khaythamah (d. 279 AH), *Tārikh al-Kabīr*, Faruq al-Hadithīyah 2004, vol. 1, p. 306.

## Defining valid opinions

There are three simple considerations for one to use as basic guidelines when assessing whether an opinion is valid or not:

1. Who gave the opinion?
2. How did they come up with it?
3. What is the nature of the opinion?

We will consider these three items in turn (see **Appendix II** for a summarized diagram).

### 1. Was the person who gave the opinion knowledgeable and qualified?

Just as one would not accept being operated on by a person who was not qualified to be a surgeon, a scholar of Islam must possess credibility and adequate knowledge. The governing maxim is that *ijtihād* should arise from those appropriately qualified, and it should take place in those matters open to interpretation (*al-ijtihād min ahlihī wa fī maḥallihī*). Many classical scholars even stipulated mandatory certification examinations to ensure those passing religious verdicts possessed the requisite knowledge.<sup>21</sup> The Ḥanafī jurist al-Tumurtāshī (d. 1004 AH) explained that both the fraudulent scholar and the ignorant physician must be barred from practice.<sup>22</sup> The Ḥanbalī scholar Ibn al-Najjār (d. 972 AH) stated, “It is the responsibility of the legislative authorities to ban unknown and ignorant scholars from issuing religious edicts (*fatāwā*).”<sup>23</sup>

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<sup>21</sup> See the discussion of the Shafī‘ī jurist Badr al-Dīn al-Zarkashī (d. 794 AH) in *Baḥr al-Muḥīṭ*, Kuwait: Dar al-Safwah 1992, vol. 6, p. 309, and the Mālikī jurist Aḥmad al-Wansharīsī (d. 914 AH), *Kitāb al-Mi yār*, Beirut: Dar al-Gharb al-Islami 1981, vol. 10, pp. 78-80.

<sup>22</sup> See Ibn ‘Ābidīn, *Radd al-Muḥtār*, Riyadh: Dar Alam al-Kutub 2003, vol. 9, p. 214.

<sup>23</sup> Ibn al-Najjār. *Sharḥ al-Kawkab al-Munīr*, Saudi Ministry of Awqaf 1993, vol. 4, p. 544. Discussed in al-Ashqar, *Manhaj al-Iftā’ ‘inda Ibn al-Qayyim*, Amman: Dar al-Nafāes 2004, pp. 146-47.

There was an incident when the fourth caliph, Imām ‘Alī ibn Abī Ṭālib (d. 40 AH), passed by a young Ḥasan al-Baṣrī (b. 21 AH; d. 110 AH) lecturing in his circle; ‘Alī interrupted the session to give Ḥasan al-Baṣrī an impromptu quiz, which he successfully passed, whereupon ‘Alī said, “You may continue to lecture now, as you please.”<sup>24</sup> One can know if someone is qualified through educational background, peer recognition within the scholarly community, and their competence in addressing issues and answering questions.

Obviously, a person is not born a scholar, nor does a person automatically become one because of their appearance, name, ethnicity, language, etc. The only way to become a scholar is through learning. As the Prophet Muḥammad ﷺ said, “Verily, knowledge is acquired through learning and study.”<sup>25</sup> The learning must involve the relevant curriculum, and this has been defined in the Islamic tradition to include study of various manuals (*mutūn*) in the fields of Arabic language,<sup>26</sup> Hadith sciences,<sup>27</sup> Qur’anic studies,<sup>28</sup> Islamic theology, and Islamic jurisprudence. If a person has not intensively studied the traditional sciences but has acquired studies in a humanities department of a secular institution, this does not grant them the capacity to issue religious edicts.

Sometimes traditional learning may take place in a formal institution from which one acquires degrees and certifications (e.g., Masters and Ph.D.), as provided by many Islamic universities in the Muslim world. Sometimes this may occur through

<sup>24</sup> al-Māwardī, *Aḥkām al-Sulṭānīya*, Ed. Nabil ‘Abd al-Rahmān, Beirut: Dar al-Arqam nd, p. 327. Although al-Suyūṭī argued that al-Ḥasan al-Baṣrī did narrate from ‘Alī, the majority of Hadith scholars believed that he did not narrate from him although he did see him before the ‘Alī left Madinah. See al-Suyūṭī, *al-Ḥāwī lil-Fatwā*, DKI 2000, vol 2, p 96.

<sup>25</sup> Al-Ṭabarānī, *Mu‘jam al-Awsaṭ* 3:118, authenticated in *Saḥīḥ al-Jāmi‘* 2328.

<sup>26</sup> There are 12 to 15 (depending on categorization) fundamental sciences of the Arabic language. These include grammar (النحو), morphology (الصرف), semantics (المعاني), lexicon (اللغة), derivatives (الاشتقاق), metaphorical speech (البيان), composition (الإنشاء), prosody (العروض), rhyme (القافية), writing (الخط), literature (الأدب), phonetics (الأصوات), etc.

<sup>27</sup> This entails a deep familiarity not only with the hadith corpus (which includes the six canonical works: *Saḥīḥ Bukhārī*, *Saḥīḥ Muslim*, *Sunan Abī Dāwūd*, *Sunan al-Nasā’ī*, *Jāmi‘ al-Tirmidhī*, *Sunan Ibn Mājah*, as well as major ancillary works including *Musnad Aḥmad*, *Sunan al-Dāraquṭnī*, *Sunan al-Dārimī*, *Sunan al-Bayḥaqī*, *Saḥīḥ Ibn Khuzaymah*, *Saḥīḥ Ibn Hibbān*, *Mustadrak al-Ḥākim*, *Musnad al-Bazzār*, etc) but also a sound knowledge of the principles of evaluation and classification of Hadith (*muṣṭalaḥ al-ḥadīth*).

<sup>28</sup> Essential fields of study related to the Qur’an include exegesis (*tafsīr*) and principles of exegesis (*uṣūl al-tafsīr*), abrogation (*naskh*), reasons for revelation (*asbāb al-nuzūl*), correct pronunciation in recitation (*‘ilm al-tajwīd*), history of preservation; more specialized study includes alternate canonical readings (*qira’āt*), variant readings (*shādh qira’āt*), linguistic eloquence (*balāghah*), Qur’anic orthography and textual composition (*‘ilm rasm al-muṣṣhaf*), and so on.



‘traditional’ learning under previous scholars, who may often give ‘licenses to teach’ (*ijāzāt al-tadrīs*). However, the most important way that anyone is recognized as an expert in anything is through recognition within the community of experts, competence in their contributions, and trust amongst the masses. Imām al-Shawkānī (d. 1250 AH) discusses this topic in his work *Irshād al-Fuḥūl ilā ‘Ilm al-Uṣūl*.<sup>29</sup> An individual is recognized as an expert in economics, philosophy, medicine, engineering, psychology, law, or anything else when existing experts in that field attest to the knowledge and expertise of that individual and when that individual is able to demonstrate their own knowledge in their contributions to the subject, whether in their lectures, articles, books, publications, etc. While a person must know the essentials of all the basic sciences, one does not have to attain mastery of all subjects. Rather, they must demonstrate expertise in the subject in which they exercise *ijtihād*—thus, someone may be a *mujtahid* in one subject (e.g., *fiqh* of finance) but not in another (e.g., *fiqh* of governance).<sup>30</sup>

The classical scholars mentioned many general indications of scholarship including that the scholar is trusted amongst the masses and commonly relied upon, that trustworthy people testify to their knowledge and expertise, that they demonstrate competency when examined, and so on. There is really nothing mysterious about figuring out who is a qualified scholar. If a person has the requisite knowledge, they are a person of knowledge. The more knowledge they have, the more knowledgeable they are considered. However, one important way in which religious scholarship differs from secular academia is that religious knowledge is not divorced from morality and spirituality. A person should not trust taking their knowledge from an unscrupulous individual or one negligent of his own religious duties. As Islam encompasses ethical and spiritual teachings, one’s teacher must be one who can be taken as an ethical and spiritual role model. Imām Mālik (d. 179 AH) states that one should learn manners before knowledge and that he was instructed by his mother to acquire manners from his teacher Imām Rabī‘ah before acquiring knowledge.<sup>31</sup> The modern Muslim who witnesses an alleged ‘person of

<sup>29</sup> al-Shawkānī, *Irshād al-Fuḥūl ilā ‘Ilm al-Uṣūl*, Riyadh: Dar al-Fadeelah 2000, vol. 2, pp. 1102-05.

<sup>30</sup> al-Shāṭibī, *al-Muwāfaqat*, vol. 5, pp. 43-45. Ibn al-Najjār, *Sharḥ al-Kawkab al-Munīr*, vol. 4, p. 473. Ibn Taymīyah, *Majmu‘ al-Fatāwā*, vol. 20, pp. 112-3.

<sup>31</sup> Al-Dardīrī, *Takhrīj Ahādīth al-Mudawwanah*, Doctoral dissertation, Umm al-Qura University, 1983, p. 61.

knowledge’ who lacks basic etiquette in communicating the message of Islam with dignity and respect, or who engages in mockery or flagrant disrespect towards people of knowledge, should certainly be wary of taking any religious guidance from said individual. This is not an ad hominem argument that the views of an unscrupulous individual are necessarily false. Rather, it is a reflection that spiritual rectification is an integral part of receiving divine guidance, and the layperson seeking to discover the intent of the Divine Legislator should search for the path most consistent with piety as God “guides those who turn to Him” (Qur’an 13:27).

## **2. Was the opinion derived from an academic understanding of the Qur’an and Sunnah?**

In order for an opinion to be valid, it has to be based upon the Qur’an and Sunnah, and cannot go against the clear and unequivocal teachings of these sources. It has to be methodologically sound—based on a serious and sincere scholarly effort to understand the sources using the established inferential tools elaborated upon by jurists and the normative principles of the Arabic language. In Islam, methodology matters. Many people are quick to dismiss an opinion because it sounds too “conservative” or “liberal” based on their pre-existing proclivities, but this is a gross methodological error. One cannot declare an answer to be correct simply because it arises from an ideology a person finds appealing, or because of a proclivity to views that are culturally more western or eastern. What matters is whether the opinion was derived from the Islamic sources in a methodologically sound manner, regardless of whether the conclusion sounds more liberal or more conservative to the audience based on their pre-existing biases.

Relying on ambiguous texts in the Qur’an or Sunnah to go against other clear and decisive texts within scripture is also fallacious, as mentioned in the Qur’an itself (3:7). Sometimes it will not always be clear to laypeople whether an opinion actually conflicts with other scriptural proofs from Qur’an and Sunnah. In finer matters, there will be details to this question that will be beyond the comprehension of laypeople— that is the science of *uṣūl al-fiqh* or the principles of Islamic jurisprudence (how to derive rulings).

For instance, there are jurisprudential sources that are agreed upon (Qur'an, Sunnah, *ijma*,<sup>32</sup> *qiyās*), and other sources of jurisprudence and inferential tools that are subject to debate and discussion in terms of their validity and relative weight within the epistemological framework of *uṣūl al-fiqh*. These include inferential tools like *istiḥsān* (juristic preference), *istiṣḥāb* (presumption of continuity), *istiṣlāh* (considerations of public benefit), *sadd al-dhārā'i* (closing the doors to harmful consequences), in addition to sources like the actions of the people of Madīnah (‘*amal ahl al-Madīnah*), social custom (*al-‘urf*), the opinion of a singular companion (*qawl al-saḥābī*), and pre-Islamic religious law (*shar‘u man qablanā*).<sup>33</sup> In addition to these juristic tools, many scholars have emphasized the importance of laypeople deferring to the authoritative views of the four major schools of Islamic law. The truth is not confined to the four schools when other great *mujtahid* scholars have elaborated other views;<sup>34</sup> however, the adoption of such views should be with considerable caution and contingent upon their verification by large committees of scholars.<sup>35</sup>

### 3. What is the content and nature of the opinion itself?

No one would accept an opinion that violates the very basis of Islam. It is not possible to interpret a hadith or verse in a way that contradicts Islamic monotheism (*tawḥīd*), for instance. It is not possible to interpret the religion in a way that promotes injustice, immorality, cruelty and destruction because God negates any attribution of these constructs to Him. In a passage where the Quraysh are cited as claiming that their immoral actions are based on God's instructions, believers are

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<sup>32</sup> There are many nuances to how consensus is interpreted between the different schools of Islamic law, for instance refer to Ali, Abdullah bin Hamid. "Scholarly consensus: *Ijma'*: between use and misuse," *Journal of Islamic Law and Culture* 12, no. 2 (2010): 92-113.

<sup>33</sup> For an extensive study on the influence of these different epistemic tools on the juristic opinions, refer to the contemporary Syrian scholar Mustafa Dīb al-Bughā's *Athar al-Addilāh al-Mukhtalaf fihā fil Fiqh al-Islāmī* (Damascus: Dar Imam al-Bukhari 1993). Note that the distinction between agreed-upon and differed-upon sources is not a sharp bifurcation as there are differed-upon aspects of the agreed-upon sources (like how to define consensus) and agreed-upon concepts from the disagreed-upon sources (like using different terms to indicate the consideration of public benefit within legal theory). The above presentation is consistent with how this material is typically introduced in basic manuals.

<sup>34</sup> al-Kalwadhani (d. 510 AH), *al-Tamhīd fi Uṣūl al-Fiqh*. Makkah: Markaz al-Baḥth al-‘Ilmi wa Ihyā’ at-Turāth al-Islāmī 1985, Vol 3, pp. 280-81.

<sup>35</sup> Hatem al-Haj. *Shari'ah in Today's World: Renewing Islamic Discourse*, Yaqeen Institute.

<https://yaqeeninstitute.org/hatem-elhaj/shariah-in-todays-world-renewing-islamic-discourse/#.Xdnu-OnQi9p>

commanded to simply respond that God commands justice, not immorality—the latter being that which sound human nature flees from.<sup>36</sup>

And when they commit an immoral deed, they say, “We found our forefathers practicing it, and Allah has commanded us to do it.” Say, “Indeed, Allah does not command immorality. Do you say about Allah that which you do not know?” Say, “My Lord commands what is just, and that you should worship Him alone in places of prostration, and invoke Him, performing your deeds for Him alone.” As He originated you, so shall you return. (Qur’an 7:28-9)

In 2014, when news of the criminal organization ISIS (or *Dā‘ish*) flooded headlines around the world, many Muslims were confronted with an image of Islam that promoted torture, murder, rape, and all manner of horrific actions, while attempting to use religious justifications for these actions sourced in *fiqh* and *hadith*.<sup>37</sup> However, the average Muslim requires no jurisprudential erudition to recognize that the cruelty of ISIS can never belong to the religion of compassion (*dīn al-raḥmah*), nor can it ever represent the way of the Prophet of mercy (*nabī al-raḥmah*) ﷺ, nor can it ever be considered from the commandments of our Lord, the Most Compassionate and Most Merciful (*al-Raḥmān al-Raḥīm*). One does not need to be a *muḥaddith* or a *faqīh*<sup>38</sup> to understand that these can never be considered acceptable opinions because they violate the very foundations of Islam. For a detailed examination of this topic, including the factors behind the emergence of violent religious movements, refer to [Forever on Trial—Islam and the Charge of Violence](#).<sup>39</sup>

In the lifetime of the Prophet Muḥammad ﷺ, we have an example where *ijtihād* was not considered valid for this very reason.

<sup>36</sup> Al-Bayḍāwī, *Anwār al-Tanzīl wa Asrār al-Ta’wīl*, Beirut: Dar Ihya Turath al-Arabi 2012, vol. 3, p. 10.

<sup>37</sup> One is not required to delve into nuanced discussions over the correct interpretation of the wording of particular hadith, or the opinion of a particular classical jurist, in order to condemn the actions of ISIS as morally abhorrent. Doing this would be akin to a judge encountering a criminal charged with murder, rape, and theft and choosing to sentence them instead on the basis of a traffic violation. When the actions are so grossly antithetical to the values of Islam, this is self-evident and in need of no further discussion.

<sup>38</sup> A *muḥaddith* is a scholar of Hadith while a *faqīh* is a scholar of jurisprudence.

<sup>39</sup> Nazir Khan. “Forever on Trial—Islam and the Charge of Violence,” Yaqeen Institute for Islamic Research. <https://yaqeeninstitute.org/nazir-khan/forever-on-trial-islam-and-the-charge-of-violence/#.XdXXvDKQHs1>

A man on an expedition suffered a severe wound. Later when he had a wet dream, he inquired from his companions whether he was still required to perform the ritual bath in spite of his wound. They told him it was necessary, and he died because of it. When this news reached the Prophet Muḥammad, he said, “They killed him, may Allah curse them! Why did they not ask when they did not know? Is not the cure for ignorance to ask?”<sup>40</sup>

In the hadith mentioned above where a person was instructed to do something life-threatening or harmful—this goes against the basic Islamic value and Prophetic statement: “There is to be no harm, nor reciprocating of harm.”<sup>41</sup> al-‘Izz ibn ‘Abd al-Salām (d. 620 AH) writes, “Islamic law is entirely about advocating humanity’s best interests, by warding off harm and bringing benefit.”<sup>42</sup> He explains that benefits and harms relate to worldly matters (*dunyā*) as well as the afterlife (*ākhirah*) and while the latter must be established by scriptural evidence, the former is recognized by rationality and empirical evaluation (“Many of the benefits of the *dunyā* and the harms are recognizable by the human intellect, and that constitutes the majority of Islamic law”).<sup>43</sup> Therefore, it is inconceivable for Islamic law to advance a ruling that is to the detriment of human well-being. For instance, it requires no scholarly expertise on the part of the lay Muslim to recognize and condemn the evils of murderous groups that perpetrate violence against civilians in the name of religion, since such actions are antithetical to the very tenets of the faith.

**It is important of course to remember that our yardstick in assessing benefit or harm is not the yardstick handed to us by secular humanism, hedonistic materialism, or western liberalism. Rather, benefit and harm must be assessed according to the hierarchical value-structure inherent in Islam that situates**

<sup>40</sup> *Sunan Abī Dāwūd* 337 [online](#), and *Sunan Ibn Mājah* [online](#).

<sup>41</sup> *Sunan ibn Mājah* 2341, [online](#).

<sup>42</sup> ‘Izz ibn ‘Abd al-Salām, *al-Qawā‘id al-Aḥkām fī Maṣāliḥ al-Anām*, Dar al-Qalam, p. 14.

<sup>43</sup> Op cit, p. 7. al-Izz also mentioned that analysis of harms and benefits in this *dunya* is by logical necessity (*darūrāt*), experience (*tajārib*), custom (‘*ādāt*), and reasonable considerations (*zunūn al-mu‘tabarāt*), p. 13. It is important to recognize, however, that empirical measures do have limitations—the history of the medical community’s perception of alcohol’s perceived harm or benefit has drastically changed from advocating moderate alcohol consumption for alleged health benefits to now recognizing that even moderate consumption is harmful (Millwood, Iona Y et al. “Conventional and genetic evidence on alcohol and vascular disease aetiology: a prospective study of 500 000 men and women in China,” *The Lancet*, Volume 393, Issue 10183 (2019): 1831-42). Of course, the Qur’an states that the harms of alcohol outweigh its benefits (Qur’an 2:219).

**human beings on a spiritual journey towards God as custodians upon this Earth.** Thus, if someone were to argue in favor of a particular opinion due to the alleged benefit of enabling more accumulation of personal materialistic possessions or worldly pleasures, this would be decisively rejected. Al-Būṭī correctly observed in his work *Ḍawābiṭ al-Maṣlaḥah*, the point of shari'ah is not to make the human being increase in materialistic wealth (*al-ribḥ al-māddī*) and physical pleasure (*al-ladhdhah al-jasadīyah*), but in spiritual success.<sup>44</sup>

The rulings of divine revelation would never contravene the basic moral values that God has embedded deep within the primordial human consciousness, and those moral values guide the interpretation and implementation of the juristic rulings.<sup>45</sup> Thus, the following verse of the Qur'an calls on us to use our basic moral capacities in the service of God: "Verily, God commands justice, moral excellence, and kind treatment of relatives, and He forbids all forms of immorality, evil, and transgression" (Qur'an 16:90).

Jurists agreed that any opinion that claims to be Islamic must be consistent with the values of justice, mercy, compassion, modesty, as well as the objectives of Islamic law, namely preservation of faith (spirituality and morality), human life, intellect (knowledge and education), wealth, property, and family. For instance, Ibn Taymīyah utilized a value-based hermeneutic of eliminating injustice to declare certain financial contracts unlawful.<sup>46</sup> Ibn al-Qayyim (d. 751 AH) states, "The Shari'ah is founded upon wisdom and the well-being of humanity in this life and the next. It is in its entirety justice, compassion, prosperity, and wisdom, and therefore anything which departs from justice to injustice, from compassion to its opposite, from welfare to harm, or from wisdom to nonsense, then it is not part of

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<sup>44</sup> Al-Būṭī, Muḥammad Sa'īd Ramaḍān. *Ḍawābiṭ al-Maṣlaḥah fī al-Sharī'ah al-Islāmīyah*, Beirut: Mu'assasat al-Risala, 1982, p. 57.

<sup>45</sup> "Is something good because God commanded it, or did God command it because it was good?" is a question famously posed as Euthyphro's dilemma (See Islamic theology and Euthyphro's dilemma in [In Pursuit of Conviction II: Humanity Needs God](#)). For an overview of how the various theological perspectives impacted discussions on *maṣlahah*, see Johnston, David. "A turn in the epistemology and hermeneutics of twentieth-century uṣūl al-fiqh." *Islamic Law and Society* 11, no. 2 (2004): 233-82.

<sup>46</sup> Ahmad Syukri Shaleh. Ibn Taymīyah's concept of *istiḥsān*: An Understanding of legal reasoning in Islamic Jurisprudence. Master's Dissertation, McGill University 1995, p. 85. He cites the legal maxim, "*al-aṣl fī'l- 'uqūd jamī'uha huwa al- 'adl*" (the basic rule in every contract is justice).



the Shari'ah, even if it's included therein by misinterpretation.”<sup>47</sup> While the basic impulse for these values is embedded within the *fitrah*, in order for the value system to be correctly applied, it must undergo the rigorous spiritual training of immersion in the source texts of sacred scripture and the pious ways of the early Muslim community. Otherwise, any of these ethical concepts can be subjectivized.

## Are there multiple valid opinions on a given matter?

In matters subject to interpretation, there may be a wide variety of legitimate and valid opinions. It should be noted, however, that two opinions might both be valid—if they are both based on a reasonable and scholarly effort to interpret Islamic scripture—but one may be stronger than the other. Thus, valid opinions can be subcategorized by scholars based on the strength of their evidence. Some opinions are based on abundant scriptural, theological, and conceptual evidence and hence are rightfully categorized as very strong.<sup>48</sup> Other opinions rely on only a few pieces of evidence and theoretical inferences, and hence those opinions are graded as weak by scholars. Evaluating the relative strength of various opinions is the domain of scholarly research, and throughout history scholars would re-evaluate opinions expressed within their school of jurisprudence, making judgments about those that are ‘relied upon’ (*mu'tamad*), ‘preferred’ (*rājiḥ*), ‘popularly held’ (*mashhūr*), and so on. (For the difference between affirming multiple *valid* opinions versus affirming multiple *correct* opinions, see the section below titled “Ontology of truth: How many answers are ‘correct’ in the sight of God?”).

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<sup>47</sup> Ibn al-Qayyim. *I'lām al-Muwaqqi'īn*, Dammam: Dar ibn al-Jawzi 2002, vol. 4, p. 337. This should not be confused with the eccentric view ascribed to Najm al-Dīn al-Ṭūfī (d. 716 AH) that *maṣlaḥah* can override textual proofs; rather texts subject to interpretation must be understood in consonance with fundamental teachings established by other scriptural texts. See Mustafā Zayd, *al-Maṣlaḥa fī al-Tashrī' al-Islāmī*, Cairo: Dar al-Fikr al-Arabi 1964, p. 233. It has also been argued that this ascription is a misreading of what al-Ṭūfī was actually suggesting, Yusuf al-Qaradawi, *Dirāsah fī Fiqh Maqāṣid al-Sharī'ah*, Cairo: Dar al-Shuruq 2006, p. 111.

<sup>48</sup> Once certain theological or conceptual foundations are established in Islam, they are employed to interpret various individual texts. For instance, God's perfection, omniscience, and omnipotence are established concepts that are used to understand individual verses and hadith in a manner consistent with those theological foundations. For instance, Qur'an 29:3 cannot be interpreted in a way that compromises God's foreknowledge; see Ibn Jarīr al-Ṭabarī, *Tafsīr al-Ṭabarī*, Dar Hijr 2001, vol. 18, p. 357. Similarly, the Islamic value system is deployed in juristic reasoning via legal maxims (*qawā'id fiqhiyyah*) and objectives of Islamic law (*maqāṣid al-sharī'ah*).

Scholars also emphasized that the simple presence of different valid opinions does not entitle one to select from amongst them according to whatever suits one's desires or fancies. Rather, there must be a deciding criterion by which one prefers one opinion over another; for the scholar, this would relate to a juristic evidence such as a scriptural text, a legal maxim or principle, or a recognized benefit (*maṣlaḥah*). The layperson would need to rely on a trustworthy teacher to whom they have access for questions. The adoption of a particular view for the non-*mujtahid* may also relate to heuristics that suggest the relative strength of an opinion such as the majority view amongst the jurists, or the view of the scholar whom one personally finds most trustworthy, or one may choose to adopt the 'safer' view.<sup>49</sup>

It has also been widely argued that one should not confine the scope of valid opinions to those found only within the four schools of jurisprudence (Ḥanafī, Shāfi'ī, Mālikī, Ḥanbalī) without due consideration of other early juristic views such as those of the companions and the succeeding generation (*tābi'īn*), the seven famous jurists of Madīnah, and other early imams of *fiqh* (including Ibn Shihāb al-Zuhrī (d. 124 AH), Layth ibn Sa'd (d. 175 AH), al-Awzā'ī (d. 157 AH), Sufyān al-Thawrī (d. 161 AH), Ishāq ibn Rāhawayh (d. 238 AH), etc), especially in those cases where there is a significant number of the aforementioned voices adopting another opinion (e.g., the physical purity of alcohol) and large groups of verifying scholars have endorsed such views.<sup>50</sup> For a list of such historical figures, refer to **Appendix I**.

## Summary of criteria for a valid opinion

In summarizing the stipulations of Muslim scholars, the following five conditions have been presented in order for an opinion to qualify as a 'valid' opinion:<sup>51</sup>

<sup>49</sup> Salmān al-'Awdah, *Kayfa nakhtalif*, Riyadh: Mu'assasah Islam al-Yawm lil-Nashr 1433, pp. 85-86.

<sup>50</sup> Ibid., p. 87.

<sup>51</sup> The order presented here is that of al-'Awnī, Ḥātim Sharīf. *Ikhtilāf al-Muftiyīn*, Riyadh: Dar al-Somaie 2008, pp. 46-47. See also Abdul-Majid Susuh al-Sharafī, *al-Ijtihād al-Jimā'ī fī tashrī' al-Islāmī*. Ri'asah al-Mahakim al-Shar'iyyah al-Qatarīyah, Qatar 1997, pp. 63-70.

1. Qualified scholar—that the opinion arises from someone who has the requisite expertise, experience, and peer recognition.
2. Consistent with consensus—that the opinion does not contradict a verifiable established consensus of Muslim scholars.
3. Grounded in tradition—that the opinion does not depart from the range of views expressed by the early Muslim community (*salaf*) and authoritative scholars (NB: this does not apply to novel unprecedented contemporary matters (*nawāzil*) and other exceptions discussed later).
4. Does not arise from unacceptable sources—that the basis for the opinion is not a principle, or textual or ideological source that has no basis in Islam.
5. Does not contradict unequivocal evidence—that the opinion does not go against evidence that is authentic, clear, and definitive in its import.<sup>52</sup>

There are additional criteria that some scholars add; for instance, Shaykh Hatem al-Haj cites also that the opinion should not contradict mental axioms (*badā'ih al-'aql*) or matters perceptible by the senses (*awā'il al-ḥiss*). This is supported by Islam's strong emphasis on rationality and empirical knowledge,<sup>53</sup> and it would entail elimination of certain opinions which were at one time plausible to some scholars in the history of the *ummah* but have since been excluded by incontrovertible empirical evidence. This would include, for instance, the jurists' opinion that the maximum duration of a pregnancy could be four or more years (Ḥanbalī, Shāfi'ī, Mālikī) or two years (Ḥanafī)—opinions which Ibn Ḥazm (d. 456 AH) declared to be false and based on dubious reports.<sup>54</sup> This criterion also harkens back to the juristic emphasis on harms and benefits being rationally and empirically discernible, and on consulting experts in other disciplines.<sup>55</sup> A salient example is the case of cigarette smoking—once the medical evidence of its harm

<sup>52</sup> al-Shāṭibī, *al-Muwāfaqat*, Dar Ibn Affan, vol. 5, p. 210.

<sup>53</sup> Of the famous proofs is that the Prophet Muḥammad ﷺ considered the absence of birth defects in Romans and Persians who practiced intercourse during breastfeeding (*Sunan Abi Dawud* 3882, [online](#)). Refer also to Ja'far Sheikh Idris, *Haqā'iq 'Ulūm al-Tajribīyah...Haqā'iq Shar'īyah*, November 12, 2012. *Majallah al-Bayan* no. 149. Available [online](#). The author cites the aforementioned hadith after his comment, "There is a hadith which demonstrates the Prophet utilized as evidence empirical matters (*haqā'iq al-wāqī'īyah*) in ascertaining religious rulings (*al-masā'il al-shar'īyah*)."

<sup>54</sup> Ibn Ḥazm, *al-Muḥallā*, DKI Beirut 2003, vol. 10, pp. 132-33.

<sup>55</sup> Mustafa bin Shamsuddin. *Athar al-Zamān fī Ijtihād al-Uṣūlī*, International Islamic University of Malaysia, p. 11.

became evident, the overwhelming juristic consensus shifted to adopting the view that it is prohibited.

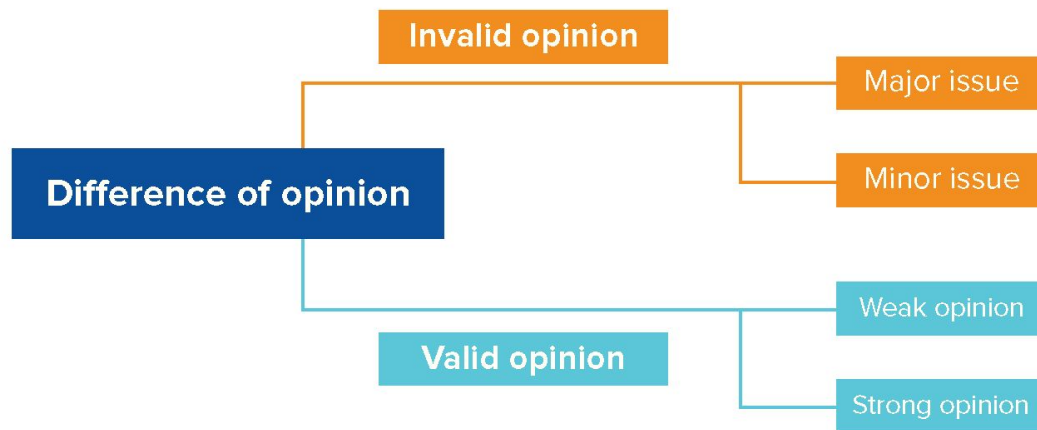
Of course, one should also avoid falling into the fallacious notion of ‘scientism,’ whereby one does not realize or recognize the epistemological limitations of science, and appreciate that there are matters that transcend the parameters of empirical investigation. Science can never determine our actual values although it can aid in ascertaining the optimal application of those values to particular scenarios. Moreover, science cannot provide knowledge about matters that extend beyond the natural world, and what it does say about the natural world is circumscribed in important ways as underscored by novel stances in the philosophy of science including ‘constructive empiricism,’ ‘epistemic structural realism,’ ‘ontic structural realism,’ and so on (see the discussion on misrepresenting the philosophy of science in [Human Origins: Theological Conclusions and Empirical Limitations](https://yaqeeninstitute.org/nazir-khan/human-origins-theological-conclusions-and-empirical-limitations/#.XdbGMzKQHs1)).<sup>56</sup>

## Identifying invalid opinions

Invalid opinions are those that are methodologically unsound because they fail to meet the criteria stated above. In other words, they are not rooted in any credible scholarly research using the foundational scriptural sources of Islam. However, not all invalid opinions are equal in weight—errors in minor issues are less catastrophic than errors that take place in major issues that nullify the validity of one’s faith or issues that can lead to great moral and societal harm. The practical implication of this point is that the community needs to prioritize solving major problems. An unhealthy obsession with focusing on minor errors at the expense of major issues only leads to further deterioration of the community.

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<sup>56</sup> Khan, N. & Qadhi, Y. Human origins: theological conclusions and empirical limitations. Yaqeen Institute. <https://yaqeeninstitute.org/nazir-khan/human-origins-theological-conclusions-and-empirical-limitations/#.XdbGMzKQHs1>



While scholars of Islam drew a simple line between valid and invalid opinions, they drew a metaphorical big red line demarcating those invalid opinions that were considered to entail a rejection of Islam altogether. The reason for doing this was not out of some sort of depraved yearning to excommunicate individuals but rather to accurately identify the theological boundaries of what constitutes Islam. If Islam had no boundaries, then the statement “I am a Muslim” would be an inherently meaningless and incoherent statement since it could, at the whims of the speaker, mean absolutely anything from “I am a vegan solipsist” to “I am a Buddhist Bolshevik-Leninist.” For the statement to have theological meaning, it must possess certain integral components according to the scholars. If an opinion was antithetical to the doctrines of Orthodox Islam, it was termed disbelief (*kufṛ*). At the same time, one must resist the tendency to conflate personal interpretations with unequivocal theological doctrines. Writing on Abū Ḥāmid al-Ghazālī’s work *Fayṣal al-Tafriqah bayna al-Islām wa al-Zandaqah*, Dr. Sherman Jackson notes the following:

At bottom, al-Ghazali’s argument against the theological extremists—among whom are both Traditionalists and Rationalists—is that they fail (or refuse) to recognize that their doctrines are grounded in interpretative presuppositions that are historically determined. This failure on their part

results in an effective obliteration of the distinction between interpretation and revelation. In effect, theological extremists regard their doctrines as being unmediated through fallible and unavoidably secular processes of human thought. As such, their doctrines are sublated into the transcendental realm of revelation. On this conflation there is virtually no distinction between a primary and a secondary belief. Rather, the theological extremists hold that to go against any of their doctrines is to go against revelation itself, whence the ubiquitous charge of Unbelief hurled against their adversaries.

Against this tendency, al-Ghazali insists that the only theological doctrines whose violation may serve as a basis for charging a person with Unbelief are 1) fundamentals (*uṣūl*) i.e., belief in God, the prophethood of Muḥammad, and the Hereafter; and 2) secondary doctrines that are backed by unanimous consensus (*ijmāʿ*) or handed down on the authority of the Prophet via diffuse congruence (*tawātur*).<sup>57</sup>

The act of pronouncing disbelief (*takfīr*) is a type of legal edict deemed the exclusive prerogative of trained theologians and jurists and is of two types: *al-takfīr al-muṭlaq* (generic pronouncement) and *takfīr al-muʿayyan* (pronouncement on a specific individual). The former took the form of general pronouncements on actions (e.g., “Anyone who deliberately prostrates to an idol has disbelieved” or “Anyone who deliberately desecrates the *muṣḥaf* has disbelieved”), statements (e.g., “Anyone who curses God and His Messenger has disbelieved”), beliefs (e.g., “Anyone who believes that God doesn’t know the future has disbelieved”), or groups (e. g., “The Jahmīyah are disbelievers”).

On the other hand, *takfīr al-muʿayyan* entails making a pronouncement on a specific individual, which the scholars in general were reluctant to do; they therefore stipulated numerous conditions as well as various precluding factors (*mawāni*). The latter included avoiding making pronouncements against those who were new to the faith, who grew up in distant lands with limited information, and those who lived in times and places where ignorance and misinformation predominated.<sup>58</sup> It was ubiquitously acknowledged that *takfīr* of a statement or

<sup>57</sup> Jackson, Sherman. *On the Boundaries of Theological Tolerance in Islam: Abū Ḥāmid al-Ghazālī's Fayṣal al-Tafrīqah bayna al-Islām wa al-Zandaqah*. Oxford University Press 2002, p. 6.

<sup>58</sup> Al-Nawawi writes, “This is the case for those who deny anything from that which the Ummah has agreed upon from the knowledge of the religion when such knowledge is widely disseminated, like the five prayers, the fast of



belief did not entail a judgment on the person. Ibn Taymīyah states, “Not everyone who utters a statement of disbelief disbelieves; rather it is only when decisive proof of its disbelief is established for that person.”<sup>59</sup> The conditions Ibn Taymīyah stipulates for *takfīr al-mu‘ayyan* in the manifestly known matters of faith (*al-masā’il al-zāhirah*) include maturity, sound mental health, intentionality, absence of coercion, and absence of unique extenuating circumstances (i.e., the aforementioned scenarios of one who lives in a distant land, a new convert, or someone living in a place of extreme ignorance), while in the less obvious matters of faith (*al-masā’il al-khafīyah*) one could be excused for ignorance (*‘udhr bi-al-jahl*), misconceptions (*shubhah*), or misinterpretation (*ta’wīl khāṭi*).<sup>60</sup>

There is an incredibly stern warning in Islam against making pronouncements of disbelief against a fellow believer. The Prophet Muḥammad ﷺ stated, “Whoever says to his brother, ‘O disbeliever’ then surely one of them is such.”<sup>61</sup> In other words, it is a tremendous sin to declare someone outside the fold of Islam on the basis of presumptions, and this matter should never be taken lightly by a faithful believer. The matter of *takfīr* is a matter of issuing a religious edict and legal verdict when it is absolutely necessary to do so, and is a matter left to those with qualified scholarship.

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Ramadan, *ghusl for janābah*, prohibition of *zinā* and alcohol and marriage of relatives, and similar rulings, except if someone is new to Islam,” *Saḥīḥ Muslim bi-Sharḥ al-Nawawī*, Bayt al-Afkar al-Dawlīyah, p. 100. See also Ibn Taymīyah, *Majmū‘ al-Fatāwā*, al-Mansura: Dar al-Wafa’ lil-Taba’a wal-Nashr, 1998, vol. 35, p. 101.

<sup>59</sup> Ibn Taymīyah, *Majmū‘ al-Fatāwā*, al-Mansura: Dar al-Wafa’ lil-Taba’a wal-Nashr, 1998, vol. 5, p. 306. Furthermore, Ibn Taymīyah explained that if someone errs in the arcane philosophical debates in Islamic theology (e.g., the createdness of the actions of servants), this cannot nullify their faith and thus he ardently opposed recklessly excommunicating others from *Ahl al-Qiblah* (those who face Makkah in prayers; i.e., the general Muslim populace). See Muhammad ‘Ummārah, *Raf‘ al-Malām ‘an Shaykh al-Islām*, pp. 22-24.

<sup>60</sup> For the interpretation and analysis of Ibn Taymīyah’s pertinent statements on this topic within the writings of the Najdi Salafi movement, refer to Abu Ala al-Rashid, *Ḍawābiṭ al-Takfīr al-Mu‘ayyan ‘inda Shaykhay Ibn Taymīyah wa ibn ‘Abd al-Wahāb wa ‘Ulamā’ al-Da‘wah al-Islāhīyah*. Maktabah al-Rushd 2004, pp. 59-69. For a similar distinction regarding the excusability of misinterpretation in matters that are not known by necessity to be from the religion, refer to Anwar Shāh Kashmīrī (d. 1352 AH), *Iḳfār al-Mulhidīn fī Ḍarūrīyāt al-Dīn*, Beirut: Dar al-Basha’ir al-Islamiyyah, nd, pp. 118-19. A more detailed comparison of the various approaches to this subject is beyond the scope of this introductory article.

<sup>61</sup> *Saḥīḥ Bukhārī* 6103, [online](#). There are many interpretations of the precise meaning of this hadith, including *inter alia* whether the sin of the unjustified *takfīr* returns to the person, or the accusation of *takfīr* since he has accused someone sound in faith like himself, or whether it is simply mentioned in this way as a deterrent. See al-Kandhalawi, *Awjaz al-Masālik ilā Muwaṭṭa’ Mālik*, Damascus: Dar al-Qalam, vol. 17, pp. 448-50.

## How do we deal with invalid opinions?

It is important to remember that the faith prescribes wisdom and gentleness in the correction of those individuals who hold an opinion that is invalid, while ensuring that the clarity of the message is not compromised. The focus should always be on clarifying the issue itself so that people are duly educated, rather than focusing on attacking an individual who adopts an invalid opinion. In fact, holding an invalid opinion does not invalidate one from being a valuable member of the community or a transmitter of sacred knowledge. Imām al-Bukhārī (d. 256 AH) narrates hadith from ‘Imrān ibn Ḥiṭṭān (d. 84 AH)<sup>62</sup> who was one of the leaders of the *Khawārij*,<sup>63</sup> from ‘Abbād ibn Ya‘qūb (d. 250 AH)<sup>64</sup> and ‘Ubaydullah ibn Mūsā (d. 213 AH)<sup>65</sup> from amongst the *Shī‘ah*,<sup>66</sup> as well as from Abū Yaḥyā al-Ḥimmānī (d. 202 AH)<sup>67</sup> who was a caller to the way of the *Murji‘ah*.<sup>68</sup> Yet, Imām al-Bukhārī narrated their hadith because they were trustworthy individuals and the hadith did not pertain to their innovations.<sup>69</sup> This was the wisdom of the scholars in recognizing that one can take what is beneficial from others and leave that which is not.<sup>70</sup>

Indeed, were it not for this wisdom, then entire fields of Islamic sciences would be robbed of major developments. The *Mu‘tazilah*,<sup>71</sup> considered a heterodox sect by

<sup>62</sup> *Saḥīḥ Bukhārī* 5952, [online](#).

<sup>63</sup> Al-Dhahabī (d. 748 AH), *Siyar A‘lām al-Nubalā’*, Beirut: Bayt al-Afkar al-Dawliyah 2004, vol. 2, p. 2936. The *Khawārij* were a heterodox sect and one of the earliest splinter factions in the history of the *ummah*. They arose in opposition to the reconciliation attempts between ‘Alī ibn Abī Ṭālib and Mu‘āwiyah ibn Abī Sufyān, and they viewed the perpetrator of a sin to be a disbeliever.

<sup>64</sup> *Saḥīḥ Bukhārī* 7534, [online](#).

<sup>65</sup> *Saḥīḥ Bukhārī* 6864, [online](#).

<sup>66</sup> Al-Dhahabi, *Siyar*, pp. 2216, 2638.

<sup>67</sup> *Saḥīḥ Bukhārī* 5048, [online](#).

<sup>68</sup> Al-Dhahabi, *Siyar*, p. 2151. The *Murji‘ah* are a heterodox sect that viewed faith to be independent and invariant of one’s deeds such that they believed sins do not diminish one’s faith at all.

<sup>69</sup> This position has been explained by the early hadith scholar Abū Ishāq al-Jūzajānī (d. 259 AH) in *Aḥwāl al-Rijāl*, (Beirut: Dar Mu‘assasat al-Risalah nd), p. 32. For a full discussion of this topic and the various views, refer to Serdar Demirel, *‘Ulūm al-Ḥadīth bayna Ahl al-Sunnah wal-Jamā‘ah wa Shī‘ah al-Imamīyah al-Ithna ‘ashariyah*. IIUM Press, 2009, pp. 172-73.

<sup>70</sup> There is certainly another early trend that arose against “associating with the people of innovation (*bid‘ah*)”; however, this was in a particular context where boycotting certain fringe groups actually helped to reduce the prevalence of that innovation.

<sup>71</sup> The *Mu‘tazilah* were one of the groups of *kalām* (philosophical theology) who used Hellenistic philosophy to establish the doctrines of faith and called themselves *Ahl al-Tawḥeed wa’l-Adl* (people of monotheism and justice), the former label referring to their rejection of any attributes for God and the latter to their rejection of divine predestination. The attitude of their various subgroups towards the Sunnah is discussed in Mustafa al-Siba‘ee, *The Sunnah and its Role in Islamic Legislation*, IIPH 2008, p. 191.

Sunni Muslims, made seminal contributions in *uṣūl al-fiqh* including Qāḍī ‘Abd al-Jabbār (d. 415 AH) who authored *Kitāb al-‘Umad* and Abū al-Ḥusayn al-Baṣrī (d. 436 AH) who authored *al-Mu‘tamad* which laid foundations followed by subsequent works,<sup>72</sup> as well as Abū Bakr al-Jaṣṣāṣ (d. 370 AH)<sup>73</sup> whose work *al-Fuṣūl fī al-Uṣūl* is the first comprehensive and systematic work on *uṣūl al-fiqh* in the Ḥanafī madhhab. The Mu‘tazilī theologian Abū ‘Uthmān al-Jāḥiẓ (d. 255 AH) made major contributions in Arabic rhetoric (in addition to his scientific contributions in zoology and mathematics).<sup>74</sup> In *tafsīr*, the value of the work *al-Kashshāf* by al-Zamakhsharī (d. 538 AH) is well-known, and likewise in the study of *shādhidh qirā’āt*, the work *Al-Muḥtasab* by Ibn Jinnī (d. 392 AH) is indispensable. Mu‘tazilī terminology that has become foundational includes *mutawātir* (mass-transmitted narrations) in Hadith sciences<sup>75</sup> and *i’jāz al-Qur’ān* (miraculous nature of the Qur’an) in Qur’anic sciences.<sup>76</sup>

The *falāsifah* were generally more heterodox than the Mu‘tazilah, and yet from amongst them Ibn Rushd (d. 595 AH) who authored one of the most important texts on comparative *fiqh*—*Bidāyat al-Mujtahid wa Nihāyat al-Muqtasid*—still studied in most major Islamic institutions of learning around the world. It becomes apparent that the intellectual heritage of the Sunni tradition received major contributions from those who sometimes diverged from it in significant ways.<sup>77</sup>

<sup>72</sup> The historian Ibn Khaldūn (d. 807 AH) lists these as the foundational *uṣūl al-fiqh* works for *ṭarīqat al-mutakalimūn* (jurisprudence derived from theory) alongside Al-Juwaynī’s *Burhān*, Abū Ḥāmid al-Ghazālī’s *al-Mustasfā*. These works were then drawn upon by al-Rāzī and al-Āmidī in their key works on the subject. As for *ṭarīqat al-fuqahā’* (Ḥanafī method of theory derived from jurisprudence), he lists Abu Zayd al-Dabūsī’s *Taqwīm al-Adillah* as the best of the early works; Ibn Khaldūn, *Muqaddimat Ibn Khaldūn*, Dar Yarub, vol. 2, pp. 201-2. His characterization of a neat dichotomy between the two methods is, of course, somewhat of an oversimplification; see Correa, Dale J. Taking a Theological Turn in Legal Theory. In *Locating the sharī‘a: legal fluidity in theory, history and practice*, Leiden, The Netherlands: Brill, 2019, p. 125.

<sup>73</sup> Al-Jaṣṣāṣ was clearly influenced by the *Mu‘tazilah*; however, he also demonstrates some characteristics that aligned more with a traditionalist disposition and this reiterates the complex theological picture in early Islamic history. See Bedir, Murteza. *The Early Development of Hanafī Usul al-Fiqh*, p. 25.

<sup>74</sup> Al-Dhahabī says about him, “He was of the oceans of knowledge (*buhūr al-‘ilm*).” Al-Dhahabi, *Siyar*, [online](#).

<sup>75</sup> Hansu, Huseyin. “Notes on the Term Mutawatir and its Reception in Hadith Criticism.” *Islamic Law and Society* 16 (2009): 383-408. The term comes from the Mu‘tazilī philosophical emphasis on developing an epistemological framework for certain knowledge.

<sup>76</sup> First used by Abū ‘Uthmān al-Jāḥiẓ (d. 255 AH) and Muḥammad ibn Yazīd al-Wāsiṭī (d. 306 AH), and later on adopted as a term by Sunni scholars to refer to the miraculous nature of the Qur’an. See Mustafā Dīb al-Bughā and Muhyi al-Din Dīb Mastu. *al-Wādiḥ fī ‘Ulūm al-Qur’ān*, Damascus: Dar al-‘Ulum al-Insaniyyah, 1998, p. 177.

<sup>77</sup> Of course, who is and who is not part of the Sunni tradition is another major point of considerable discussion and well beyond the scope of this article. From the Ash‘arī and Māturīdī schools of *kalām*, there are those who do not view Salafism as valid and vice versa, while both sides ascribe to Sunnism. Meanwhile, some scholars from both

Indeed, Sunni scholars in the past never ceased to value such contributions and to draw upon them, while also academically refuting the creed of heterodox groups.

A statement often attributed to the Prophet ﷺ states, “Wisdom is the lost property of the believer; wherever he finds it, he has the greatest right to it.”<sup>78</sup> This highlights a pragmatic approach to benefiting from others with whom one may maintain strong disagreements. Unfortunately, this attitude is diminished in modern times. The moral absolutism with which contemporary social media brands individuals as wholly pure or wholly evil is a travesty as is the ‘guilt by association’ that comes with it. If someone finds an article or position with which they disagree, not only will they condemn that individual, but they also attempt to discredit any organization or institution that has ever featured any opinion of that individual. Often the disagreement is not even over the religious ruling itself but how one understands the sociopolitical situation and weighs its relative benefits and harms. What has been lost is the understanding that **one can disagree with a view without discrediting all good that comes from a person** or an organization associated with that person.

## Ontology of truth: How many answers are ‘correct’ in the sight of God?

When scholars differ on a matter, is there only one true answer in the sight of God or are there multiple correct answers? There is agreement that in the case of differences in the canonical modes of reciting the Qur’an (*qirā’āt*) there are multiple correct answers,<sup>79</sup> and in differences in doctrinal fundamentals there is

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sides have adopted more conciliatory stances. Some claim there is not one monolithic Sunni theological tradition but rather multiple theological traditions that claim to represent Sunni orthodoxy. There is a long history of polemical exchanges between these groups that continues until today. However, what remains inarguable is that the tradition that has been inherited (including the major works within the four schools of jurisprudence) contains the combined contribution of all these groups. Heterogeneous as the Sunni tradition might be, there are collectively held areas of agreement on all the fundamental doctrines (e.g., *‘aqīdah al-taḥāwīyah* with certain nuances) and practices which represent the mainstream of Sunnism.

<sup>78</sup> *Jāmi‘ al-Tirmidhī* 2687, [online](#). There are many other verses, *ahadith*, and incidents in the *seerah* used to establish this concept.

<sup>79</sup> When it is established that a recitation came from the Prophet Muḥammad ﷺ, then there is no dispute over its correctness. Of course, during early Islam there were differing recitations whose status was unclear and were consequently criticized that later were established as canonical and confirmed as sound. For a discussion of

only one correct answer.<sup>80</sup> But what about differences in jurisprudence or secondary matters of the religion that are open to interpretation (*furūʿ*)?<sup>81</sup> There is considerable discussion of this topic in the Islamic tradition and the two competing camps are called *muṣawwibah* (those who affirm multiple true answers; i.e., truth pluralism)<sup>82</sup> and *mukhaṭṭiʿah* (those who affirm only one true answer). While the latter position was undoubtedly the view of the majority of jurists, many of the *mutakallimūn* are said to have adopted the first view which entails that in those issues for which there is no decisive text (i.e., *ẓannīyat*), there are multiple true answers in the sight of God. This was the position of the Muʿtazilah theologians (including Abū al-Hudhayl al-ʿAllāf (d. 227 AH), Abū Hāshim al-Jubbāʾī (d. 321 AH) and Abū ʿAlī al-Jubbāʾī (d. 303 AH)),<sup>83</sup> and this view was also espoused by many Ashʿarī scholars, including Abū Ḥāmid al-Ghazālī (d. 505 AH) in *al-Mustaṣfā*<sup>84</sup> as well as Abū Bakr al-Bāqillānī (d. 404 AH). In fact, al-Juwaynī (d. 478 AH) attributed this view to the majority of Ashʿarīs, as did the Māturīdī Ḥanafī scholar ʿAlāʾ al-Dīn al-Samarqandī (d. 539 AH).<sup>85</sup> However, al-Juwaynī himself and other notable Ashʿarī scholars including Fakhr al-Dīn al-Rāzī (d. 606 AH),

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instances where the famous early *mufasssir* Ibn Jarīr al-Ṭabarī (d. 310 AH) critiqued certain readings, refer to Abdul-Fattah al-Shalabi, *al-Ikhtiyār fī ʿl-Qiraʾāt*. Umm al-Qura University, Mecca 1996.

<sup>80</sup> Scholars of jurisprudence frequently mention and reject the views of Abū ʿUthmān al-Jāhīz (d. 255 AH) and ʿUbaydullah b. al-Ḥasan al-ʿAnbarī (d. 168 AH) that everyone who performs *ijtihād* is right even in fundamental matters of theology. Abuʾl-Maʿālī al-Juwaynī (d. 478 AH) notes that al-ʿAnbarī may have intended differing over more abstruse matters of theology, with which al-Juwaynī still disagrees (al-Juwaynī, *al-Burhān*, pp. 1316-18). Meanwhile, al-Shāṭibī affirms al-ʿAnbarī as one of the reliable narrators of Hadith (included by Imām Muslim) and suggests he was merely indicating that every view has a conceivable scriptural justification, and that he later recanted his views (al-Shāṭibī, *al-Iʿtisām*, vol. 1, pp. 250-52).

<sup>81</sup> Even some jurisprudential differences may be considered *ikhtilāf al-tanawwuʿ* (differences in variety) which express multiple acceptable options (e.g., repeated lines of the call to prayer), while others are *ikhtilāf al-taḍād* (conflicting differences) and mutually exclusive (e.g., something being *ḥalāl* or *ḥarām*).

<sup>82</sup> See also Pedersen, Nikolaj Jang Lee Linding and Wright, Cory, “Pluralist Theories of Truth,” *The Stanford Encyclopedia of Philosophy* (Winter 2018 Edition), Edward N. Zalta (ed.). [Online](#).

<sup>83</sup> Refer to al-Manṣūr billāh al-Qāsim (d. 393 AH), a Zaydī Muʿtazilī in his work, *Kitāb al-Irshād ilā sabīl al-Rashād*, ed. Muḥammad Yahya Salim Azzan, Sanaʾah: Dar al-Hikmah al-Yamanīyah 1996, p. 13.

<sup>84</sup> Al-Ghazālī, *al-Mustaṣfā min ʿIlm al-Uṣūl*, ed Hamzah Zuhayr al-Hafidh, Madinah, vol. 4, pp. 50-53. Note that Al-Ghazālī in his other work *al-Mankhūl* advocates a view that is more similar to the *al-Ashbah* view explained later. See al-Ghazali, *al-Mankhūl*. Ed. Muḥammad Ḥasan Hītū. Beirut: Dar al-Fikr 1998, p. 456.

<sup>85</sup> ʿAlāʾ al-Dīn al-Samarqandī, who wrote his work on *uṣūl al-fiqh* with the express intention of realigning Ḥanafī *uṣūl* with Māturīdī theology, as opposed to Muʿtazilī theology, states that the view of Abu Manṣūr al-Māturīdī is that there is only one correct opinion; al-Samarqandī, *Mizān al-Uṣūl fī Natāʾij al-Uqūl*, Doha: Awqaf Ministry 1997, p. 753. See also Aron Zysow’s discussion on Hanafī opposition to infallibilism in Aron Zysow, ‘Muʿtazilism and Maturidism in Hanafī Legal Theory’ in Bernard Weiss (ed), *Studies in Islamic Legal Theory*, Brill 2002, pp. 242-44.

Sayf al-Dīn al-Āmidī (d. 631 AH),<sup>86</sup> and Shihāb al-Dīn al-Qarāfī (d. 684 AH)<sup>87</sup> adopted the viewpoint of the majority of jurists, that there is only one true answer in any matter.

This point is alluded to in the following hadith of the Prophet Muḥammad ﷺ: “If a judge makes a ruling, striving to arrive at the truth and he is correct, then he will have two rewards. If a judge makes a ruling, striving to apply his reasoning and he is incorrect, then he will have one reward.”<sup>88</sup> The scholars, such as the eminent jurist Badr al-Dīn al-Zarkashī (d. 794 AH), explain that this hadith indicates that while every sincere scholarly effort is rewarded, the correct answer in the sight of God is still singular.<sup>89</sup> One of the interpretations is right, even though one may never know with certainty which is correct during this life. Two contradictory claims cannot both be true,<sup>90</sup> and hence the majority of scholars explain that there is one correct answer, even though we may have many valid differing opinions on what that correct answer is.<sup>91</sup> The actions of both groups may be correct as long as they followed the correct process of *ijtihād* even though the truth with God remains singular.<sup>92</sup> When the Prophet ﷺ affirmed the correct action of two groups of his companions who differed over when to pray ‘Aṣr on their expedition to Banū Qurayẓah, he was affirming that both groups had exercised correct *ijtihād*. However, it should also be noted that while one affirms the viewpoint that truth in the view of God is singular, the very fact that difference of opinion exists in the *ẓannīyat* is a consequence of the Divine Will to leave some matters open to interpretation, and therefore contains wisdom.

Moreover, it is worth noting that some of the *muṣawwibah* held a moderate position and stated that, although all opinions are correct, one of the opinions

<sup>86</sup> Sayf al-Dīn al-Āmidī (d. 631 AH) in *al-Iḥkām fī Uṣūl al-Aḥkām*, Riyadh: Dar Sumay‘i, 2003, vol. 4, pp. 221-22.

<sup>87</sup> Shihāb al-Dīn al-Qarāfī (d. 684 AH) in *Naḥḥ al-ʿis al-Uṣūl fī Sharḥ al-Uṣūl*, Mecca 1990, vol. 9, pp. 3876-77.

<sup>88</sup> *Ṣaḥīḥ Bukhārī* 7352, [online](#).

<sup>89</sup> Al-Zarkashī. *Baḥr al-Muḥīṭ*, (Dar al-Safwah 1992) vol. 6, pp. 243-44. Scholars also frequently mention that the only dissenting voices—Bishr al-Marīsī (d. 218 AH) and Abu Bakr al-Aṣamm (d. 240 AH)—held the heterodox view that the scholar with the wrong answer was sinful.

<sup>90</sup> Al-Nasafī, *Kaṣḥf al-Asrār*, Beirut: DKI 2015, vol. 2, p. 301.

<sup>91</sup> For more discussion refer to Ibn ‘Abd al-Barr al-Malikī in *Jāmi‘ Bayān al-ʿIlm wa Faḍliḥ*, (Dar ibn al-Jawzi 1994) vol. 2, p. 885, Ibn Taymīyah in *Majmū‘ al-Fatāwa*, vol. 20, pp. 19-22, and al-Sighnaqī (d. 714 AH) in *al-Kāfī Sharḥ al-Bazdawī* (Riyadh 2001), pp. 1837-39.

<sup>92</sup> Al-Sarakhsī, *Uṣūl al-Sarakhsī*, Beirut: DKI 1993, vol. 2, p. 14.

corresponds to the ruling that God *would* have chosen if, hypothetically, He had legislated a definitive ruling on the issue. In other words, one opinion is still superior to the other opinions. This view has been termed *al-Ashbah* and it is attributed to the Shafi‘ī jurist Ibn Surayj (d. 306 AH), and Ḥanafī jurists Qāḍī Abū Yūsuf (d. 182 AH) and Muḥammad ibn Ḥasan al-Shaybānī (d. 189 AH),<sup>93</sup> in addition to the early Ḥanafī legal theorist Abū al-Ḥasan al-Karkhī (d. 340 AH).<sup>94</sup> Comparing this view with that of the *mukhaṭṭi’ah*, one may notice that the gulf between them is in fact not very large, since the view of the *mukhaṭṭi’ah* does not negate that, in leaving a matter subject to interpretation due to a wisdom known to Him, God deliberately allowed for the existence of differing opinions. Thus both groups—the *mukhaṭṭi’ah* and those who adopt *al-ashbah*—recognize that there is a degree of divine sanction for multiple opinions while still regarding one opinion as superior to the rest.<sup>95</sup> A central concern for the jurists—as Anver Emon notes—was to acknowledge the fallibility of human interpretation without undermining the authority of juristic interpretations in providing guidance:

The jurists of both schools of thought [i.e., *muṣawwibah* and *mukhaṭṭi’ah*] theorized about the theology of God and the law, recognized the inevitability of indeterminacy in the law, and upheld the authority of *ijtihād*ic rulings amidst the reality of human fallibility. All recognized that the *ijtihād*ic product must carry some weight, lest Shari’ah fail to offer guiding principles for those seeking to live good and fulfilling lives. Both groups argued toward the same end result: the authority of juristic determinations, subject to a system of evaluation that assumes the fallibility of *ijtihād*ic conclusions.

<sup>96</sup>

The practical consequence of this discussion is that the believer does not pick and choose opinions as a matter of personal convenience. Rather, one strives to follow

<sup>93</sup> Kamal al-Din ibn Imam al-Kamilīyah (d. 874 AH), *Taysīr al-Wuṣūl ilā Minhāj al-Uṣūl min al-Manqūl wal-Ma‘qūl*, ed. Abdul Fattah Ahmad Qutub al-Dakhmisi. Cairo: Faruq al-Hadithīyah 2002, vol. 6, p. 312.

<sup>94</sup> al-Qāsim, Al-Manṣūr billāh. *Kitāb al-Irshād ilā sabīl al-Rashād*, ed. Muḥammad Yahya Salim Azzan, Sana’ah: Dar al-Hikmah al-Yamanīyah 1996, p. 13.

<sup>95</sup> See also Al-Rāzi’s discussion where he argues that *al-Ashbah* logically necessitates the same result as the *mukhaṭṭi’ah* - al-Rāzi, *al-Maḥṣūl*, vol. 6, p. 62. Also, Abu Ya‘qūb al-Jurjāni al-Ḥanafī (d. 522 AH) in *Khazānat al-Akmal fī Furū‘ al-Fiqh al-Ḥanafī*, Beirut: DKI 2015, vol. 4, p. 123.

<sup>96</sup> Emon, Anver. “To most likely know the law: Objectivity, authority and interpretation in Islamic law,” *Hebraic Political Studies* 4, no. 4 (2009): 439.



what is believed in one's heart to be correct on the basis of trusted scholarship while respecting other differing viewpoints.

## Does Islamic law change with time and place?

First, it's important to recognize that the moral values and theology of Islam are not subject to change. The truth of believing in doctrinal matters such as the resurrection or believing in miracles is unaffected by an alteration in social circumstances. Nor will there ever come a time when Islam does not value kindness, patience, modesty, honesty, and justice. Similarly, the ritual acts of worship (*'ibādāt*) are generally invariant as well, with rare extenuating circumstances. When we talk of changing rulings with the changing of circumstances, we are generally referring to matters in Shari'ah related to societal laws (*mu'āmalāt*) or customary matters (*'ādāt*). As al-Shāṭibī notes, the *'ādāt* differ from the *'ibādāt* in that they are based on rational considerations (*'ilal/ma'ānī*) as opposed to being purely devotional in nature (*ta'abbudī*).<sup>97</sup>

Having excluded the categories of Islamic theology, morals, and ritual acts of worship, we can now turn to the question of how and to what extent Islamic laws pertaining to social matters can be subject to change. In order to answer this question, we must first distinguish between two terms frequently used to refer to Islamic law, namely *fiqh* and *shari'ah*, and the associated distinction between *fatwá* and *ḥukm*.<sup>98</sup> Muṣṭafá al-Zarqá provides the first distinction as follows:

It is very important to distinguish between our saying “the Islamic Sharī‘ah” and our saying “the Islamic *fiqh*.” For Sharī‘ah refers to the texts (*nuṣūṣ*) of the Qur'an revealed by Allah to the Prophet Muḥammad, and to the Prophetic Sunnah which comprises the sayings and actions of the Prophet which explain and detail the guidance contained in the Qur'an and provide a practical application of the Qur'an's commandments, prohibitions, and permissions. [...] As for *fiqh* it refers to what scholars have understood from

<sup>97</sup> al-Shāṭibī, *al-Muwāfaqat*, Dar Ibn Affan, vol. 2, p. 520.

<sup>98</sup> For a discussion of *fatwá* (which is a ruling applied to a particular situation) versus *ḥukm* (which is the ruling abstracted from scripture itself) and why it is more appropriate to describe change in the former than the latter, refer to 'Abd al-Ḥakīm al-Ramīlī, *Taghayyur al-Fatwá fil-Fiqh al-Islāmī*, Beirut: Dar al-Kutub al-Ilmiyah 2016, p. 34.

the religious scriptures and what they have derived and affirmed therefrom, and the rules they have postulated based on inferences of the texts.<sup>99</sup>

First of all, this echoes what this paper has stated repeatedly from the beginning—the major parts of Islamic law are clear-cut while subsidiary issues are subject to human interpretation. Secondly, this distinction between “the Islamic Shariah” and “the Islamic *fiqh*” highlights the way these terms have been used by some scholars to draw a conceptual distinction between these two categories. A similar conceptual distinction is drawn by Ibn Taymīyah, albeit using different terminology, viz. *al-Shar‘ al-Munazzal* to refer to the divinely revealed unequivocal laws of the Qur’an and Sunnah, and *al-Shar‘ al-Mu‘awwal* to refer to the human understanding and application of those laws.<sup>100</sup> The former refers to those areas of Islamic law that are clear-cut and definitive, while the latter refers to those areas that are subject to scholarly interpretation. The moral bedrock of Islam is constituted by the vast corpus of unchanging rulings and principles that form the foundation, and upon this edifice scholars elaborate an upper layer of elements subject to interpretation in application. Thus, Islamic law contains a dual-layer morality—an immutable scripturally enshrined set of precepts (*sharī‘ah*), and the human derivation and application of those principles sensitive to the changing of time and place (*fiqh*).

When a scholar of Islam looks at a rule (*ḥukm*) in the Qur’an and Sunnah and issues a verdict on how it applies to a particular scenario or context, that verdict is termed a *fatwá*; it incorporates “a concrete social reality.”<sup>101</sup> The scholars of Islam typically described the factors that could lead to a *fatwá* changing based on the changing of circumstances under the topic *taghayyur al-fatwá bi taghayyur al-zamān wa al-makān* (alteration of *fatwá* based on the alteration of era and place).<sup>102</sup> This topic—like the topic of *maqāṣid al-sharī‘ah* (objectives of Islamic law)—has certainly been abused by those who seek to open the floodgates of

<sup>99</sup> Muṣṭafá al-Zarqá, *al-Madkhal al-Fiqhī al-‘Ām*, Dar al-Qalam 2004, vol. 1, p. 153.

<sup>100</sup> Ibn Taymīyah, *Majmū‘ al-Fatāwá*, al-Mansura: Dar al-Wafá lil-Taba’a wal-Nashr 1998, vol. 11, pp. 145-47.

<sup>101</sup> Wael Hallaq, *Authority, Continuity, and Change in Islamic Law*, Cambridge: Cambridge Univ Press 2001, p. 180.

<sup>102</sup> ‘Abd al-Ḥakīm al-Ramīlī, *Taghayyur al-Fatwá fil-Fiqh al-Islāmī*. Zuḥaylī, *Taghayyur al-Ijtihād*, Damascus: Dar al-Maktabi 2000, p. 31. This terminology is also subject to some discussion, as others argue that in reality it is a new *fatwá* that has been rendered as opposed to changing the old *fatwá*.

change in order to dilute the religion.<sup>103</sup> The misuse of such concepts notwithstanding, it would be equally harmful to reject such vital jurisprudential concepts out of sheer opposition, and thereby end up discarding the metaphorical *maqāṣid* baby with the bathwater. Rather, the solution is to identify the legal parameters (*ḍawābiṭ*) and conditions (*shurūṭ*) that govern the alteration of *fatāwá* and the consideration of public benefits (*maṣāliḥ*).

The dominant consideration in matters pertaining to the changing of a ruling in a particular scenario is that of the *‘illah* (translated variously as ‘effective cause,’ ‘*ratio legis*,’ or ‘determining factor’) behind the ruling. The *‘illah* is the rationally discernible cause that determines why and when something is instructed, sanctioned, or prohibited in the *sharī‘ah*. It is distinct from, but linked to, the divinely intended wisdom (*ḥikmah*) behind why God instructed, sanctioned, or prohibited something. For instance, the reason why alcohol is prohibited is its intoxicating effects. Consumption of grapes is permissible but when turned into intoxicating wine it becomes impermissible; and when the wine is turned into vinegar it no longer is impermissible. Therefore, the determining factor (*‘illah*) for the prohibition is the resulting intoxication, and anything which is found to be intoxicating is prohibited due to the presence of the same *‘illah*.<sup>104</sup> The juristic maxim in this regard is that ‘a ruling revolves around the presence or absence of its effective cause’ (*al-ḥukm yadūru ma‘a ‘illatihi wujūdan wa ‘adaman*).<sup>105</sup> On the other hand, the wisdom behind prohibiting intoxicants may relate to numerous spiritual, physical, or personal benefits, both short-term and long-term, in abstaining from intoxicating substances, such as the ‘preservation of one’s intellectual faculties,’ which is one of the goals of Islam (*maqāṣid al-sharī‘ah*), or the elimination of a major factor in crime. While the reduction of difficulty may be

<sup>103</sup> In the course of his critique of those who elevate the principles of change (*taghayyur*), facilitation (*taysīr*), and public benefit (*maṣlaḥah*) to the level of a new *uṣūl al-fiqh* methodology altogether, Jamaal Zarabozo writes, “Each one of these principles may have some validity on their own. However, once they are given undue emphasis and raised to be the main approaches of *fiqh*, rather than simply tools to be used within the superstructure of *fiqh*, the Shareeah evidences get distorted and the results can be devastating. Within this proposed approach, following *fiqhi rukhsahs*, *talfeeq* and even invoking *shaadh* views become commonplace tools of *ijtihaad* and *taiseer*.” Zarabozo, *Principles of Fatwa-Making*, AMJA 15th annual Imams’ conference, p. 57. Available [online](#).

<sup>104</sup> Fakhr al-Dīn al-Rāzī, *al-Maḥṣūl* vol. 5, p. 207. Ibn al-Najjār, *Sharḥ Kawkab al-Munīr*, vol. 4, p. 51.

<sup>105</sup> Baroh, Umar Nuh. *Qā’idah al-Ḥukm Yadūr Ma‘a ‘Illatihi Wujūdan wa ‘Adaman Dirāsah Taṭbīqīyah*. Masters dissertation, Al-Madinah International University. nd.

the wisdom behind shortening one's prayers, the *'illah* is traveling, and it is *'illah* which determines the presence or absence of a ruling. The *'illah* must be definitive and determinate (*munḍabīṭ*); it can be recognized by explicit textual evidence (*'illah manṣuṣah*) or derived by juristic reasoning (*'illah mustanbaṭah*).<sup>106</sup> Umar Moghul writes:

The legal reasoning constructed by Muslim jurists to ascertain the *'illah* is far more systematic and detailed than the reasoning developed by the Anglo-American Common Law. The Islamic system approaches precision and accuracy far more closely than the Anglo-American Common Law; in fact, the manner in which the *'illah* is determined is seemingly quantifiable. Moreover, the Muslim system avoids rigidity by closely linking the *'illah* with the objectives of the law.<sup>107</sup>

The Azharī scholar Muḥammad Muṣṭafā al-Shalabī offers several instances where a ruling was altered based on the absence of the *'illah* in his dissertation on *Ta'īl al-Aḥkām* (ratiocination of rulings) under the subject heading, “Rulings that were unqualified or determined by an *'illah* but when examined it was found that the *'illah* had subsided or that for which the ruling was prescribed had changed; thus the rulings changed accordingly.”<sup>108</sup> One example is that of the Prophet ﷺ refraining from continuing congregational prayers during the nights of Ramadan due to fear they would become obligatory upon his followers; as this reason no longer existed during the time of 'Umar ibn al-Khaṭṭāb, he united those praying in the mosque in a single congregation. Another example is the prohibition related to seizure of stray camels during the time of the Prophet ﷺ. Stray camels were allowed to be taken and sold during the rule of 'Uthmān to ensure they were looked after once the owner had been given opportunity to reclaim them; during

<sup>106</sup> al-Zarkashī (d. 794 AH). *al-Baḥr al-Muḥīṭ fī Uṣūl al-Fiqh*. Dar al-Safwah 1992, vol. 5, pp. 262-63.

<sup>107</sup> Umar F. Moghul, Approximating certainty in ratiocination: How to ascertain the *'illah* (effective cause) in the Islamic legal system and how to determine the *ratio decidendi* in the Anglo-American common law, 4 *Journal of Islamic Law* 125 (1999): 5. For a detailed discussion, see also Bernard G. Weiss, *The Search for God's Law: Islamic Jurisprudence in the Writings of Sayf al-Dīn al-Āmidī*, Salt Lake City: University of Utah Press 1992, pp. 585-624.

<sup>108</sup> Shalabī, M. *Ta'īl al-Aḥkām*, dissertation, pp. 40-41.

the rule of ‘Alī ibn Abī Ṭālib, however, a shelter was built for them using the public treasury and they weren’t allowed to be sold.<sup>109</sup>

One can find numerous examples of jurists historicizing the verdicts of their predecessors throughout Islamic history. For instance, Imām al-Sarakhsī (d. 483 AH) and many others explain many of the differences between Abū Ḥanīfah (d. 150 AH) and his two students, Abū Yūsuf (d. 182 AH) and Muḥammad ibn Ḥasan al-Shaybānī (d. 189 AH), as being not the outcome of different scriptural explanations and rulings but simply the outcome of differences in the historical context in which they lived (*ikhtilāf ‘asr wa zamān lā ikhtilāf ḥukm wa bayān*)<sup>110</sup>—including economic, political, cultural, and societal differences. This is in spite of the fact that they were only one generation apart. During his time, Abū Ḥanīfah restricted the crime of *ḥirābah* (brigandry) to apply only to unpopulated areas as it was in these areas that people were unarmed and insecure, as opposed to urban areas where people were armed and not helpless—something al-Sarakhsī notes changed with time.<sup>111</sup> This is why someone cannot simply cut and paste rulings from the classical books of jurisprudence without an awareness of the historical circumstances under which scholars promulgated those edicts as well as a detailed awareness of the contemporary context.

Prior to the industrial revolution, societies found themselves in the inescapable grip of Malthusian economic constraints that determined the nature of many societal realities including the inevitability of conquest, coercive labor institutions, educational access, collectivist cultural norms, and so forth.<sup>112</sup> Following the industrial revolution, along with the advent of nation-states and international law, the emergence of digital communication and globalization, many realities of the

<sup>109</sup> See discussion in Moghul, Umar F. “Approximating certainty in ratiocination: How to ascertain the ‘*illah*’ (effective cause) in the Islamic legal system and how to determine the *ratio decidendi* in the Anglo-American common law.” 4 *Journal of Islamic Law* 125 (1999): 44-45.

<sup>110</sup> Al-Sarakhsī, *al-Mabṣūṭ*, Beirut Dar al-Ma’rifah 1993, vol. 8, p. 178; al-Zayla’i (d. 743 AH) uses the phrase “*la ikhtilāf ḥujjah wa burhān*” in Zayla’ī, *Tabyīn al-Ḥaqā’iq sharḥ Kanz al-Daqā’iq*. Bulaq: al-Matba’a al-Kubrā al-Amīriyya 1896, vol. 43, p. 354.

<sup>111</sup> See Ahmed al-Dawoody, *The Islamic Law of War: Justifications and Regulations*. New York: Palgrave Macmillan, 2011, pp. 171-73.

<sup>112</sup> For an introductory discussion of Malthusian economics, refer to Clark, Gregory. *A Farewell to Alms: A Brief Economic History of the World*. Princeton University Press, 2007. In a forthcoming work, we explore the constituents of ‘Malthusian *fiqh*’ (i.e., juristic rulings predicated on realities governed by pre-industrial economic constraints).

premodern world can no longer be assumed. Discerning which elements of the jurisprudence of social interactions were contingent upon historical realities that are no longer present is the prerogative of qualified jurists who are well acquainted with the realities of their times and the *‘ilal* (plural of *‘illah*) of the relevant rulings. Ibn al-Qayyim writes,

Whoever gives *fatwá* to people based only on what is transmitted from books despite the differences in their customs, norms, eras, localities, situations, and circumstances, then he is misguided and misguides others. His crime against the religion is greater than the crime of the physician who treats all people with what he finds in a single medical book while neglecting the differences in their lands, norms, times, and physical natures.

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The reason for this is that a particular ruling may have different consequences depending on the situation. Islamic law necessarily must take into consideration different circumstances and where those circumstances lead to harms and benefits that were not realized before, the ruling changes. Al-Shāṭibī writes that Islamic law necessarily takes into consideration the consequences of actions (*ma ‘ālāt al-af‘āl*) and whether those consequences lead to greater benefit or greater harm.<sup>114</sup> Law does not exist in isolation—this is as true for Islamic law as it is for any other type of law. Rather, law is a response to a fact matrix; it represents the course of action that is required to create a new set of facts that yield a just result. Indeed, something may be in and of itself obligatory or prohibited (or ranging in between the two, such as recommended or discouraged), but due to the overall context resulting in greater harm or benefit, the ruling changes. A simple example cited by jurists relates to the Prophet ﷺ refraining from razing the Ka‘bah and reconstructing it as originally built by Prophet Ibrāhīm due to the potential negative impact it could have on the faith of his new followers.<sup>115</sup> To the extent that the relevant elements of the fact matrix change (due to time and place), the legal response will also change. Different canonical schools of law deployed various tools to achieve such considerations, for instance the concept of *istiḥṣān* (juristic

<sup>113</sup> Ibn al-Qayyim, *I lām al-Muwaqqi ‘īn*, Dammam: Dar ibn al-Jawzi 2002, vol. 4, p. 470.

<sup>114</sup> al-Shāṭibī, *al-Muwāfaqat*, Cairo: Dar Ibn Affān 1997, vol. 5, p. 177.

<sup>115</sup> *Saḥīḥ Bukhārī* 126, [online](#).

preference).<sup>116</sup> Iyās ibn Mu‘āwiyah (d. 122 AH) stated, “Implement *qiyās* in judgment so far as it is beneficial to the people but when it leads to harmful consequences, then use juristic preference.”<sup>117</sup>

Islam needs no revision or modification since the divine instructions carry within them the very principles to ascertain and accommodate changing social circumstances. Social customs (*‘urf*) can affect the implementation of subsidiary social rulings under particular circumstances.<sup>118</sup> These are matters that must be assessed by scholars of the highest caliber with erudite knowledge of the Islamic tradition in addition to intimate familiarity with the social customs in question. Muftī Taqī Uthmani describes numerous scenarios in his work *Uṣūl al-Iftā’*.<sup>119</sup> For instance, trade transactions used to be based on volume of dates, barley, or wheat<sup>120</sup> before becoming based on weight.<sup>121</sup> Today, transactions have gone from paper money to electronic transactions, clicking a button, or tapping a plastic card. Some matters were prohibited based on an analogy with something explicitly prohibited—like paying to enter a bathhouse due to uncertainty (*gharar*) with respect to the commodity/service one is purchasing; however, the societal prevalence removed that degree of uncertainty. He also mentions the scenario of a ruling being established on the basis of a previously common situation that no longer exists. In this regard, an example would be those jurists who permitted the

<sup>116</sup> Kayadibi, Saim. *Istihsan - The Doctrine of Juristic Preference in Islamic Law*, Kuala Lumpur: Islamic Book Trust 2010, pp. 128-85.

<sup>117</sup> Muḥammad b Khalaf Wakee’ (d. 306 AH), *Akhbar al-Qudat*, Cairo: Matbat al-Istiqama 1947, vol. 1, p. 341.

<sup>118</sup> The Ḥanafī jurist Ibn ‘Ābidīn dedicated a separate work on this subject entitled *Nashr al-‘urf fi bina ba’d al-ahkam ‘ala al-‘urf*. As well, Ibn Taymīyah has extensive discussions on the topic; see Mish‘al bin Ḥamūd, *al-Masā’il al-Fiqhiyyah al-Mabniyyah ‘ala al-‘Urf ‘inda Shaykh al-Islām Ibn Taymīyah*. Doctoral dissertation. Umm al-Qura University 2011.

<sup>119</sup> Taqī Uthmani. *Uṣūl al-Iftā’*, pp. 254-64.

<sup>120</sup> For instance, *Sunan al-Nasā’i* 2509, [online](#).

<sup>121</sup> Wael Hallaq explains:

If the Prophetic tradition dictated measurement by weight for certain commodities, and by volume for others, it was merely because it was the custom to do so at the time of the Prophet. Had custom been different, it is entirely conceivable that the Prophetic tradition might have permitted the sale of gold by volume, and that of barley by weight. Therefore, Ibn Abidin concludes, “If custom undergoes change, then the legal norm (Hukm) must change too. In taking changing and unprecedented custom into consideration there is no violation of the texts; in fact, if anything, such consideration constitutes adherence to [the imperatives of] the texts.” Hallaq, *Authority, continuity, and change in Islamic law*, pp. 225-26.



payment of *zakāt al-fiṭr* using money instead of wheat or barley grain when needed.<sup>122</sup>

## Continuity with the tradition versus conformity of opinions

From the foregoing discussion it should be evident that Islamic law is not stagnant by any means, but rather the orthodox methodology elaborated by Muslim jurists throughout the Sunni tradition does account for changing of circumstances in those matters in which change is relevant. No individual scholar is beyond error or fallibility—as Mujāhid said, “Every individual will have some views accepted and some rejected except for the Prophet.”<sup>123</sup> However, the collective understanding of thousands of scholars, generation after generation, about the central tenets of the faith is of paramount authority. Each generation of scholars elaborated upon and built upon the contributions of the scholars who came before them. **What we seek, therefore, is not conformity with the views of individual scholars, but continuity with the tradition as a whole, using the same methodology to add to the intellectual edifice established by our righteous predecessors.**

With the above in mind, it is important to recognize what it actually means to uphold the tradition. Attempting to import verdicts issued by scholars centuries ago on a social or political matter without any consideration for the applicability of the *‘illah* in modern times is actually a betrayal to those scholars and a disservice to the tradition. Similarly, to cling to an opinion rendered on the basis of medieval

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<sup>122</sup> This is the position of the Ḥanafī school, in addition to many early jurists including Ḥasan al-Baṣrī, Ṭāwūs ibn Kaysān, ‘Umar ibn ‘Abd al-‘Azīz, Ishāq ibn Rāhawayh, Sufyān al-Thawrī, Abū Thawr, al-Awzā‘ī and al-Bukhārī. The opposing view of the Ḥanbalī, Shāfi‘ī and Mālikī jurists did not permit payment in money in lieu of grain, although some jurists from these schools did permit it such as the Mālikī jurist Ibn Ḥabīb, the Shāfi‘ī jurist al-Ramlī and from the Ḥanbalīs, Ibn Taymīyyah. See Riḍā ‘Abd al-Majīd al-Mutawallī, *Jawāz Ikhrāj al-Qimah fī Zakāt al-Fiṭr*. Majallah al-Azhar. June 2017, pp. 1827-30, [online](#). The Ḥanafīs even stated that money was preferable because it was of greater benefit in alleviating the needs of the poor, and Abu Ja‘far al-Tahawī maintained that the Prophet only mentioned barley and wheat because “trade at that time in Madinah was conducted with them” (al-Sarakhsī, *al-Mabṣūṭ*, vol. 3, pp. 106-7). Similarly, in his treatise on the subject, Aḥmad al-Ghumārī argued that the Prophetic instruction to give in grain was based on what was easiest for the Arabs and Bedouins of that time (al-Ghumārī, *Taḥqīq al-‘Amal fī Ikhrāj Zakāt al-Fiṭr bil-Māl*, p. 61).

<sup>123</sup> Reported from Mujāhid in Ibn ‘Abd al-Barr, *Jāmi‘ Bayān al-‘Ilm*, pp. 925-26. It is often also quoted from Imam Mālik. Note also the clarification that the one whose views are taken into consideration in the first place is the one duly qualified to examine the views of scholars and their evidence.

assumptions about the natural sciences derived from Hellenistic philosophy<sup>124</sup>—assumptions that have since been falsified by empirical sciences—would also be a grave disservice to the tradition and a type of ‘*faux traditionalism*.’ Rather than a stagnant ossified collection of historical opinions, true traditionalism involves a dynamic methodology that accounts for the emergence of new circumstances. The advocates of a newfangled ‘progressive Islam’ who wish to discard the tradition altogether tend to exploit the rigidity of *faux traditionalism* to demonstrate that it is backwards and incapable of accommodating the realities of modern society. Shaykh Amjad Mohammed argues that an understanding of true dynamic traditionalism circumvents fallacious attempts to reinvent Islam on the edifice of Western liberalism:

For the modernists to warrant the move from traditionalism to liberal rationalism which ‘must furnish a solution to the problems which had previously proved intractable’ due to the sterility or incoherence of the traditional model, an epistemological crisis has to exist within the Islamic tradition. ... We argue that those who advocate this view have no legitimate reason to turn towards another approach as they tend not to be traditionally trained scholars and are therefore not versed in the dynamic nature of the traditional approach nor are they in a position to advocate a completely different model as the current traditional model has not been thoroughly investigated.<sup>125</sup>

He further writes:

Our position is that Islam—or more accurately its sources—is considered to be a tradition and more specifically a discursive tradition, which must apply its historically tried and tested principles and methodologies in order to ascertain God’s will. The view that liberal rationalism is required as an interpretative model instead of traditionalism, because the latter is not suited to the modern world, is flawed in at least three ways: firstly, liberal rationalism is in itself a tradition; it cannot claim neutrality and it cannot be given exceptional status but must be regarded as a tradition amongst

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<sup>124</sup> For instance, in another paper we have discussed the example of exegetes who drew upon Hippocratic physiology to argue that women are inherently more prone to forgetfulness than men due to the female body containing excessive cold and moisture. Khan et al. Women in Islamic Law - Examining Five Prevalent Myths. Yaqeen Institute. [https://yaqeeninstitute.org/nazir-khan/women-in-Islamic-law-examining-five-prevalent-myths/#ftnt\\_ref73](https://yaqeeninstitute.org/nazir-khan/women-in-Islamic-law-examining-five-prevalent-myths/#ftnt_ref73)

<sup>125</sup> Amjad Mohammed, *Muslims in Non-Muslim Lands - a Legal study with applications*, p. 33.

traditions. Secondly, traditions are incommensurable which means that the premises and views within liberalism cannot be applied to religious traditionalism and neither can it claim unbiased accuracy and exclusive truthfulness. Thirdly, incommensurability does not permit modernist scholars the legal or philosophical position of assuming and declaring an epistemological crisis within traditionalism as they are not traditionally trained and only know the model superficially.<sup>126</sup>

The answers for the modern Muslim community lie in recourse to true traditionalism, understanding that a commitment to the tradition is a commitment to the methodology (*uṣūl*) of the tradition. In other words, someone who disagrees with you by following the correct methodology is far closer to you than someone who agrees with your opinion but follows an incorrect methodology. There is a world of difference between someone saying “X is *halal* because the strongest interpretation of the authentic hadith is Y” versus someone saying “X is *halal* because I don’t accept hadith and I reject the Sunnah as a source of religious guidance.”<sup>127</sup> An opinion arrived at by a trustworthy scholar utilizing the established principles of *uṣūl al-fiqh* based on a plausible interpretation of scripture is a sound conclusion regardless of who likes or dislikes it. All too often social media pundits lacking any familiarity in *uṣūl al-fiqh* jump to the conclusion of a *fatwá*, article, or dissertation to see if the answer espouses something that sounds “liberal” or “conservative” without any regard to the authority of the methodology employed. This is tantamount to disregarding the entire jurisprudential methodology outlined by scholars in *uṣūl al-fiqh* and using in its stead secular culturally-conditioned labels as sieves to filter valid from invalid opinions.

## Upholding traditionalism: Between old and new opinions

A commitment to the tradition protects against using fabricated ideologies as the basis for validating opinions. When scholars who lived centuries ago scrutinized

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<sup>126</sup> Ibid., pp. 45-46.

<sup>127</sup> For instance, consider the example of someone who does not believe that every Prophet will have a *hawḍ* (cistern) on the Day of Judgment. If this person arrived at this viewpoint because they followed those scholars who argued that the hadith on this subject ([Tirmidhi 2631](#)) is inauthentic, they are entirely within the correct methodology and hold a valid opinion. If on the other hand, they reject hadith wholesale and only accept the Qur’an as a source of legislation, their opinion is invalid, even though it is the very same opinion.

the scripture to arrive at the exact same conclusions as we do today, we can be more confident that we are not being led to our conclusions on the basis of cultural biases or modern ideological influences. We should be extremely cautious about veering beyond the scope of opinions that have been passed down in the tradition. It is worth remembering that Muslims are not unique in their regard for juristic tradition; in fact, it forms the very basis of the common law system in the West. Speaking on the shared features of the legal tradition of Western common law and the legal tradition of premodern Islamic jurisprudence, Anver Emon writes:

While the legal traditions may be separated by centuries, the issues that compel jurisprudential analysis and speculation are nonetheless similar, if not entirely shared... While some have characterized *taqlid* as blind adherence to the law, Wael Hallaq has convincingly argued that *taqlid* is elemental to establishing a sense of objective, authoritative rules to which one can resort—akin to the role of *stare decisis* in common law.<sup>128</sup>

Emphasis on adherence to tradition is a sentiment that has been emphasized within all canonical schools of law in Sunni Islam and across theological views. Abū al-Ḥasan al-Ash‘arī (d. 324 AH) states, “And [the scholars] agreed on the impermissibility of departing from the collective opinions of the *salaf*, including those matters on which they agreed as well as those matters on which they differed in their interpretation, since even in the latter the truth will not be found outside of their statements.”<sup>129</sup> For instance, if the early scholars differed over whether *ghusl* (ritual bathing) on Friday is recommended or obligatory, it meant they were agreed that it is not anything besides these two options (such as it being *mubāḥ*; i.e., merely permissible).

Similarly, Ibn Taymīyah (d. 728 AH) stated, “Every religious opinion from someone later that no one ever arrived at before is considered an error. As Imām Aḥmad said, ‘Beware of speaking on a matter with something that lacks precedent.’”<sup>130</sup> However, this does not mean that he believed one has to agree with the majority of the scholars on every issue, as Ibn Taymīyah himself sometimes

<sup>128</sup> Anver Emon, pp. 417-19. *Stare decisis* is the legal principle whereby courts must judge according to precedent based on the historical judgments of previous courts.

<sup>129</sup> Abū’l-Ḥasan al-Ash‘arī, *Risālah ila Ahl al-Thaghar*, Madina: Maktabat al-‘Ulūm wal-Ḥikam 1992, p. 174.

<sup>130</sup> Ibn Taymīyah, *Majmū‘ al-Fatāwā*, vol. 21, p. 166.

challenged prevailing jurisprudential views, such as the definition of traveling and the famous issue of triple divorce. Moreover, one may derive and articulate new conceptualizations as Ibn Taymīyah did in theology with the perpetual creativity of God,<sup>131</sup> and as scholars from al-Juwaynī to al-Shāṭibī did with *maqāṣid al-sharī‘ah*. Similarly, in contemporary times, Muslims may develop sophisticated means of articulating Qur’anic epistemology, spiritual psychology, Islamic philosophy of science, Islamic critiques of secular humanism and atheism, and so forth—all of which involve developing concepts and terminologies that were not stated previously. Furthermore, Ibn al-Qayyim adds another important qualification to Imām Aḥmad’s statements that excludes rulings on novel issues, “It’s important to know that the opinion that is rejected because it lacks a precedent is one pertaining to an issue that emerged during the early generations which they passed their verdicts on, and then someone comes later and invents a new opinion.”<sup>132</sup>

This leads to important questions regarding to what extent and under what circumstances is it possible to derive novel religious opinions that have not been previously espoused. While the foregoing discussion has focused predominantly on practical rulings (*aḥkām*), there is also considerable discussion on how to interpret descriptive texts (*akhbār*), often discussed in the realm of *uṣūl al-tafsīr* (hermeneutics). Below are six scenarios and examples that elucidate the answer to this question—of the items below, (1), (2), and (3) apply to *aḥkām*, (4) applies to *akhbār*, and (5) applies to both.

1. *Fiqh al-Nawāzil* (contemporary jurisprudential issues)—in matters that are entirely new, it is to be expected that the discussion will go beyond the points mentioned by historical scholars. This includes contemporary discussions over the *fiqh* of organ transplantation, modern financial transactions, performing prayers and fasting in northern latitudes during times of continuous day or night, etc. On contemporary matters, scholars have stressed the importance of collective *ijtihād* by committees of jurists where multiple experts come together to analyze and discuss a matter before

<sup>131</sup> Hoover, Jon. “Perpetual creativity in the perfection of God: Ibn Taymīya’s hadith commentary on God’s creation of this world,” *Journal of Islamic Studies* 15, no. 3 (2004): 287-329.

<sup>132</sup> Ibn al-Qayyim, *Badā‘i ‘al-Fawā’id*, Mecca: Dar Alam al-Fawa’id 2008, vol. 3, p. 1271.

providing a ruling; these committees are less prone to error or bias when compared to single jurist.<sup>133</sup> Examples include the International Islamic Fiqh Academy of the Organisation of Islamic Cooperation,<sup>134</sup> the Islamic Fiqh Council of the Muslim World League,<sup>135</sup> the European Council for Fatwa and Research,<sup>136</sup> the Assembly of Muslim Jurists of America,<sup>137</sup> among many other national organizations.

2. Issues that were previously not a matter of public concern ( *'umūm al-balwā*) and therefore did not warrant the same degree of sophisticated research and analysis. Modern-day pressures may push us to do *taḥqīq* (verification) of an unsubstantiated opinion that was previously taken for granted and reassess the validity of a view based on the Qur'an and Sunnah. Examples of this include the usage of illustrations in children's books and cartoons,<sup>138</sup> participation in interfaith community events, exchanging greetings related to non-Muslim festivities,<sup>139</sup> and appropriate norms of conduct for gender interaction in the workplace.
3. When the modern-day societal changes (including socio-political or economic circumstances) render an *'illah* absent that was previously present, then the ruling predicated upon that *'illah* no longer obtains. This includes previously mentioned examples.
4. In theological or eschatological subsidiary<sup>140</sup> questions on which the scriptural texts (*nuṣūṣ*) are silent, and there are multiple plausible scenarios (*iḥtimālāt*) some of which were posed by earlier scholars, there is nothing to preclude listing other plausible scenarios (*iḥtimālāt*) so long as one does not

<sup>133</sup> 'Abd al-Majīd Susuh al-Sharāfī, *al-Ijtihād al-Jimā'ī fī tashrī' al-Islāmī*. Ri'asah al-Mahakim al-Shar'īyah al-Qatarīyah, Qatar 1997, p. 115.

<sup>134</sup> <http://www.iifa-aifi.org>

<sup>135</sup> <https://ar.themwl.org>

<sup>136</sup> <https://www.e-cfr.org/european-council-fatwa-research/>

<sup>137</sup> <https://www.amjaonline.org>

<sup>138</sup> For a detailed contemporary dissertation on the subject of 'image-making,' refer to *Aḥkām at-Taṣwīr fīl-Fiqh al-Islāmī* by Muhammad bin Ahmad Wasil, Masters thesis, Riyadh: al-Imam University, 1417 AH.

<sup>139</sup> Muṣṭafā al-Zarqā'. *Fatāwā Muṣṭafā al-Zarqā'*. Damascus: Dar al-Qalam 2010, p. 357.

<sup>140</sup> There is greater flexibility in the *furū'* than in the *uṣūl*. Arguing that the *ṣaḥābah* did not have a good understanding of prophethood or monotheism or the ethical precepts of Islam is not reasonable. On the other hand, how we interpret isolated texts related to a particular eschatological phenomenon by default has always been subject to far more diverse interpretations because the style of prophecies is never as explicit as religious instruction for daily practice but rather is intended to provoke contemplation and spiritual self-rectification (e.g., the phrase "when a slave girl gives birth to her master").

definitely declare (*jazm*) the veracity of one over the others in matters of the unseen (*ghayb*) without a scriptural proof.<sup>141</sup> Examples include, for instance, the scholars listing many different plausible interpretations for how the Euphrates and Nile have been described as originating in Paradise, ranging from metaphorical description of their blessings, to a hidden metaphysical connection, etc.<sup>142</sup> Another example is Ibn Taymīyah's discussion on the accountability of the boy killed by Khidr, considering possibilities of whether he had reached the age of maturity or was legally accountable as a discerning youth in the moral code of his people.<sup>143</sup>

5. Where incontrovertible empirical evidence can serve as a means to invalidate certain historical positions or lend greater credibility to other interpretations, then it can be used as a deciding factor (*murajjih*). This includes scenarios in which empirical evidence accumulates demonstrating the benefit or harm of a particular matter that impacts the ruling. Examples include the change in ruling on the impermissibility of smoking and the permissibility of caffeine.<sup>144</sup> Examples affecting interpretation of beliefs may include viewing the flood of Prophet Noah as regional rather than global, or the interpretation of the hadith on the height of humankind relative to Prophet Ādam,<sup>145</sup> or preferring 40 days over 120 days as the time at which

<sup>141</sup> The contemporary Qur'anic scholar Sh. Musā'id al-Tayyār lists the following three conditions: 1. The opinion is sound in and of itself, 2. The opinion does not negate the views of the early Muslim community, 3. The opinion is a plausible reading of the scripture. *Markaz al-Tafsīr* lecture 54:33, October 31, 2019 [online](#). See also Khalid al-Sabt, *Qawā'id al-Tafsīr*, Dar Ibn Affan, vol. 1, p. 203.

<sup>142</sup> See for instance Taqi Uthmani, *Takmilah Fath al-Mulhim*, Beirut: Dar Ihya Turath al-Arabi 2006, vol. 12, pp. 153-55, and Yusuf al-Qaradawi, *Approaching the Sunnah: Comprehension and Controversy*. International Institute of Islamic Thought (IIIT) 2014, pp. 168-69.

<sup>143</sup> Ibn Taymīyah, *Dar' Ta'arud al-'Aql wa al-Naql*, ed. M. Rashad Salim, Riyadh: al-Imam University 1991, vol. 8, pp. 427-29.

<sup>144</sup> Grehan, James. "Smoking and "Early Modern" Sociability: The Great Tobacco Debate in the Ottoman Middle East (Seventeenth to Eighteenth Centuries)." *The American Historical Review* 111, no. 5 (December 2006): 1352-77.

<sup>145</sup> There is a narration that would appear to suggest that humans have gradually been decreasing in stature from the height of sixty cubits, however Ibn Hajar al-'Asqalānī problematizes this interpretation with reference to empirical knowledge and archaeological data saying, "This is problematic on account of the remnants of the ancient nations like the houses of *Thamūd* for their homes indicate that their stature was not extremely tall" (Ibn Hajar, *Fath al-Bārī*, Riyadh 2001, vol. 6, p. 423). Other scholars restricted it to mean that the excessive height was only in paradise, and since then humankind has been smaller in stature (Taqi Uthmani, *Takmilah Fath al-Mulhim*, vol. 12, pp. 157-58). Indeed, some narrations specify that Adam's height *in the Heavens* was 60 cubits, such as *Saḥīḥ Bukhārī* 3327, [online](#).



the three Qur'anic phases of embryological development (*nutfah*, *'alaqah*, *mudghah*) are complete.<sup>146</sup>

6. In those non-doctrinal matters where the accumulation of novel data is relevant, conclusions will necessarily evolve. For instance, manuscript evidence impacts conclusions regarding Qur'anic orthography (*'ilm rasm al-mushhaf*),<sup>147</sup> and synthesis of reports impacts historical and biographical matters, and thus scholars have historically derived and entertained novel conclusions in these areas.

A complete discussion of all the possible contemporary cases that could fall under these scenarios is clearly beyond the scope of this article. However, it is hoped that the reader has been introduced to the considerable intellectual work of contemporary scholars in building upon the existing tradition, and the need to distinguish the immutable fundamentals from the mutable subsidiary aspects. The words of Sh. Muṣṭafā al-Zarqā' are an effective summary in this regard:

The statements of the jurists of all schools agree that the [only] rulings amenable to change with the changing of epochs and peoples' ethics are those that are interpretive (*ijtihādī*) in nature, whether they are rooted in analogical reasoning or based on *maṣlaḥah*.

As for the fundamental rulings that the *Sharī'ah* came to establish and cement in its scriptural commands and prohibitions, such as clearly forbidden matters, or the obligation of mutual consent in contracts and the duty to uphold contracts, [...] the duty to prevent harm and oppose crime, blocking the path to corruption, protecting acquired rights, [...] these rulings do not change with the changing of epochs. To the contrary, these are the foundations with which the *Sharī'ah* came to rectify every age and

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<sup>146</sup> See Yusuf, Hamza. "When does a human fetus become human?" 2018. *Renovatio: The Journal of Zaytuna College* 2, no. 1: 61. The author writes, "The argument that ensoulment occurs soon after 40 days ultimately proves far stronger than the traditional majority view that it occurs after 120 days, given what we know of embryogenesis today." This is based on the meaning of the three Qur'anic words used for phases of embryological development and their correspondence with empirically discernible phases. For a similar discussion, see Demirel, Serdar. 2014. *Understanding the Spirit of Time and Interdisciplinary Perspective in the Interpretation of Ḥadīth*. FSM İlmî Araştırmalar İnsan ve Toplum Bilimleri Dergisi, p. 126. Also see, Jamaal Zarabozo, *Commentary on the Forty Hadith of al-Nawawi*, vol. 1, pp. 340-49.

<sup>147</sup> As an example, the assumption that the spelling of *'bi-āyātīnā'* with a double *'ي'* was an aberrant spelling found only in some *'Iraqī* manuscripts was later corrected by al-Sakhāwī (d. 643 AH); see Ghanim Qadūrī al-Ḥamad, *Ulūm al-Qur'ān bayn al-Maṣādir wa al-Maṣāḥif*, Riyadh: Tafsir Centre for Qur'anic Studies, 2018, pp. 48-49.

generation. However, the means by which these principles are applied may vary with the coming of new times.<sup>148</sup>

## Conclusion

A beautiful saying is attributed to the illustrious companion ‘Abd Allah ibn Mas‘ūd: “Knowledge is not abundant narrations but rather it is a light that God casts into the heart.”<sup>149</sup> The quest to learn and understand is fundamentally a spiritual endeavor in Islam, and it constitutes necessary steps along the path towards God. While there are certain matters in any field of knowledge that fall within the expertise of scholars, the basic message of Islam is comprehensible to every human being in every time and every place. The purpose of life in Islam is to come closer to God and care for His creation; it is to strive to one’s utmost to achieve virtue in one’s worship of God and in one’s good deeds towards humanity. As the Prophet Muḥammad ﷺ said, “Be mindful of God wherever you are; follow a misdeed with a righteous deed and it will erase it; and treat people with the best moral character.”<sup>150</sup>

This introductory article has outlined a basic framework for how to think about differences of opinion. The point of this article is not to resolve specific points of contemporary contention or controversy; rather, it redirects our attention to the primacy of methodological principles which, if properly understood and internalized, will be far more valuable in attaining guidance. In an age of confusion, it becomes even more critical to equip oneself with a solid understanding of the core foundations of one’s faith. Only with proper understanding can one avoid being swept aside by misguided notions that lack any sound academic basis in the Qur’anic revelation and the original teachings of the Prophet Muḥammad ﷺ. For indeed, he left his followers upon the shining bright path whose night is like its day: the Prophetic path of guidance from which deviation entails perdition.<sup>151</sup>

<sup>148</sup> Muṣṭafā al-Zarqā’, *al-Madkhal al-Fiqhī al-‘Ām*, vol. 2, pp. 941-42.

<sup>149</sup> Al-Zabīdī, M. *Itḥāf al-Sādat al-Muttaqīn bi Sharḥ Iḥyā’ ‘Ulūm al-Dīn*. Dar al-Kutub al-Ilmīyah. vol.1, p. 501.

<sup>150</sup> *Jāmi‘ at-Tirmidhī* 1987, [online](#).

<sup>151</sup> *Sunan Ibn Mājah* 43, [online](#).

*And Allah knows best.*

## Appendix I - Major Figures in the Islamic Tradition

Table 1 - Frequently cited authorities and pioneering scholars in the Islamic tradition

| Major figures from the companions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Figures commonly cited from the succeeding generation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Compilers of Hadith                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Other juristic authorities                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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| <p><b>Four Khulafā' Rāshidūn</b><br/> Abū Bakr 'Abd Allah ibn Abī Quhāfah (d. 13 AH)<br/> 'Umar ibn al-Khaṭṭāb (d. 23 AH)<br/> 'Uthmān ibn 'Affān (d. 35 AH)<br/> 'Alī ibn Abī Ṭālib (d. 40 AH)</p> <p><b>Those who narrated the most Hadīth</b><br/> Abū Hurayrah (d. 58 AH)<br/> 'Abd Allah ibn 'Umar (d. 73 AH)<br/> Anas ibn Mālik (d.93H)<br/> 'Ā'ishah bint Abī Bakr (d. 58 AH)<br/> 'Abd Allah Ibn 'Abbās (d. 68 AH)<br/> Jābir ibn 'Abd Allah (d. 78 AH)<br/> Abū Sa'īd al-Khudrī (d. 74 AH)<br/> 'Abd Allah ibn Mas'ūd (d. 32 AH)<br/> 'Abdullāh ibn 'Amr ibn al-'Āṣ (d. 65 AH)<br/> Umm Salamah (d. 61 AH)</p> | <p><b>Seven Jurists of Madīnah</b><br/> 1. Sa'īd ibn al-Musayyab (d. 94 AH)<br/> 2. 'Urwah ibn al-Zubayr (d. 94 AH)<br/> 3. Abū Bakr ibn 'Abd al-Raḥmān ibn al-Ḥārith (d. 94 AH)<br/> 4. 'Ubayd Allah ibn 'Abd Allah ibn 'Utbah ibn Mas'ūd (d. 98 AH)<br/> 5. Khārijah ibn Zayd ibn Thābit (d. 99 AH)<br/> 6. al-Qāsim ibn Muḥammad ibn Abī Bakr al-Ṣiddīq (d. 107 AH)<br/> 7. Sulaymān ibn Yasār (d. 107 AH)</p> <p><b>Other major early Jurists</b><br/> 'Alqamah ibn Qays (d. 62 AH)<br/> Masrūq ibn al-Ajda' (d. 62 AH)<br/> Shurayḥ ibn al-Ḥārith (d. 78 AH)<br/> Abū l-'Āliyah al-Riyāḥī (d. 93 AH)<br/> Sa'īd ibn Jubayr (d. 95 AH)<br/> Ibrahīm an-Nakha'ī (d. 96 AH)<br/> Makhūl ibn 'Abd Allah (d. 100 AH)<br/> Ṭāwūs Ibn Kaysān (d.106H)<br/> Muḥammad Ibn Sīrīn (d. 110 AH)<br/> 'Āmir al-Sha'bī (d. 104 AH)</p> <p><b>Most cited Tafsīr narrators</b><br/> Mujāhid ibn Jabr al-Makhzūmī (d. 104 AH)<br/> 'Ikrimah Mawlā ibn 'Abbās (d. 104 AH)<br/> al-Ḍaḥḥāk ibn al-Muzāḥim (d. 105 AH)<br/> al-Ḥasan al-Baṣrī (d. 110 AH)<br/> 'Aṭā' ibn Abī Rabāḥ (d. 114 AH)<br/> Qatādah ibn Di'āmah (d. 117 AH)<br/> Ismā'īl ibn 'Abd al-Raḥmān al-Suddī (d. 121 AH)<br/> Zayd ibn Aslam (d. 136 AH)</p> | <p><b>Six works of Ḥadīth</b><br/> al-Bukhārī (d. 256 AH)<br/> Muslim ibn al-Ḥajjāj (d. 271 AH)<br/> Ibn Mājah (d. 273 AH)<br/> Abū Dāwūd (d. 275 AH)<br/> Abū 'Īsā al-Tirmidhī (d. 279 AH)<br/> al-Nasa'ī (d. 303 AH)</p> <p><b>Other compilers of Ḥadīth</b><br/> Ma'mar ibn Rāshid (d. 153 AH)<br/> Abū Dāwūd al-Ṭayālīsī (d. 204 AH)<br/> 'Abd al-Razzāq al-Ṣan'ānī (d. 211 AH)<br/> Ibn Abī Shaybah (d. 235 AH)<br/> 'Abd Allah ibn 'Abd al-Raḥmān al-Dārimī (d. 255 AH)<br/> Baqīyy ibn Makhlad (d. 276 AH)<br/> al-Bazzār (d. 292 AH)<br/> Ibn Khuzaymah (d.311H)<br/> Abū Ja'far al-Taḥāwī (d. 321 AH)<br/> Abū Ḥātim ibn Ḥibbān al-Bustī (d. 354 AH)<br/> Sulaymān al-Ṭabarānī (d. 360 AH)<br/> al-Dāraqutnī (d. 385 AH)<br/> al-Ḥākim al-Naysābūri (d. 405 AH)<br/> Abū Nu'aym al-Isbahānī (d. 430 AH)<br/> al-Bayhaqī (d. 458 AH)<br/> Abū Maṣṣūr al-Daylamī (d. 558 AH)</p> | <p><b>Four schools of Law:</b><br/> Abū Ḥanīfah (d. 150 AH)<br/> Mālik ibn Anas (d. 179 AH)<br/> Muḥammad ibn Idrīs al-Shāfi'ī (d. 204 AH)<br/> Aḥmad ibn Ḥanbal (d. 241 AH)</p> <p><b>Major Independent Jurists</b><br/> Ibn Shihāb al-Zuhri (d. 124 AH)<br/> al-Awzā'ī (d. 157 AH)<br/> Sufyān al-Thawrī (d. 161 AH)<br/> al-Layth ibn Sa'd (d. 175 AH)<br/> Ishāq ibn Rāhawayh (d. 238 AH)<br/> Abū Thawr (d. 240 AH)<br/> Dāwūd ibn 'Alī al-Zāhirī (d. 270 AH)<br/> Ibn Jarīr al-Ṭabarī (d. 310 AH)<br/> Ibn al-Mundhir (d. 318 AH)<br/> Ibn Ḥazm al-Zāhirī (d. 456 AH)</p> <p><b>Early female fiqh scholars</b><br/> Shifā' bint 'Abd Allah (d. 20 AH)<br/> Asmā' bint Yazīd (d. 30 AH)<br/> 'Ā'ishah bint Abī Bakr (d. 58 AH)<br/> al-Rubayyi' bint Mu'awwidh (d. 73 AH)<br/> Umm al-Dardā' (d. 81 AH)<br/> Ḥafṣah bint Sīrīn (d. 101 AH)<br/> 'Amrah bint 'Abd al-Raḥmān (d. 103 AH)<br/> Nafisah bint al-Ḥasan (d. 208 AH)<br/> Khadījah al-Qayrawānīyah (d. 270 AH)<br/> Amat al-Wāḥid bint al-Ḥusayn (d. 377 AH)</p> |

Table 2 - Frequently cited jurists and legal theorists affiliated with one of the four major schools of law

| Ḥanafī                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Malikī                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Shafī'ī                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Ḥanbalī                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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| <p>Zufār ibn al-Hudhayl (d. 158 AH)<br/>Qādī Abū Yūsuf (d. 182 AH)<br/>Muḥammad ibn al-Ḥasan al-Shaybānī (d. 189 AH)<br/>ʿĪsā ibn Abān (d. 221 AH)<br/>Abū Ja'far al-Ṭaḥāwī (d. 321 AH)<br/>Abū al-Ḥasan al-Karkhī (d. 340 AH)<br/>Abū Bakr al-Jaṣṣāṣ (d. 370 AH)<br/>Abū al-Layth al-Samarqandī (d. 375 AH)<br/>Abū al-Ḥasan al-Qudūrī (d. 428 AH)<br/>Abū Zayd al-Dabūsī (d. 430 AH)<br/>Fakhr al-Islam al-Bazdawī (d. 482 AH)<br/>Abū al-Yusr al-Bazdawī (d. 493 AH)<br/>al-Sarakhsī (d. 490 AH)<br/>ʿAlā' al-Dīn al-Samarqandī (d. 539 AH)<br/>Abū Bakr al-Kāsānī (d. 587 AH)<br/>al-Marghīnānī (d. 593 AH)<br/>Abū al-Faḍl al-Mawṣilī (d. 683 AH)<br/>Ibn al-Sā'atī al-Ba'labakkī (d. 694 AH)<br/>Abū al-Barakāt al-Nasafī (d. 710 AH)<br/>Fakhr al-Dīn al-Zayla'ī (d. 743 AH)<br/>Ṣadr al-Sharī'ah 'Ubayd Allāh ibn Mas'ūd al-Maḥbūbī (d. 747 AH)<br/>Ibn al-Malak (d. 854 AH)<br/>Ibn al-Humām (d. 861 AH)<br/>Ibn Quṭlūbughā (d. 879 AH)<br/>Ibn Nujaym (d. 970 AH)<br/>al-Tumurtāshī (d. 1004 AH)<br/>al-Shurunbulālī (d. 1069 AH)<br/>al-Ḥaṣkafī (d. 1088 AH)<br/>al-Ṭaḥṭāwī (d. 1231 AH)<br/>Ibn 'Ābidīn (d. 1252 AH)<br/>ʿAbd al-Ḥayy al-Laknawī (d. 1304 AH)</p> | <p>Ibn al-Qāsim (d. 191 AH)<br/>Yahyā al-Laythī (d. 224 AH)<br/>Saḥnūn (d. 240 AH)<br/>al-'Utībī (d. 255 AH)<br/>Ibn Abī Zayd al-Qayrawānī (d. 386 AH)<br/>Qādī 'Abd al-Waḥḥāb (d. 422 H)<br/>al-Māzarī (d. 453 AH)<br/>Ibn 'Abd al-Barr (d. 463 AH)<br/>Abū al-Walīd al-Bājī (d. 474 AH)<br/>Al-Lakhmī (d. 498 AH)<br/>Ibn Rushd al-Jadd (d. 520 AH)<br/>Abū Bakr ibn al-'Arabī (d. 543 AH)<br/>Qādī 'Iyāḍ ibn Mūsā (d. 544 AH)<br/>Ibn Rushd al-Ḥafīd (d. 595 AH)<br/>Ibn al-Hājib (d. 646 AH)<br/>al-Qurṭubī (d. 671 AH)<br/>al-Qarāfī (d. 684 AH)<br/>Abū Ḥayyān al-Andalūsī (d. 745 AH)<br/>Abū al-Ḍiyā' Khalīl ibn Ishāq (d. 767 AH)<br/>Abū Ishāq al-Shāṭibī (d. 790 AH)<br/>Ibn Khaldūn (d. 807 AH)<br/>al-Wansharīṣī (d. 914 AH)<br/>al-Akhḍarī (d. 938 AH)<br/>al-Laqqānī (d. 1078 AH)<br/>al-Kharashī (d. 1101 AH)<br/>al-Nafrāwī (d. 1124 AH)<br/>al-Bannānī (d. 1194 AH)<br/>Muḥammad ibn 'Abd al-Bāqī al-Zarqānī (d. 1122 AH)<br/>Aḥmad al-Dardīr (d. 1201 AH)<br/>Muḥammad al-Rawḥānī (d. 1230 AH)<br/>al-Dasūqī (d. 1230 AH)<br/>Ibn 'Āshūr (d. 1393 AH)</p> | <p>al-Muzanī (d. 264 AH)<br/>Ibn Surayj (d. 306 AH)<br/>Ibn al-Qāṣṣ (d. 336 AH)<br/>Abū al-Ḥasan al-Māwardī (d. 450 AH)<br/>al-Bayhaqī (d. 458 AH)<br/>Abū Ishāq al-Shīrāzī (d. 476 AH)<br/>Abū al-Ma'ālī al-Juwaynī (d. 478 AH)<br/>Abū Ḥamid al-Ghazālī (d. 505 AH)<br/>al-Ḥusayn ibn Mas'ūd al-Baghawī (d. 516 AH)<br/>al-Ruwaynī (d. 523 AH)<br/>Abū Shujā' al-Isfahānī (d. 593 AH)<br/>Abū al-Qāsim al-Rāfī'ī (d. 623 AH)<br/>Sayf al-Dīn al-Āmidī (d. 631 AH)<br/>Ibn al-Ṣalāḥ al-Shahrazūrī (d. 643 AH)<br/>'Izz al-Dīn ibn 'Abd al-Salām (d. 660 AH)<br/>Ibn Daqīq al-'Īd (d. 667 AH)<br/>al-Nawawī (d. 676 AH)<br/>Yūsuf al-Mizzī (d. 743 AH)<br/>Taḳī al-Dīn al-Subkī (d. 756 AH)<br/>Tāj al-Dīn al-Subkī (d. 771 AH)<br/>Nūr al-Dīn al-Haythamī (d. 807 AH)<br/>Ibn Ḥajar al-'Asqalānī (d. 852 AH)<br/>Jalāl al-Dīn al-Maḥallī (d. 864 AH)<br/>Muḥammad ibn 'Abd al-Raḥmān al-Sakhāwī (d. 90 A2H)<br/>Ibn Ḥajar al-Haytamī (d. 909 AH)<br/>Jalāl al-Dīn al-Suyūṭī (d. 911 AH)<br/>Zakarīyah al-Anṣārī (d. 926 AH)<br/>al-Khaṭīb al-Shirbīnī (d. 977 AH)<br/>al-Ramlī (d. 1004 AH)<br/>ʿAbd al-Ḥamid al-Sharwānī (d. 1301 AH)</p> | <p>Abū Bakr al-Marwadhī (d. 275 AH)<br/>al-Khallāl (d. 311 AH)<br/>al-Barbahārī (d. 329 AH)<br/>al-Khiraqī (d. 334 H)<br/>Qādī Abū Ya'la (d. 458 H)<br/>Abū Ismā'īl al-Harawī (d. 481 AH)<br/>al-Kalwadhānī (d. 510 AH)<br/>Ibn 'Aqīl (d. 513 AH)<br/>Ibn al-Jawzī (d. 597 AH)<br/>Ibn Qudāmah (d. 620 AH)<br/>Bahā' al-Dīn al-Maḳdisī (d. 624 AH)<br/>Majd al-Dīn Ibn Taymīyah (d. 652 AH)<br/>Ibn Hamdān (d. 695 AH)<br/>Najm al-Dīn al-Ṭūfī (d. 716 AH)<br/>Taḳī al-Dīn Ibn Taymīyah (d. 728 AH)<br/>Ibn al-Qayyim (d. 751 AH)<br/>Ibn Muflīḥ (d. 763 AH)<br/>Ibn Rajab (d. 795 AH)<br/>Ibn 'Ādil (d. 880 AH)<br/>Abū al-Ḥasan al-Mardāwī (d. 885 AH)<br/>Yūsuf ibn 'Abd al-Hādī (d. 909 AH)<br/>al-Ḥajjāwī (d. 968 AH)<br/>Ibn al-Najjār al-Futūḥī (d. 972 AH)<br/>Mar'ī al-Karmī (d. 1033 AH)<br/>al-Bahūtī (d. 1051 AH)<br/>Ibn Balbān (d. 1083 AH)<br/>al-Khalwatī (d. 1088 AH)<br/>Ibn Qā'id (d. 1097 AH)<br/>al-Saffārīnī (d. 1188 AH)<br/>Ibn Badrān (d. 1346 AH)</p> |

Most authoritative works for relied upon (*mu'tamad*) positions: **Ḥanafī**: Ibn 'Ābidīn (*Radd al-Muḥtār*); **Shafī'ī**: al-Nawawī (*al-Majmū'*) + al-Rāfī'ī (*Fatḥ al-'azīz*); **Malikī**: Khalīl (*Mukhtaṣar al-Khalīl*); **Ḥanbalī**: al-Mardāwī (*al-Tanqīḥ*) + Ibn al-Najjār (*Muntahā al-Irādāt*) + al-Hajjāwī (*al-Iqnā'*)

## Appendix II - Framework for Evaluating Opinions

# Framework for evaluating opinions

