

Islamic Law and the Use and Abuse of Hadith

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The Qur'an is the fountain source of Islam. Essential principles, values and norms as well as a few – just a few legal matters – are from the Qur'an. Indeed, once we understand the importance of value-orientation, instead of legalism, as explained in the essay on Shariah,¹ it should be clear that such essential principles, values and norms should be directly derived from the Qur'an. Muslims do not have any dispute about the Qur'an, as it is accepted by them as the only preserved and direct revelation from Allah. Such agreement does not exist about hadith.

At one extreme is the orthodox position, which holds that the Qur'an and hadith are two complementary primary sources of Islamic guidance. There might be problems with hadith as a body of information, with the way it was collected and compiled. However, hadith scholars have been successfully able to separate the presumably authentic (*sahih*) ones from the ones that are not. Despite any remaining problems, hadith is an indispensable and generally reliable foundational source of Islam. Some hadith collections as a whole are regarded as generally authentic (*sahih*), while many other collections are also recognized as sources containing additional authentic hadith, mixed with weak (*da'if*) or even spurious (*maudu*) hadith. The vast and comprehensive body of Islamic laws (*fiqh*) critically rests on the hadith literature. Islamic scholars, including the experts in hadith, have gone to a great extent to defend the sanctity of hadith literature and utilize it not just to expound Islamic knowledge, but also to formulate Islamic codes and laws pertaining to the entire gamut of life.

In the preface of his book *A Treasury of Ahadith*, Dr. Mazhar Kazi, states that "all the sayings, sermons, and utterances of the Prophet were.. divinely inspired. ... all of the actions and deeds of the Prophet were also divinely inspired."² His articulation represents a typical orthodox viewpoint.

"The sunnah and *ahadith* are not to be taken as the wise sayings of sages and philosophers or the verdicts of rulers and leaders. One should believe with full conviction that the words and actions of the Prophet represent the will of Allah, and thus one has to follow and obey them in each and every circumstance of life."³

At the other extreme are those who reject the hadith literature altogether. They claim that the Prophet Muhammad did not ask or require that his words and actions be preserved as a separate body of knowledge. The collection and preservation of hadith began more than a century after the Prophet. Despite the best of the intention and efforts, the hadith literature became mixed up in

¹ Mohammad Omar Farooq, Shari'ah, Laws and Islam: Legalism vs. Value-orientation [unpublished essay, October 2006.

² Mazhar Kazi. *A Treasury of Ahadith* [Jeddah, Saudi Arabia: Abul-Qasim Publishing House, 1992], pp. 1-2.

³ *ibid.*, p. 2.

terms of authentic and unauthentic reports. Even the collections that are generally regarded as *sahih* also contain non-*sahih* hadith. Even in regard to many *ahadith* that are considered *sahih*, hadith experts differ about those. Many *ahadith* about the same event or circumstance show significant variations. Many of them are contradictory too. In the name of codes and laws, many unacceptable dogmas and taboos have crept into Islam, based on hadith literature. While the Qur'an is generally egalitarian, many discriminatory or unjust (sometimes harsh or indefensible) laws, codes or customs have been accommodated or validated by Islamic scholars and jurists based on hadith. These rejecters of hadith literature do accept the Qur'an as the primary and only divine source of guidance, and shun the hadith literature altogether.

Both of the extreme positions have serious problems, and the truth lies somewhere in between. Indeed, while the essential position of the hadith rejection movement is untenable and unacceptable, it has been precipitated to some extent by extreme claims and dogmas of the orthodox position.

While the examination of these two extreme positions can interest some people at the polemical level, the real importance of this issue is that hadith also is the basis for most laws and codes at the detailed level. Some of these laws and codes, often advocated as part of a sacrosanct or immutable *Shariah* (as claimed), are in reality contrary to the intent and spirit of the Qur'an and Islam's fundamental commitment to justice and fairness. The issue is not merely authenticity of hadith/sunnah, but also of how hadith/sunnah is applied in the formulation of laws and codes. As Dr. AbdulHamid AbuSulayman, the former Rector of International Islamic University in Malaysia, explains:

"The problem of the authenticity of the *Sunnah* is basically an expression and reflection of the unhappiness on the part of Muslims with the centuries-old jurisprudence."⁴

Before we explore the law and hadith connection, we need to explore some pertinent aspects of hadith. There are some generally misunderstood positions that common Muslims might not be familiar with, because hadith literature, especially the science of hadith (*ilm usul al-hadith*) is a highly technical body of knowledge and the orthodox position does not tolerate any observation, argument or evidence that attacks or undermines the hadith literature in general.

Common myths about hadith

1. If a hadith quotes the Prophet, we know that's exactly what the Prophet said.

Unfortunately, this is not necessarily true. "To quote means to repeat the exact words of another with the acknowledgement of the source." Thus, quoting someone usually is recognized as (or it leaves the impression) that that's exactly what the person said. When someone reports "I heard the Prophet saying ..." or "the Prophet said...", without pointing out that it is paraphrased, the readers are left with justifiable impression that it is the "exact word" of the Prophet. However, this is not always the case for hadith.

In a book, *What is Riba?*, Allamah Iqbal Ahmad Khan Suhail explains this fact about hadith that is often not known and understood by common Muslims, because our scholars do not adequately and specifically educate us about this aspect.

⁴ AbdulHamid A. AbuSulayman. *The Islamic Theory of International Relations: New Directions for Islamic Methodology and Thought* [Herndon, VA: The International Institute of Islamic Thought, 1987], p. 83.

"Most of the narrations are derivations [i.e., not quotes of actual words], that is, the actual words of the Holy Prophet (pbuh) have not been quoted in the narration and whatever the narrator understood to be the meaning of the Prophet's (pbuh) words, according to his capacity and capability, he narrated with the best of intention as the saying of the Holy Prophet (pbuh). Now, everyone knows that besides words even the slightest change of delivery can induce great difference in the meaning."⁵

In this context, it is important to understand the distinction between *mutawatir* and *ahad* categories of hadith. *Mutawatir* is a category of hadith that means "continuously recurrent" or "a report by an indefinite number of people related in such a way to preclude the possibility of their agreement to perpetuate a lie."⁶ There is no agreement on the required minimum number of transmissions to qualify for *mutawatir*.

Before proceeding further, let me address a common question about where does the *sahih* (authentic) category fit into the *mutawatir-ahad* classification. Generally a hadith can't be *mutawatir* without being *sahih* (authentic, as per criteria applied by the hadith scholars). *Ahad* category is used to distinguish from *mutawatir*. Any non-*mutawatir* hadith is by definition *ahad* (solitary). Solitary does not mean a single chain. It can be more than one chain, but as long as not *mutawatir* (numerous). *Ahad* hadith can fall in broad categories of *sahih*, *hasan*, *daif*, etc.

There are two types of *mutawatir*. (a) *Mutawatir bil lafz* ("all the reports must identical on the exact wording of the hadith as they were uttered by the Prophet himself. For example, the hadith which reads: 'Whoever lies about me deliberately must prepare himself for a place in Hell-fire.'⁷ However, this type of hadith is extremely rare. (b) *Mutawatir bil ma'na* (this type is agreed in concept or meaning, not in exact words). Most *ahadith* are of this type. Many such *ahadith* are narrated in such a way as if quoting the Prophet. This type of transmission is also known as "conceptual transmission."⁸

The following is an example of variation in hadith without quoting the Prophet.

This hadith has been narrated from Jarir on the authority of A'mash with the same chain of transmitters and he said (these words with a little bit of variation from the previous hadith): When (fasting) in Ramadan was (made) obligatory, he abandoned it (the practice of observing fast on Ashura). [Sahih Muslim, Book 006, #2511]

Now consider the following example where there is a variation in *ahadith* that does involve quoting the Prophet.

This hadith has been narrated by Sulaiman al-Taimi with the same chain of transmitters (but with a slight variation of words) that he (the Holy Prophet) said: The dawn is not like it as it is said; he then gathered his fingers and lowered them. But he said, it is like this (and he placed the index finger upon the other one and spread his hand). [Sahih Muslim, Book 006, #2405]

The abovementioned two *ahadith* are from Sahih Muslim. There are *ahadith* in Sahih Muslim as well as other respected collections, where some *ahadith* might not have variation within a collection or even across the collections. Notably, not every hadith collection specifically points out the variation as in Sahih Muslim. Regardless, even when there is no variation reported, and

⁵ Iqbal Ahmad Khan Suhail. *What is Riba?* [New Delhi, India: Pharos, 1999], p. 47.

⁶ Mohammad Hashim Kamali. *Principles of Islamic Jurisprudence* [Cambridge, UK: Islamic Texts Society, 2003], p. 93.

⁷ *ibid.*, p. 95 quoting *Sunan Abu Dawood*, III, 1036, hadith #3643.

⁸ *ibid.*, p. 106.

the *ahadith* are *sahih*, it does not mean that those *ahadith* are *mutawatir*, yielding certainty of knowledge. The issue of certainty of knowledge is discussed later in this essay in greater details.

Of course, when variation in narrations exist (and such variations are all too common), it poses a serious problem as to what were the exact words used by the Prophet. This is important because in Arabic language, even a slight variation of words (and sometimes letters) can lead to divergent meanings.

[Shafi'i] replied: A word might be omitted from the tradition and thus alter its meaning; or a word might be pronounced differently from the way it was pronounced by the transmitter, thus altering the meaning of the tradition, even though he who pronounced it did not intend to do so. If he who transmits a tradition is ignorant of its meaning, he does not understand the tradition, and we do not accept it. [For] if he transmits what he does not understand, he is of those who do not transmit the tradition word for word; and he seeks to transmit the meaning of the tradition, but he does not understand the meaning at all.⁹

Should we conclude from the above statement of Imam Shafi'i that unless word for word, transmissions are not acceptable? Ironically, we can't, because he himself does not apply that standard in determining authentication of a hadith, the application of which would be binding from the viewpoint of Islamic *fiqh* (law).

2. *Sahih* collections contain hadith that are indisputable

Sahih (authentic) hadith can be found in any hadith collection (except the ones that are specifically for unauthentic hadith). Six hadith collections are regarded as canonical. These are collectively known as *Sihah Sitta* and include: *Sahih al-Bukhari*, *Sahih Muslim*, *Sunan Abu Dawood*, *Jami at-Tirmidhi*, *Sunan an-Nasai*, and *Sunan Ibn Majah*.

Among these six canonical collections, *Sahih al-Bukhari* and *Sahih Muslim* are held in the highest regard. Indeed, some regard al-Bukhari as the most authentic and thus influential book in Islam after the Qur'an.

"It was thus that the *sahih*, the work of a great traditionist who combined a vast knowledge of traditions and allied subjects with scrupulous piety, strict exactitude, the painstaking accuracy of an expert editor, and the legal acumen of an astute jurist, rapidly attracted the attention of the whole Muslim community, and became accepted as an authority next only to the Qur'an."¹⁰

However, let alone other collections, not all the *ahadith* even in Bukhari are indisputable. "Many scholars criticized Bukhari's work. The criticism concerns about 80 narrators and some 110 *ahadith*."¹¹

Acknowledging the preeminence of al-Bukhari, Siddiqi points out:

⁹ Al-Shafi'i. *Al-Shafi'i's Risala: Treatise on the Foundations of Islamic Jurisprudence* [translated by Majid Khadduri; Cambridge, UK: The Islamic Texts Society, 2nd Edition, 1987], p. 244, #374.

¹⁰ Muhammad Zubayr Siddiqi. *Hadith Literature: Its Origin, Development & Special Features* [Cambridge, UK: Islamic Texts Society, 1993], pp. 57-58.

¹¹ M. M. Azami. *Studies in Hadith Methodology and Literature* [Indiana: American Trust Publications, 1977], p. 92, quoting Suyuti and Ibn Hajar.

"It would be a mistake, however, to suppose that the *sahih* is free of defects, or that the Muslim scholars have failed to criticise it in certain respects. Thus it is generally accepted that like other traditionists, al-Bukhari confines his criticism to the narrators of traditions, and their reliability, and pays little attention to the probability or possibility of the truth of the actual material reported by them. In estimating the reliability of the narrators, his judgment has in certain cases been erroneous, and the Muslim traditionists have not failed to point this out."¹²

For some specific examples of disputable or problematic hadith, please see "[Not all the hadith in Bukhari are authentic](#)". Also, there are examples presented later in this essay.

Also many Muslims might not know that while Sahih al-Bukhari is the most highly regarded collection of the Prophetic narrations, he did not specify what criteria he used to evaluate a narration and select certain ones for his collection. Indeed, the compilers of the six major collections [*sihah al-sitta*] generally have not specified or disclosed their criteria. Other scholars later have attempted to identify what might have been their criteria, in a manner of "reverse engineering" [the process of determining how something was constructed by examining only the finished product]. Maqdisi was a noted scholar of sixth century AH and contemporary of Ibn Salah.. He wrote *Risalat al-Hafiz Mohammad ibn Tahir al-Maqdisi fi Shurut Kutub al-a'imma al-Sitta* as a study of the authentication criteria in *sihah al-sitta*. Muhammad b 'Uthman al-Hazimi was another scholar (d.584/1188), who probed into determining the criteria used by hadith compilers. His book is *Shurut al-A'imma al-Khamsah* (ed. M.Z. al-Kauthari, Cairo, N.D.).

"Because al-Bukhari nowhere mentions what canons of criticism he applied to the traditions to test their genuineness, or tells us why he compiled the book, many later scholars have tried to infer these things from the text itself. Al-Hazimi, in his *Shurut al-A'imma*, al-Iraqi in his *Alfiyya*, al-'Ayni and al-Qastallani in their introductions to the commentaries on the *Sahih*, and many other writers on the hadith sciences, including Ibn al-Salah, have tried to deduce Bukhari's principles from the material he presents."¹³

3. There is no contradiction in any hadith

In defense of the sanctity of the Hadith literature, there are bold claims, especially from the orthodoxy, that there are no contradictions in hadith, especially the *sahih* ones. It is asserted that every anomaly involving *sahih* hadith can be explained. Since Bukhari is held in the highest regard, here we will discuss some cases from Bukhari only.

a. For example, Maulana Mohammad Akram Khan (a well-known Indian scholar; see the [link](#) above with detailed reference) cites a hadith from al-Bukhari:

"Narrated Jabir bin 'Abdullah:

I was present with my two maternal uncles at Al-'Aqaba (where the pledge of allegiance was given). (Ibn 'Uyaina said, "One of the two was Al-Bara' bin Ma'rur.") [Bukhari Volume 5, Book 58, Number 230]

The readers will be presented with the *Bay'at* (allegiance) of Aqabah at the appropriate place. There is a narration about this matter from Jabir Ibn Abdullah in Bukhari. According to that hadith, Jabir was present at that event of Bay'at along with his maternal uncle Bara' ibn Ma'rur. [Bukhari, 15-464], However, it has been definitively established that Bara' is not maternal uncle of Jabir. Anisah, Jabir's mother, had only two brothers: Tha'laba and Amr. They were present during the second Aqabah [Fat-hul Bari, ibid.]. So

¹² Siddiqi, *op. cit.*, p. 58.

¹³ Siddiqi, *op. cit.*, p. 56.

there is something definitely wrong in this hadith, and some kind of *Ta'wil* (interpretive artifice) would be necessary to make it right.”

b. After pointing out the discrepancy, the author leaves some room for potential interpretive solution to explain it away, as he has identified many such often futile attempts. Can the discrepancy in the above hadith be explained away? Maybe. But there are also *ahadith* in Bukhari that simply CAN'T be explained away. Consider the following hadith, also offered as an example by Maulana Akram Khan.

Anas, Ayesha and Ibn Abbas is narrating: "Allah sent him (as an Apostle) at the age of forty (and after that) he stayed for ten years in Mecca, and for ten more years in Medina." [Sahih al-Bukhari, 4:[747](#)-748; 7:787; also Sahih Muslim [#5794](#).]

It is an established and agreed upon historical fact that after attaining the Prophethood at the age of forty, he stayed in Mecca for 13 years, not 10 years. However, the above hadith says that he stayed in Meccah for 10 years. Interestingly, this is not a discrepancy between a hadith in Bukhari and other sources for the same information. Rather, this particular discrepancy is within Bukhari collection itself. In Bukhari Volume 5, Book 58, [#190](#) and Number 242, it is reported that he lived in Mecca for 13 years.

Narrated Ibn 'Abbas:

Allah's Apostle was inspired Divinely at the age of forty. Then he stayed in Mecca for **thirteen** years, and then was ordered to migrate, and he migrated to Medina and stayed there for ten years and then died.

Of course, *Sahih* Muslim, another collection held in regard close to *Sahih* al-Bukhari, reports in another place that he stayed in Mecca for **fifteen** years. See Muslim, Book 030, [#5809](#); and Muslim, Book 030, [#5805](#)

So, did the Prophet stay in Mecca (after being the Prophet at forty) for **ten, thirteen or fifteen** years? This is obviously irreconcilable. If there can be such factually irreconcilable discrepancies, what is the scope of problem with other *ahadith* that are reports in words, conveying concepts and understanding, often not in exact words of the Prophet, but paraphrasing by the reporters?

c. Another example of such contradictions: Which verse in the Qur'an was revealed last?

Narrated Ibn Abbas:

The last Verse (in the Quran) revealed to the Prophet was the Verse dealing with usury (i.e. Riba). [Sahih al-Bukhari, Volume 6, Book 60, [#67](#)]

Narrated Al-Bara:

The last Sura that was revealed was Bara'a, and the last Verse that was revealed was: "They ask you for a legal verdict, Say: Allah's directs (thus) about those who leave no descendants or ascendants as heirs." (4.176) [Sahih al-Bukhari, Volume 6, Book 60, [#129](#)]

The same is also mentioned in Sahih Muslim.

Al-Bara' (Allah be pleased with him) reported that the last verse revealed in the Holy Qur'an is: "They ask thee for a religious verdict; say: Allah gives you a religious verdict about Kalala (the person who has neither parents nor children)". [Sahih Muslim, Book 011, [#3939](#)]

Now please read the verse 4:176:

They ask thee for a legal decision. Say: Allah directs (thus) about those who leave no descendants or ascendants as heirs. If it is a man that dies, leaving a sister but no child, she shall have half the inheritance: If (such a deceased was) a woman, who left no child, Her brother takes her inheritance: If there are two sisters, they shall have two-thirds of the inheritance (between them): if there are brothers and sisters, (they share), the male having twice the share of the female. Thus doth Allah make clear to you (His law), lest ye err. And Allah hath knowledge of all things. [[4/an-Nisa/176](#)]

Does this verse have anything to do with *riba* (or usury), as mentioned in the hadith by Ibn Abbas as the last verse revealed?

d. There are many examples of hadith, including those pertaining to *riba*, that are contradictory.

Narrated 'Umar bin Al-Khattab: Allah's Apostle said, "The bartering of gold for silver is Riba (usury), **except if it is from hand to hand and equal in amount**, and wheat grain for wheat grain is usury except if it is from hand to hand and equal in amount, and dates for dates is usury except if it is from hand to hand and equal in amount, and barley for barley is usury except if it is from hand to hand and equal in amount." [Sahih al-Bukhari, Volume 3, Book 34, #[344](#)]

According to the above hadith, exchanges involving gold for silver is *riba* except hand to hand (or spot/cash) transaction and equal in amount. Now let's read the following hadith from al-Bukhari:

Narrated Abdur-Rahman bin Abu Bakra: that his father said, "The Prophet forbade the selling of gold for gold and silver for silver **except if they are equivalent in weight**, and allowed us to sell gold for silver and vice versa as we wished." [Sahih al-Bukhari, Volume 3, Book 34, #[388](#)]

According to the above hadith, exchanges involving gold for silver is *riba* except if they are equal in amount. There is no mention of spot/cash/hand-to-hand restriction. Now let's read the following hadith from al-Bukhari:

Yahya related to me from Malik from Ibn Shihab from Malik ibn Aus ibn al-Hadathan an-Nasri that one time he asked to exchange 100 dinars. He said, "Talha ibn Ubaydullah called me over and we made a mutual agreement that he would make an exchange for me. He took the gold and turned it about in his hand, and then said, 'I can't do it until my treasurer brings the money to me from al-Ghaba.' Umar ibn al-Khattab was listening and Umar said, 'By Allah! Do not leave him until you have taken it from him!' Then he said, 'The Messenger of Allah, ..., said, "**Gold for silver is usury except hand to hand**. Wheat for wheat is usury except hand to hand. Dates for dates is usury except hand to hand. Barley for barley is usury except hand to hand."¹⁴

According to the above hadith, exchanges involving gold for silver is *riba* except hand to hand (or spot/cash) transaction. Here no mention of equivalence in weight as a restriction. Now let's read the following hadith from al-Bukhari:

Narrated Abu Bakra: Allah's Apostle said, "Don't sell gold for gold unless equal in weight, nor silver for silver unless equal in weight, but you could sell gold for silver or silver for gold as you like." [Sahih al-Bukhari, Volume 3, Book 34, #[383](#)]

¹⁴ Also, Muwatta Imam Malik, Kitab al-Buyu, #[1321](#).

According to the above hadith, when exchanges involve gold for silver or silver for gold, there is no restriction whatsoever. But wait. Let's read the following hadith from Sahih Muslim.

Ubida b. al-Simit (Allah be pleased with him) reported Allah's Messenger (pbuh) as saying: Gold is to be paid for by gold, silver by silver, wheat by wheat, barley by barley, dates by dates, and salt by salt, like for like and equal for equal, payment being made hand to hand. **If these classes differ, then sell as you wish if payment is made hand to hand.** [Sahih Muslim, Book 010, #[3853](#)]

According to above hadith, even when the classes differ - gold for silver or silver for gold - we can't do as we wish. It still has to be spot/cash/hand-to-hand transaction. So, which one is it? Even the use of *naskh* (abrogation) argument is not adequate to address all the anomalies here.

e. One more illustration of variations and contradictions is also taken from Sahih Muslim. It pertains to *Kitab al-buyu'* (business transactions), Volume 2, Chapter 42: "The Selling of the Camel and Stipulation of Riding on it." Since there are several ahadith involved in this illustration, readers need to be careful and thorough in reading these to fully appreciate the problem involved.

In studying these ahadith, consider the information about the following matters.

- i. Was the price specified and agreed?
- ii. Who set the initial price?
- iii. Was Jabir reluctant to sell?
- iv. Did Jabir stipulate or the Prophet offered the ride?
- v. How much did the Prophet pay?
- vi. Did the Prophet return the camel with the price?

A summary of the variations and divergences is presented at the end of this set of hadith.

Jabir b. 'Abdullah reported that he was travelling on his camel which had grown jaded, and he decided to let it off. When Allah's Apostle met him and prayed for him and struck it, so it trotted as it had never trotted before. He said: Sell it to me for an 'uqaya. I said: No. He again said: Sell it to me. So I sold it to him for **an 'uqiya**, but **made the stipulation** that I should be allowed to ride back to my family. Then when I came to (my place) I took the camel to him and he paid me its price in ready money. I then went back and he sent: (someone) behind me (and as I came) he said: Do you see that I asked you to reduce price for buying your camel. Take your camel and your coins; these are yours. [Sahih Muslim, Vol. 3, #[3886](#)]

Jabir b. 'Abdullah reported: I went on an expedition with Allah's Messenger. He overtook me and I was on a water-carrying camel who had grown tired and did not walk (trot). He (the Holy Prophet) said to me: What is the matter with your camel? I said: It is sick. He (the Holy Prophet) stepped behind and drove it and prayed for it, and then it always moved ahead of other camels. He (then) said: How do you find your camel? I said: It is, by the grace of your prayer, all right. He said: Would you sell this (camel) to me? I felt shy (to say him, "No") as we had no other camel for carrying water, but (later on) I said: Yes, and to I sold it to him on the condition that (I would be permitted) to ride it until I reached Madina. I said to him: Allah's Messenger, I am newly married, so I asked his permission (to go ahead of the caravan). He permitted me, and I reached Medina well in advance of other people, until I reached my destination. There my maternal uncle met me and asked me about the camel, and I told him what I had done with regard to it. He reproved me in this connection. ... When Allah's Messenger came to Medina, I went to him in the morning

with the camel. He paid me its price and returned that (the camel) to me. [Sahih Muslim, Vol. 3, #3888]

Jabir reported: We went from Mecca to Medina with Allah's Messenger when my camel fell ill, and the rest of the hadith is the same. (But it is also narrated in it:) He (the Holy Prophet) said to me: Sell your camel to me. I said: No, but it is yours. He said: No. (it can't be), but sell it to me. I said: No, but, Allah's Messenger, it is yours. He said: No, it can't be, but sell it to me. **I said: Then give me an 'uqaya of gold** for I owe that to a person and then it would be yours. He (the Holy Prophet) said: I take it (for an 'uqiya of gold) and you reach Medina on it. As I reached Medina, Allah's Messenger said to Bilal: Give him an 'uqiya of gold and make some extra payment too. He (Jabir) said: **He gave me an 'uqiya of gold and made an addition of a qirat.** He (Jabir) said: The addition made by Allah's Messenger was with me (as a sacred trust for blessing) and lay with me in a pocket until the people of Syria took it on the Day of Harra. [Sahih Muslim, Vol. 3, #3889]

Jabir reported: My camel had grown tired as Allah's Messenger came to me. He goaded it and it began to jump. After that I tried to restrain its rein so that I could listen to his (Prophet's) words, but I could not do that. Allah's Apostle met me and said: Sell it to me, and **I sold it for five 'uqiyas.** I said: On the condition that I may use it as a ride (for going back) to Medina. He (the Holy Prophet) said: Well, you may use it as a ride up till Medina. When I came to Medina I handed over that to him and **he made an addition of an uqiya** (to that amount which had been agreed upon) and **then presented that (camel)** to me. [Sahih Muslim, Vol. 3, #3891]

Abd Mutawakkil al-Najl reported from Jabir b. 'Abdullah who said: I accompanied Allah's Messenger in one of his journeys (the narrator says, he said in Jihad), and he narrated the rest of the hadith, and made this addition: He (the Holy Prophet) said: Jabir, have you received the price? I said: Yes, whereupon he said: Yours is the price **as well as the camel.** [Sahih Muslim, Vol. 3, #3892]

Jabir b. 'Abdullah reported: Allah's Messenger bought a camel from me for two 'uqiyas and a dirham or two dirhams. As he reached Sirar (a village near Medina), he commanded a cow to be slaughtered and it was slaughtered, and they ate of that, and as he (the Holy Prophet) reached Medina he ordered me to go to the mosque and offer two rak'ahs of prayer, and he measured for me the price of the camel and even **made an excess payment to me.** [Sahih Muslim, Vol. 3, #3893]

Jabir b. 'Abdullah reported this narration from Allah's Apostle but with this variation that he said: He (the Holy Prophet) bought the camel from me on a stipulated price. And he **did not mention two 'uqiyas and a dirham or two dirhams,** and he commanded a cow (to be slaughtered) and it was slaughtered, and he then distributed its flesh. [Sahih Muslim, Vol. 3, #3894]

Jabir (Allah be pleased with him) reported that Allah's Apostle (may peace be upon him) said to him: I have taken your camel **for four dinars,** and you may ride upon it to Medina. [Sahih Muslim, Vol. 3, #3895]

Let us now review the above set of hadith for the questions we listed earlier.

- i. **Was the price specified and agreed to?**
#3886, yes, one uqiya; #3888, **no price mentioned**; #3891, yes, five uqiya; #3893, yes, two uqiyas and a dirham or two; #3894, no mention of two uqiyas and a dirham or two; #3895, yes, four dinars.

- ii. **Who set the initial price?**
#3886: one uqiya - whether the Prophet offered or Jabir asked is not clear; #3889: Jabir asked - one Uqiya; #3891, five uqiya, unclear as to who offered or asked.
- iii. **Was Jabir reluctant to sell the camel?**
#3888 and #3889, yes; #3463, no; also no in Bukhari, Vol. 3, #310.
- iv. **Did Jabir stipulate or the Prophet offered the ride?**
Jabir stipulated, #3886, #3888, #3891; no stipulation mentioned, #3889.
- v. **How much did the Prophet pay? Did he pay any extra?**
#3886, #3891, originally stipulated price and more; #3889, one qirat extra; #3893, unspecified extra; #3888, #3892, no extra is mentioned
- vi. **Did the Prophet return the camel with the price?**
yes, #3886, #3888, #3891, #3892; the returning of the camel is not mentioned, #3889, #3893.

As the above case of camel transaction illustrates, whether (a) the Prophet set the price or Jabir asked, (b) whether the price agreed was one uqiya/five uqiya/two uqiyas and a dirham or two/or four dinars or no price is mentioned at all, (c) whether ride was stipulated by Jabir or not, (d) did the Prophet offer any extra and how much, and (e) was the camel returned by the Prophet, none of these aspects are consistent in regard to just this one transaction. This set of incongruent information is just from one source. Also, quite in contrast to the abovementioned set of hadith, in another hadith elsewhere in Sahih Muslim, #3464, it is indicated Jabir was deeply saddened at the camel returned to him. Just to check a few other collections in this regard, in Sahih Bukhari, Vol. 3, #570, no extra payment or returning the camel is mentioned. Also in Sahih al-Bukhari, Vol. 3, #310, no extra is mentioned, but the camel was returned. Contradicting the information about Jabir stipulated the ride, in another hadith from Sahih al-Bukhari, Vol. 3, #589, it is mentioned that the Prophet suggested it: "Sell it to me, and you have the right to ride it till Medina." This hadith also says that Jabir was paid the price, returned the camel, and the share of the war booty.

Let me close this part with one more hadith about this transaction with even more drastic variations. It is from Sunan Ibn Majah.

Jabir b. Abdullah is reported to have said, 'I was accompanying the Holy Prophet in a military expedition.' He said to me, 'Will you sell this camel of yours for a *dinar* (to me)? May Allah forgive you.' I said, 'Allah's Messenger, it will be your camel when I arrive at Madinah.' He said, 'Will you sell it for two dinars, may Allah forgive you?' He (Jabir) said, 'He (the Prophet) continued to increase a dinar for me and on each time he continued to say, 'And may Allah forgive you,' till he arrived at twenty dinars. When I arrived at Madinah, I caught hold of the camel's head and came with it to the Holy Prophet, whereupon he said, 'O Bilal, give him twenty dinars from the spoils of war,' and he said (to me), 'Take your camel and go with it to your family.'¹⁵

So, did this transaction at all involve any stipulation? How is one supposed to derive a rule or code about whether a stipulation is permissible (especially, in transactions involving camels or animals) based on all these variant ahadith? Some codes may still be derived from the essence of the reports. Actually, the issue here is whether stipulations can be added to a sale transaction. The answer is a resounding yes. However, does that require reference to this particular transaction and the widely variant reports about it? There is a broadly established Islamic principle that anything that is not specifically prohibited in the Qur'an or the Sunnah can be

¹⁵ Sunan Ibn Majah, trans.by Muhammad Tufail Ansari, New Delhi, India, Kitab Bhaban, 2000, Vol. 3, #2205.

included in setting terms of transaction through mutual agreement. Thus, whether the ride is stipulated or not, or the extra price is paid or not, or the camel is returned as gift or not is already covered by the broad principle.

O you who believe! do not devour your property among yourselves falsely, except that it be trading by your **mutual consent**; ... surely Allah is Merciful to you. [4/an-Nisa/29]

Abu Sa'id Khudri is reported as saying:
Allah's Messenger (pbuh) said, '**A transaction is valid as a result of mutual consent.**' [*Innamaa al-bay'u 'an taraadi*; according to al-Zawaid, its isnad is sahih and its authorities are reliable (and authentic). Ibn Hibban transmitted it in his Sahih.¹⁶

However, with so much discrepancy in report about this specific transaction, can we present codes derived from these reports as divine, authoritative or binding on the Muslims, when one can't ascertain the relevant facts of the transaction?

4. Hadith provides knowledge or information that is certain or definitive

When dealing with certain issues or information to determine whether it is appropriate, credible and applicable from the Islamic viewpoint, beyond the general principles and guidance laid out in the Qur'an, Muslims invariably have to turn to hadith. Many Muslims are simply satisfied, if someone would say that this is from hadith. They won't even bother to ask (and the reporter usually won't bother to offer) as to where in hadith it is said. There are others who would go as far as mentioning the book of hadith (e.g. Bukhari, Muslim, Abu Dawood, etc.). Others would seek or share, as appropriate, more detailed information as to where in such a book the hadith is. Many are thoroughly satisfied just by knowing that a particular position, viewpoint or information is supported by hadith.

Others probe further to find out if the hadith is *sahih* or authentic. Some major problems arise at this level. First, as we have explained above, even a collection of hadith known as *Sahih* is not a guarantee that all the *ahadith* in such collections are authentic. Second, even some of the *ahadith* that are recognized as *sahih* or authentic by some or many scholars, there are variant opinions disputing the status of those specific *ahadith* as authentic. One doesn't have to endorse the works, in part or whole, of Shaikh Nasiruddin al-Albani, but one can read just his work and see so many *ahadith*, known otherwise as *sahih*, is classified by him as unauthentic. One doesn't have to cite the works of as controversial as scholar as al-Albani, such divergent opinions about various specific *ahadith* appear in works of most major hadith scholars.

Third and the most important problem in this context is whether hadith, even *sahih* (authentic) ones, gives certainty of knowledge. In discussing this, let's move beyond whether a particular hadith is authentic or not. Suppose a hadith has been determined to be *sahih* (authentic). Does such a hadith establish certainty of knowledge?

The answer is: not necessarily, AND mostly not. It is generally agreed that only *mutawatir* hadith provides certainty of knowledge.

"Mutawatir: report of a large number of narrators whose agreement upon a lie is inconceivable. This condition must be met in the entire chain from the origin of the report to the very end.

¹⁶ Ibn-i-Majah. Sunan Ibn-i-Majah, trans. by Muhammad Tufail Ansari, New Delhi: Kitab Bhavan, 2000, Vol. III, #2185, p. 306.

In the view of Muslim scholars any *hadith* which has been transmitted by *tawatur* and whose reporters based their reports on direct, unambiguous, perception unmixed with rationalization would produce knowledge with certainty."¹⁷

"A *mutawatir* tradition is one which has been transmitted throughout the first three generations of Muslims by such a large number of narrators that the possibility of fabrication must be entirely discarded."¹⁸

"[T]he *mutawatir* hadith stands on the same footing as the Qur'an itself."¹⁹

"According to the majority of Ulama, the authority of a *mutawatir hadith* is equivalent to that of the Qur'an. Universal continuous testimony (*tawatur*) engenders certainty (*yaqin*) and the knowledge that it creates is equivalent to knowledge that is acquired through sense-perception."²⁰

"A great majority of Muslim legal theoreticians (*usuuliyyun*) espoused the view that the *mutawatir* yields necessary or immediate knowledge (*daruri*), whereas a minority thought that the information contained in such reports can be known through mediate or acquired knowledge (*muktasab* or *nazari*)."²¹

The *ahadith* that are not *mutawatir* are known as *ahad* (solitary). The latter category, according to the overwhelming majority of Islamic scholars, does not yield certainty of knowledge. Also, *mutawatir ahadith* have two subcategories: *mutawatir bil lafz* (involves narrations in identical words) and *mutawatir bil ma'na* (involves narrations that "concur in their purport but differ in wording or in form").²² Of course, the second category doesn't command the same status as *mutawatir bil lafz*, which is regarded as "equivalent to that of the Qur'an".

Now, *mutawatir ahadith* are *sahih*, but not all *sahih* *ahadith* are *mutawatir*. So, how many *hadith* are *Mutawatir*?

"Only a few *ahadith* have been mentioned as *Mutawatir* by words, meaning all the narrators used the same expression. However, *Mutawatir* in the sense and meanings are numerous."²³

"Very few of the traditions received by us belong to this category (i.e., *Mutawatir*)."²⁴

"Finally, we turn to the problem of the *Mutawatir* which engenders certainty. We recall that Ibn al-Salah himself acknowledged that the traditionists' repertoire of *hadith* does not include this category. But Ibn al-Salah said more. He argued in categorical terms that the *Mutawatir* is a rarity (**). "He who is asked to produce an example of a *hadith* that is transmitted in a *Mutawatir* [fashion] will be exhausted by his search" (**). In his own search for such *ahadith*, **he could cite only one**, presumably narrated by more than a hundred Companions: "He who intentionally lies concerning something I [viz., the Prophet] have said will gain a seat in Hellfire" (**). The other *hadith* which he could find that seemingly met the standards of the *Mutawatir* was: "Acts are Judged by intentions".

¹⁷ Azami, *op. cit.*, p. 43.

¹⁸ Siddiqi, *op. cit.*, p. 110.

¹⁹ Kamali, *op. cit.*, p. 80.

²⁰ Kamali, *op. cit.*, p. 94.

²¹ Wael Hallaq, "The Authenticity of Prophetic Hadith: A Pseudo-problem," *Studia Islamica* 99 (1999), pp. 75-90, p. 79, referring to al-Qarafi.

²² Kamali, *op. cit.*, p. 94.

²³ Azami, *op. cit.*, p. 43.

²⁴ Siddiqi, *op. cit.*, p. 110.

However, he acknowledges that although this hadith was reportedly narrated by a *Mutawatir* number of transmitters, its apodictic manner of transmission occurred in the middle tiers of transmission, not from the outset (**). ... The later legal theoreticians Ansari (1119/1707) and Ibn ' Abd al-Shakur (1225/1810) accepted the general tenor of Ibn al-Salah's argument about the scarcity of *tawatur*, but seem to think that there are more ahadith of this type in existence. Having enumerated, with what seems to be great difficulty, four such ahadith, they call upon Ibn al-Jawzi (d. 598/1201) who is quoted as saying: "I have tracked down the *Mutawatir* ahadith and found a number of them." **He enumerates six**, at least one of which, and probably two, had already been listed by Ansari and Ibn ' Abd al-Shakur (**). Thus, a thorough search by a number of the most eminent traditionists and **jurists of Islam could yield no more than eight or nine hadiths of the *Mutawatir* type.**²⁵

Thus, there are only a few - no more than ten - *ahadith* that are *mutawatir* proper. The rest of them are *ahad* (non-*mutawatir*). These (*ahad*) *ahadith* yield not certain, but probable knowledge. Hallaq analyzes this issue in detail based on the works of major Islamic scholars, especially hadith scholars.

"The contents of the former (i.e., *ahad*) are known only with probability. ... When a person hears a hadith narrated by one transmitter [i.e. *ahad*], he is presumed to have gained only probable knowledge of its contents, and thus of its authenticity."²⁶

In understanding this classification of *mutawatir* and *ahad* in perspective, let's learn about two views. The first is represented, for example, by an eminent Islamic scholar Ibn al-Salah (d. 643/1245), "one of the most distinguished traditionists of the *muta'akhkhirun*".²⁷ Ibn al-Salah's work in the field of hadith "was so comprehensive in its excellent treatment of the subject that it came to be the standard reference for thousands of scholars and students of Hadith to come, over many centuries until the present day." His major work '*Ulum al- Hadith* (commonly known as *Muqaddimah Ibn al-Salah*) was used by many eminent scholars of later generations. Among such major scholars who have benefited from Ibn al-Salah's works are: al-Nawawi, al-Suyuti, Ibn Kathir, Ibn Hajar Al-Asqalani, et al.²⁸

Ibn al-Salah "... explicitly states that in the traditionists' discourse the taxonomy of the *mutawatir* is nowhere to be found; and this, he says, is due to the fact that such ahadith do not constitute part of their *riwaya*."²⁹

Because *mutawatir* type hadith is rare, Ibn al-Salah has argued that for much of Islamic praxis, certainty of knowledge is neither feasible nor required. Rather, probable or reasonable knowledge is adequate for determining the gamut of Islamic practices.

If the *Mutawatir* was not part of the traditionists' repertoire of hadith, then what they handled were ahadith of the *ahad* type, or those even of a weaker sort. The sources, as is well-known, make it quite clear that the traditionists set forth a classical taxonomy which distinguishes between three main types: the *sahih* (sound), the *hasan* (good), and the *da'if* (weak) (**).³⁰

²⁵ Hallaq, *op. cit.*, p. 87, for the fully annotated work of Hallaq please refer to the URL/link in the bibliography; asterisks represent footnotes that have been left out of this excerpt.

²⁶ Hallaq, *op. cit.*, pp. 78-79.

²⁷ Hallaq, *op. cit.*, p. 84.

²⁸ Suhaib Hasan. An Introduction To The Science Of Hadith [London: Al-Qur'an Society, 1994. Hasan, See the segment [An Introduction To The Science Of Hadith](#)

²⁹ Hallaq, *op. cit.*, p. 84.

³⁰ Hallaq, *op. cit.*, p. 84.

Thus, a separate taxonomy that includes *sahih* came about as a result of the recognition that ahadith that yield certainty of knowledge are rare. However, Ibn al-Salah and many other scholars saw no problem with this. Instead, they have attempted to argue that the category *sahih* itself yields certainty of knowledge.

"The *ahad*, or solitary, hadith ... is a hadith which is reported by a single person or by odd individuals from the Prophet. ... [Such] hadith fails to fulfil the requirement of either the *mutawatir* or the *mashur*. It is a hadith which does not impart positive knowledge on its own unless supported by extraneous or circumstantial evidence. This is the view of the majority, but according to Imam Ahmad ibn Hanbal and others, *ahad* can engender positive knowledge. Some ulama have rejected it on the basis of an analogy they have drawn with a provision of the law of evidence, namely that the testimony of one witness falls short of legal proof. Those who unquestioningly accept the authority of *ahad*, such as the Zahiri school, maintain that when the Prophet wanted to deliver a ruling in regard to a particular matter, he did not invite all the citizens of Medina to attend."³¹

Majority of orthodox ulama recognizes the reliability of *ahad* ahadith, subject to some conditions. "According to the majority of the ulama of the four Sunni schools, acting upon *ahad* is obligatory even if *ahad* fails to engender positive knowledge. Thus, in practical legal matters, a preferable *zann* [meaning, speculative] is sufficient as a basis of obligation. It is only in matters of belief where conjecture 'avails nothing against the truth'. Having said this, however, *ahad* may only form the basis of obligation if it fulfils" six conditions.³²

As usual, there is no unanimity among various schools regarding these conditions. [See Kamali, pp. 101-106] However, the above statement - acting upon *ahad* is obligatory even if *ahad* fails to engender positive knowledge - is contradicted by other ulama, who believe that acting upon *ahad* is preferable only, because it engenders only speculative knowledge.

"The majority of jurists, however, agree that *ahad* may establish a rule of law provided that it is related by a reliable narrator and the contents of the report are not repugnant to reason. Many ulama have held that *ahad* engenders speculative knowledge, acting upon which is preferable only. In the event where other supportive evidence can be found in its favour, or when there is nothing to oppose its contents, then acting upon *ahad* is obligatory. But *ahad* may not, according to the majority of ulama, be relied upon as the basis of belief (*aqidah*)."³³

It must be noted that this dictum - *ahad* cannot be relied upon as the basis of belief - is merely a pious statement. Any Muslim can read any book of *aqidah*, such as *Kitab at-Tawhid* by Muhammad ibn Abdul Wahhab, or *Al-Wala' Wa'l-Bara* by Muhammad Saeed al-Qahtani, and see how these lengthy treatises could have been written without resorting to *ahad* ahadith.

In reality, since almost all *ahadith* are *ahad* (non-*mutawatir*) that do not yield certainty of knowledge, the scholars had to stake their claim that *ahad ahadith* also yield certainty of knowledge. Such claim is like having the cake and eat it too. One of the reasons why Muslims regard the entire Qur'an as based on certainty of knowledge, because each verse is *mutawatir*. "According to the majority of Ulama, the authority of a *mutawatir hadith* is equivalent to that of the Qur'an."³⁴ The authenticity of the Qur'an is based on this premise that *mutawatir* transmission yields certainty of knowledge, and since each verse of the Qur'an is *mutawatir*, the Qur'an as a book is regarded by Muslims as positive knowledge. If *ahad* or solitary transmissions also yield the same level of positive knowledge, then basically that would amount to claiming that positive

³¹ Kamali, *op. cit.*, p. 97

³² Kamali, p. 98.

³³ Kamali, p. 97.

³⁴ Kamali, p. 94.

knowledge can be achieved by either *mutawatir* or *ahad* transmission. Such a claim or premise, indirectly, undermines the weightiness of using the special status of *mutawatir* transmission.

Therefore, whether *ahad* hadith can be used for deriving or establishing laws or codes is a different issue, but, unless Muslims are willing to reconcile with undermining the basis of the Qur'an, the claim that *ahad* hadith also can yield certainty of knowledge has to be firmly rejected.

Indeed, there are prominent Ulama, such as Imam Nawawi (d. 676/1277) opposes Ibn al-Salah's view in this regard, and vehemently challenges such untenable claim about *ahad* hadith yielding certainty of knowledge..

“Nawawi (d. 676/1277) and Ibn al-Salah seem to have spearheaded the two opposing campaigns. Nawawi unequivocally states that the *sahih* means just that, *sahih*, and does not mean that it is certain.” (**). He vehemently argued that the majority of Muslim scholars and leading authorities (*al-muhaqqiqun wal-akthartun*) held that unless the *sahih* is of the *mutawatir* category, it shall remain probable and can never attain the level of certainty (**).”³⁵

The above exposition should make abundantly clear the weakness of Ibn al-Salah's position that *sahih*-type yields certainty as well. In this regard, Imam Nawawi's position is sound and self-evident that only *mutawatir*-type yields certainty of knowledge. Thus, as long as we are satisfied with the probabilistic basis of *ahad* or non-*mutawatir*-type hadith in establishing our dogmas or practices, then that's a different matter.

The crux of the issue here that connects hadith and Islamic law is that Islamic laws and codes are essentially based on mostly non-*Mutawatir* or *ahad ahadith* that are at best probabilistic.

“The legal theoreticians' classification of the hadith into *Mutawatir* and *ahad* leaves us with a colossal number of the latter, merely probable type, and less than a dozen of the former, reportedly apodictic, variety. The *ahad*, including the *hasan*, were universally acknowledged to have constituted the bulk of hadith with which the traditionists dealt, and on the basis of which the Jurists derived the law (**).”³⁶

Earlier *mutawatir bil-ma'na* was explained and that type of hadith conveys what the Prophet said in the narrator's own words. In other words, these are "conceptual transmissions." The reality is that even in case of *ahad ahadith*, the scholars do not require verbatim transmission, yet insist that laws and codes derived from *ahad* hadith can still be binding.

"The majority of ulama do not insist that the *ahad* should consist of a verbatim transmission of what the narrator heard in the first place, although this is the most authoritative form of transmission in any kind of hadith. They would instead accept the conceptual transmission of an *ahad*, on condition, however, that the narrator understands the language and purport of the hadith in full. ...

Some ulama of the Hanafi and other schools have held that conceptual transmission is totally forbidden, a view which is refused by the majority, who say that the Companions often transmitted one and the same hadith in varying words, and no-one can deny this. .. Having said this, however, accuracy in the transmission of hadith and retaining it in its original version is highly recommended.”³⁷

³⁵ Hallaq, *op. cit.*, p. 85.

³⁶ Hallaq, p. 88.

³⁷ Kamali, *op. cit.*, pp. 105-106.

Majority of the Islamic scholars holds the view that *ahad* hadith can be used to derive laws or codes that are binding. However, no matter of creeds (*aqidah*) can be established by *ahad* hadith. However, as I have pointed out, in practice, the domain of creeds has not been immune to *ahad* hadith. As has been explained above, the claim of many scholars - it is not only alright to use *ahad* hadith to formulate laws, but also, subject to some conditions about which there is no agreement, such laws are also binding - is a rather weak position and needs serious scrutiny.

Indeed, even the best and the noblest of our scholars have shown remarkable anomalies in their thoughts and practices in this context. Imam al-Shafi'i writes in his famous *Risala*:

"It is the duty of those who have [legal] knowledge never to express an opinion unless it is based on certainty. There are cases where men have discussed matters relating to [legal] knowledge when, if only they had abstained from so doing, abstention would have been more appropriate and safe, I trust."³⁸

One is then left to wonder, if we are duty-bound not to express an opinion unless it is based on certainty, then how do we build much of the Islamic legal edifice on the basis of *ahadith* that generally yield only **probabilistic** knowledge and does not yield 'certainty'?

Thus, as anomalous as it is, obviously, the majority of scholars and jurists have held the position that a hadith being *ahad* does not mean that it can't or should not be used as a source of guidance. Indeed, the majority of them even regard the injunctions of such hadith as binding.

However, the Ummah - the adherents of Islam - would be better served if it is duly acknowledged that *ahad ahadith* - that is, most of the *ahadith* - are **probabilistic** in terms of reliability, and additional circumspection is a must in utilizing these *ahadith* for formulating laws, codes and dogmas. Even greater circumspection is a must in formulating and enacting laws or codes that have major ramification for the life, honor and property of people.

...

Note: This article continues but I have only quoted it till the above paragraph as after this the author starts controversial things like women prayer in masjid, women leadership, punishment of apostasy which is not necessary for clarifying the 4 myths of Hadith. If any one wants to read the entire article, he can do so by visiting:

http://globalwebpost.com/farooqm/writings/islamic/law_hadith.doc

³⁸ Al-Shafi'i, *op. cit.*, p. 80, #28.