

**الخلاف بين العلماء :أسبابه وموقفنا
منه**

**Difference of Opinion Among
the Scholars:Its Causes and Our
Standpoint**

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In the Name of Allah, the Most Compassionate, the Most Merciful

Introduction

Praise be to Allah, we praise Him, seek His help and forgiveness, and repent to Him.

We seek refuge with Allah from the evil of our souls and from our bad deeds. Whomsoever Allah guides, none can lead astray, and whomever He leads astray, none can guide. I bear witness that there is no deity worthy of worship except Allah alone, Who has no partner, and I bear witness that Muhammad is the Messenger and slave of Allah; may Allah's peace and blessings be upon him, his family and Companions, and those who follow them with good conduct until the Day of Judgment.

{O you who believe, fear Allah as He should be feared and do not die except as Muslims [in submission to Him].} [Āl 'Imrān: 102]

{يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّكُمُ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَخَلَقَ مِنْهَا زَوْجَهَا وَبَثَّ مِنْهُمَا رِجَالًا كَثِيرًا وَنِسَاءً وَاتَّقُوا اللَّهَ الَّذِي تَسَاءَلُونَ بِهِ وَالْأَرْحَامَ إِنَّ اللَّهَ كَانَ عَلَيْكُمْ رَقِيبًا} [النساء: 1]. {يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ وَقُولُوا قَوْلًا سَدِيدًا يُصْلِحْ لَكُمْ أَعْمَالَكُمْ وَيَغْفِرْ لَكُمْ ذُنُوبَكُمْ وَمَنْ يُطِيعِ اللَّهَ وَرَسُولَهُ فَقَدْ فَازَ فَوْزًا عَظِيمًا} [الأحزاب: 70-71].

{O mankind, fear your Lord, Who created you from one soul and created from it its mate and

dispersed from both of them many men and women. And fear Allah, through Whom you ask one another, and the wombs. Indeed, Allah is ever an Observer over you.} [Al-Nisā': 1]

{O you who believe, fear Allah and speak words of appropriate justice. He will [then] amend for you your deeds and forgive you your sins. And whoever obeys Allah and His Messenger has certainly attained a great attainment.} [Al-Ahzāb: 70-71]

To proceed:

This topic may cause many to wonder why we chose it and chose that title although other issues of religion could be of more significance. As a matter of fact, this topic currently preoccupies many people, not only of the laymen but also the seekers of knowledge. This has to do with the media consistently spreading and propagating rulings; hence, the difference in opinion among scholars has become a cause of confusion, and even doubt, for many people, particularly common people who do not know from where that difference emerges. Therefore, I decided to write on that topic, which I believe is of great significance to people, and in that I seek the help of Allah.

One of the blessings that Allah Almighty has endowed the Muslim Ummah (nation) with is the fact that the difference among its scholars has always been far from the fundamentals of its religion and its original sources. It has always been

related to issues that do not affect the Muslims' true unity, which is a must.

I have summed up the factors that I want to speak about as follows:

First: All Muslims are aware, as understood from the Qur'an and Sunnah, that Allah Almighty sent Muhammad (may Allah's peace and blessings be upon him) with guidance and with the religion of truth.

This implies that the Messenger of Allah (may Allah's peace and blessings be upon him) clarified this religion duly and adequately in such a manner that makes it in no need of further clarification, simply because "guidance" is contrary to misguidance with all its meanings, and "the religion of truth" is contrary to every false religion that Allah Almighty does not approve of. The Messenger of Allah (may Allah's peace and blessings be upon him) was sent with guidance and with the religion of truth. People, during his lifetime, used to seek his judgment in case of a conflict, and he would, thus, judge between them and clarify the truth for them regarding their disagreement over the words of Allah or over His unrevealed rulings. Then, verses of the Qur'an would be revealed clarifying such issues. It is so often that we come across {They ask you} about so-and-so in the Noble Qur'an followed by the adequate and sufficient response from Allah

Almighty, Who orders His Prophet to convey it to people.

Allah Almighty says: {They ask you, [O Muhammad], what has been made lawful for them. Say, "Lawful for you are [all] good foods and [game caught by] what you have trained of hunting animals which you train as Allah has taught you. So, eat of what they catch for you, and mention the name of Allah upon it, and fear Allah." Indeed, Allah is swift in account.} [Al-Mā'idah: 4]

{And they ask you what they should spend. Say, "The excess [beyond needs]." Thus, Allah makes clear to you the verses [of revelation] that you might give thought.} [Al-Baqarah: 219]

{They ask you, [O Muhammad], about the spoils [of war]. Say, "The spoils [of war] is for Allah and the Messenger." So fear Allah and amend that which is between you and obey Allah and His Messenger, if you are believers.} [Al-Anfāl: 1]

{They ask you, [O Muhammad], about the new moons. Say, "They are measurements of time for the people and for Hajj." And it is not righteousness to enter houses from the back, but righteousness is [in] one who fears Allah. And enter houses from their doors. And fear Allah that you may succeed.} [Al-Baqarah: 189]

{They ask you about the sacred month - about fighting therein. Say, "Fighting therein is great [sin], but averting [people] from the way of Allah and

disbelief in Him and [preventing access to] the Sacred Mosque and the expulsion of its people therefrom are greater [evil] in the sight of Allah. And causing dissension is greater than killing.” And they will continue to fight you until they turn you back from your religion if they are able. And whoever of you reverts from his religion [to disbelief] and dies while he is a disbeliever - for those, their deeds have become worthless in this world and the Hereafter, and those are the companions of the Fire, they will abide therein eternally.} [Al-Baqarah: 217]

In addition to the above-mentioned verses, there are other verses as well.

After the death of the Messenger of Allah (may Allah’s peace and blessings be upon him), however, the Ummah differed regarding the Shariah rulings which neither affect neither the fundamentals of Shariah nor its original sources.

We shall explain some of the causes behind that difference, Allah willing.

We all know for a fact that none of the scholars, who are trustworthy in terms of their knowledge, honesty, and religion, intentionally contradicts what is proven by the Qur’an and the Sunnah,

because being knowledgeable and religious entails being led by the truth, and whoever takes the truth as his leader, Allah will make it easy for him.

واستمعوا إلى قوله تعالى: {وَلَقَدْ يَسَّرْنَا الْقُرْآنَ لِلذِّكْرِ فَهَلْ مِنْ مُدَكِّرٍ} [القمر: 17]، {فَأَمَّا مَنْ أُعْطِيَ وَاتَّقَىٰ وَصَدَّقَ بِالْحُسْنَىٰ فَسَنُيَسِّرُهُ لِلْيُسْرَىٰ} [الليل: 5-7].

Listen to the words of Allah Almighty as He says: {And We have certainly made the Qur'an easy for remembrance, so is there any who will remember?} [Al-Qamar: 17]

{As for he who gives and fears Allah and believes in the best [reward], We will ease him toward ease.} [Al-Layl: 5-7]

It is likely, however, for these knowledgeable scholars to make mistakes regarding the rulings of Allah Almighty, not regarding the fundamentals that we previously mentioned. Such mistakes are inevitable,

simply because man is as Allah Almighty described him in His saying: {...and mankind was created weak.} [Al-Nisā': 28]

Man is weak in his knowledge, perception, and comprehensiveness. Hence, it is inevitable that he makes mistakes in some matters.

We shall sum up some of the causes behind the scholars' mistakes in the following seven causes, although there are actually many more than that. Anyone who is well-informed about the scholars' opinions knows the common causes behind their differences of opinion.

The first Cause:

Being unaware of the evidence:

This cause is not peculiar to those who lived after the Companions; rather, it is found among the Companions as well as those who came after them. There are two incidents of this kind that happened to the Companions.

The first incident was mentioned in Sahīh Al-Buhkārī and other references. It was when the Commander of the Believers, ‘Umar ibn al-Khattāb (may Allah be pleased with him) was traveling to the Levant. On his way, he learned that the Levant was struck by plague. He stopped and started consulting the Companions (may Allah be pleased with them) from among the Muhājirūn (Immigrants) and the Ansār (Muslims of Madinah). There were two different opinions and the predominant one was to turn back.

During that debate, ‘Abdul-Rahmān ibn ‘Awf, who was away on an errand, arrived and he said: “I have some knowledge about that. I heard the Messenger of Allah (may Allah’s peace and blessings be upon him) say:

«إذا سمعتم به في أرض فلا تقدموا عليه، وإن وقع وأنتم فيها فلا تخرجوا فرارًا منه»

‘If you heard of it (the plague) striking some land, then do not proceed towards it, and if it struck while you are there, then do not leave to escape it.’” That ruling was unknown to the senior Companions

of the Muhājirūn and Ansār until ‘Abdul-Rahmān ibn ‘Awf informed them of that Hadīth.

The second incident: ‘Ali ibn Abi Tālib (may Allah be pleased with him) and ‘Abdullah ibn ‘Abbās (may Allah be pleased with him and his father) were of the opinion that if the husband of a pregnant woman died, her ‘Iddah (waiting period a woman must observe after the death of her spouse or after divorce, during which she may not remarry) should be the longer in time: either four months and ten days or the period of time until the delivery of the baby.

So, if the pregnant widow delivers her baby before the four months and ten days are over, then her ‘Iddah will not be over yet and she will have to wait until the four months and ten days are over. On the other hand, if the four months and ten days are over before she delivers her baby, then her ‘Iddah continues until she gives birth,

لأن الله تعالى يقول: {وَأُولَاتِ الْأَحْمَالِ أَجَلُهُنَّ أَنْ يَضَعْنَ حَمْلَهُنَّ} [الطلاق: 4].

for Allah Almighty says: {...And for those who are pregnant, their term is until they give birth...} [Al-Talāq: 4]

Allah Almighty also says: {And those who die among you and leave wives behind - they, shall wait four months and ten [days]...} [Al-Baqarah: 234]

These two verses are general from one aspect and specific from another aspect. The way to

combine between them is to adopt what is common between both, and there is no way to do that except through what ‘Ali and Ibn ‘Abbās (may Allah be pleased with both of them) did. However, the Sunnah overrules that.

It was authentically reported from the Messenger of Allah (may Allah’s peace and blessings be upon him) in the Hadīth of Subay‘ah al-Aslamiyyah that when her Nifās (post-partum bleeding) was over, only a few nights after her husband’s death, the Messenger of Allah (may Allah’s peace and blessings be upon him) gave her permission to get married. That means in such a case we should apply the verse of Surat Al-Talāq [Chapter of Divorce], also called “Surat Al-Nisā’ al-Sughra” [shorter Chapter of Women],

وهي عموم قوله تعالى: {وَأُولَٰئِ الْأُحْمَالُ أَجَلُهُنَّ أَنْ يَضَعْنَ حَمْلَهُنَّ} [سورة الطلاق: 4] ..

which is the general indication of the verse: {...And for those who are pregnant, their term is until they give birth...} [Al-Talāq: 4] I know for certain that if ‘Ali and Ibn ‘Abbās had heard of that Hadīth, they would have definitely applied it without thinking any further.

The Second Cause:

The second cause is knowing the Hadīth, but not trusting the one who reported it, and believing that it contradicts a stronger report, thus adopting the

one that he believes to be stronger. The example we shall mention here again occurred among the Companions themselves.

When Fātimah bint Qays (may Allah be pleased with her) was divorced the third and last time, her husband sent her his agent with barley as her financial maintenance during the 'Iddah (post-divorce waiting period). However, she was not pleased with the amount of barley and refused to take it. So, they brought their complaint to the Prophet (may Allah's peace and blessings be upon him) who told her that she was not entitled to financial maintenance nor to housing because she was irrevocably divorced, and in such a case she deserves neither unless she was pregnant

لَقَوْلُهُ تَعَالَى: {وَإِنْ كُنَّ أُولَاتٍ حَمْلٌ فَأَنْفِقُوا عَلَيْهِنَّ حَتَّى يَضَعْنَ حَمْلَهُنَّ} [الطلاق: 6].

because Allah Almighty says: {...And if they should be pregnant, then spend on them until they give birth...} [Al-Talāq: 6]

'Umar (may Allah be pleased with him), despite his merit and knowledge, was unaware of that Hadīth. Hence, he judged that such a woman was entitled to both financial maintenance and housing. He rejected Fātimah's report, arguing that she might have forgotten, and he said: "Do we ignore Allah's statement for the statement of a woman who might have possibly forgotten?"

This means that ‘Umar (may Allah be pleased with him), the Commander of the Believers, was not certain of that evidence. Just as that happened to ‘Umar and to other Companions and Tābi’is (the generation that succeeded the Companions), it also happened to those who succeeded them and it is still happening today and will go on until the Day of Judgment. There will always be the possibility of being uncertain about the soundness of the evidence.

So many times, we have seen scholars’ opinions that cited Hadīths, which some scholars believe to be authentic, and thus take them as evidence, while others believe them to be weak and refrain therefrom for not trusting that they were authentically reported from the Messenger of Allah (may Allah’s peace and blessings be upon him).

The Third Cause:

Knowing the Hadīth but forgetting about it, and this is normal. People may forget not only a Hadīth, but also a Qur’anic verse.

One day, the Messenger of Allah (may Allah’s peace and blessings be upon him) led his Companions in prayer and he skipped a verse out of forgetfulness. When he finished the prayer, he said to Ubayy ibn Ka’b (may Allah be pleased with him): “I wish you had reminded me thereof.” He forgot although he was the one upon whom the revelation was descending, and his Lord said to him:

{سَنُفَرِّقُكَ فَلَا تَنْسَى إِلَّا مَا شَاءَ اللَّهُ إِنَّهُ يَعْلَمُ الْجَهْرَ وَمَا يَخْفَى} [الأعلى: 6-7].

{We will make you recite [O Muhammad], and you will not forget, except what Allah should will. Indeed, He knows what is declared and what is hidden.} [Al-A'la: 6-7]

An example of that - knowing the Hadīth but forgetting about it - is what happened to 'Umar ibn al-Khattāb and 'Ammār ibn Yāsir (may Allah be pleased with both of them) when the Messenger of Allah (may Allah's peace and blessings be upon him) sent them on a mission and both of them woke up in the state of Janābah (major ritual impurity).

As for 'Ammār, he depended on Ijtihād (personal reasoning) and considered dust purifying like water and, thus, rolled in the dust to make sure it reached all of his body just as the water should, then he prayed. 'Umar, on the other hand, did not pray. Then, they went to the Messenger of Allah (may Allah's peace and blessings be upon him) and he guided them to the correct course of action.

وقال لعمار: «إنما كان يكفيك أن تقول ببديك هكذا» - وضرب ببديه الأرض مرة واحدة، ثم مسح الشمال على اليمين، وظاهر كفيه ووجهه.

He said to 'Ammār: "It would have been enough for you to do this with your hands." Then he struck the ground once with his hands and then used the left hand to wipe over the right as well as the back side of his hands and his face.

‘Ammār (may Allah be pleased with him) used to narrate this Hadīth before and during the caliphate of ‘Umar. One day, however, ‘Umar summoned him and asked him about that Hadīth. ‘Ammār narrated the Hadīth and then said: “Do you not remember when the Messenger of Allah dispatched us on a mission and we became in the state of Janābah. You did not pray, while I rolled in the dust. The Prophet (may Allah’s peace and blessings be upon him) then said:

«إنما كان يكفيك أن تقول كذا وكذا».

‘It would have been enough for you to do so-and-so.” ‘Umar did not recall that and said: “O ‘Ammār, fear Allah.” ‘Ammār replied: “If you wish, as I am obliged to obey you, I can stop narrating this Hadīth.” However, ‘Umar allowed him to narrate it among people.

‘Umar forgot that the Prophet (may Allah’s peace and blessings be upon him) allowed dry ablution in the state of Janābah just as it is allowed in the state of minor ritual impurity. ‘Abdullah ibn Mas‘ūd (may Allah be pleased with him) adopted ‘Umar’s opinion in this regard and he had a debate with Abu Mūsa (may Allah be pleased with him) over that. Abu Mūsa reminded Ibn Mas‘ūd of ‘Ammār’s words to ‘Umar in that situation, but Ibn Mas‘ūd objected saying that ‘Umar was not convinced of ‘Ammār’s words. Finally, Abu Mūsa said: “Forget about

‘Ammār’s words; what do you say about that verse (meaning the verse of Surat Al-Mā’idah)?” Here, Ibn Mas‘ūd could not give a reply.

There is no doubt that the sound opinion is that of the majority of scholars who say that the one in the state of Janābah performs dry ablution just like the one in the state of minor ritual impurity.

In short, man may forget the Shariah ruling and, thus, be excused for adopting a different opinion, but the one who is aware of the evidence is not excused.

The Fourth Cause:

Knowing the evidence, but misunderstanding it.

We shall mention two examples here.

The first one is from the Qur’an and the second one is from the Sunnah.

1- From the Qur’an: Allah Almighty says: {...but if you are ill or on a journey or one of you comes from the place of relieving himself or you have touched women and do not find water, then seek clean earth and wipe over your faces and hands with it...} [Al-Mā’idah: 6]

Scholars held different opinions regarding the meaning of {touched women}. Some understood it to mean mere touching in its general sense, whereas others understood it as the kind of touching that excites sexual desire. A third group understood it to be referring to sexual intercourse,

and that was the opinion of Ibn ‘Abbās (may Allah be pleased with him and his father).

If you contemplate the verse, you will find that the sound opinion is that of those who believe that it refers to intercourse, because Allah Almighty mentioned two types of impurity that require purification with water; purification from minor and from major ritual impurity.

Regarding minor ritual impurity, Allah says: {...Wash your faces and your forearms to the elbows and wipe over your heads and [wash] your feet to the ankles...} [Al-Mā'idah: 6]

Regarding the major ritual impurity, He said: {...And if you are in a state of Janābah, then purify yourselves...} [Al-Mā'idah: 6]

Rhetoric and eloquence entail mentioning those two types of impurity as well in purification with dry ablution.

So, Allah Almighty says: {...Or one of you comes from the place of relieving himself...} [Al-Mā'idah: 6] in reference to purification from minor ritual impurity, and He says: {...Or you have touched women...} [Al-Mā'idah: 6] in reference to purification from major ritual impurity.

If we consider 'touching' here to be referring to the mere touching in its general sense, then the verse would be mentioning two kinds of minor ritual impurity that necessitate purification without referring to any kind of major ritual

impurity, and does not conform with the eloquence of the Qur'an.

Those who understood the verse to be referring to touching in its general sense said that if a male touches a woman's skin, his ablution will be invalidated, or if the touch is motivated by sexual desire, then his ablution will be invalidated, otherwise it will not. The sound opinion, however, is that ablution is not invalidated in both cases. It was narrated that the Messenger of Allah (may Allah's peace and blessings be upon him) kissed one of his wives then went to prayer without repeating his ablution. This was reported through chains of narration that corroborate each other.

2- From the Sunnah: When the Messenger of Allah (may Allah's peace and blessings be upon him) returned from the Battle of Ahzāb and put down his weapon, Archangel Gabriel came and said to him: "We have not put down our weapons yet, so set out to Bani Qurayzhah." Hence, he (may Allah's peace and blessings be upon him) commanded his Companions to depart saying:

«لا يصلين أحد العصر إلا في بني قريظة»، الحديث،

"None should offer the 'Asr prayer except at Bani Qurayzhah." The Companions understood the Prophet's words in different ways. Some understood that he meant they should hasten to leave so as to reach Bani Qurayzhah before the time

of 'Asr prayer. So, when 'Asr became due, while they were still on their way, they prayed it and did not delay it.

Others, however, thought the Prophet meant they should not pray until they reach Bani Qurayzhah. So, they delayed the prayer until they reached their destination and that was after its time had passed.

There is no doubt that those who prayed 'Asr on its due time were the ones with the sound opinion because texts indicating the obligation of performing prayer on its due time are precise, whereas that statement is ambiguous. The rule states that an ambiguous text should be interpreted in accordance with the precise text.

Therefore, the fourth cause of difference in opinion among scholars is misunderstanding the evidence.

The fifth Cause:

Knowing the Hadīth but not knowing that it was abrogated. In this case, the Hadīth is authentic and soundly understood, but it was abrogated and the scholar is unaware of that. He, thus, is excused because, in principle, the text is not abrogated until the abrogating text becomes known to him.

An example of that is the opinion of Ibn Mas'ūd (may Allah be pleased with him) regarding where one should place his hands while bowing in prayer.

In the early days of Islam, one had to clasp his hands and place them between his knees. Yet, that was abrogated and one had to put his hands on his knees instead. This abrogation was authenticated in Sahih Al-Bukhāri and elsewhere. Ibn Mas'ūd (may Allah be pleased with him) did not know about it, so he continued to clasp his hands and place them between his knees. Once, he was praying beside 'Alqamah and Al-Aswad. When he saw them placing their hands on their knees, he forbade them from that and ordered them to clasp their hands between their knees. Why? Because he was unaware of the abrogation, and one is not charged with what is beyond his capacity.

Allah Almighty says: {Allah does not charge a soul except [with that within] its capacity. It will have [the consequence of] what [good] it has gained, and it will bear [the consequence of] what [evil] it has earned. "Our Lord, do not impose blame upon us if we have forgotten or erred. Our Lord, and lay not upon us a burden like that which You laid upon those before us. Our Lord, and burden us not with that which we have no ability to bear. And pardon us; and forgive us; and have mercy upon us. You are our protector, so give us victory over the disbelieving people."} [Al-Baqarah: 286]

The Sixth Cause:

Believing that one's different opinion is supported by a stronger proof from a text or by consensus.

In other words, one is aware of the evidence but believes that the different opinion he is holding is supported by stronger evidence, be it a text or by consensus. This occurred frequently among the leading Imams.

We often hear of scholars reporting a consensus on a matter, which, after contemplation, turns out not to be a consensus.

One of the strangest examples here is when some said that there is consensus among scholars on accepting the slave's testimony. Others, however, said that the slave's testimony is not to be accepted according to the consensus of scholars.

This happens because some people think that if there is an agreement on a certain opinion among those around them, then there could be none holding a different opinion, believing this to be the essential implication of the texts. So, they have two proofs in mind; the text and the consensus.

They may also believe this opinion to be the essential implication of sound analogy and consideration, and thus decide that there could be no one holding a different opinion regarding that text which they consider established, along with that analogy which they consider sound, whereas, in fact, the whole thing is the opposite.

An example of that is the opinion that Ibn ‘Abbās (may Allah be pleased with him and his father) held regarding the usury of excess (selling an item for another of the same type, on the spot, but in excess).

It was authentically reported that the Messenger of Allah (may Allah’s peace and blessings be upon him) said: “Usury is only in credit.”

وثبت عنه في حديث عبادة بن الصامت وغيره: «أن الربا يكون في النسيئة وفي الزيادة».

It was also authentically reported that he said, in the Hadīth reported by ‘Ubādah ibn al-Sāmit and others: “Usury is in credit and in excess.”

Scholars who lived after Ibn ‘Abbās agreed in consensus that usury is of two types: usury of excess and usury of credit.

However, Ibn ‘Abbās insisted that usury is only in credit. For example, if you sell one measure of wheat for two measures of wheat on the spot, then there would be no harm in that according to Ibn ‘Abbās because he believed that usury is only in credit.

Again, if one sells a Mithqāl (4.25 grams) of gold for two Mithqāls of gold on the spot, then this will not be usury according to him.

Nonetheless, if the payment is deferred; i.e. you hand me the Mithqāl, but I do not hand you the exchange on the spot, then this will be usury because Ibn ‘Abbās (may Allah be pleased with him

and his father) believed that the restriction in the Hadīth excludes everything else from usury. The wording of the Hadīth indicates restriction, which, in turn, indicates that nothing else is considered usury. However, the Hadīth of ‘Ubādah indicates that excess is usury as well for the Messenger of Allah (may Allah’s peace and blessings be upon him) said:

«من زاد أو استزاد فقد أربى».

“Whoever gives more or takes more has engaged in usury.”

So, how should we regard the Hadīth that Ibn ‘Abbās took as evidence?

We should understand it in a way that agrees with the other Hadīth, indicating that usury includes excess. That could be achieved by saying that severe usury, which was practiced in the pre-Islamic era

and which was meant in the verse where Allah Almighty said: {O you who believe, do not consume usury, doubled and multiplied, but fear Allah that you may be successful.} [Āl ‘Imrān: 130], is actually the usury of credit. As for the usury of excess, it is not as grave and severe as the usury of credit. That was the opinion adopted by Ibn al-Qayyim in his book I’lām Al-Muwaqqi‘īn where he stated that the prohibition of usury of excess belongs to prohibiting means rather than ends.

The Seventh Cause:

Taking a weak Hadīth as evidence or adopting faulty reasoning.

This is very common. An example of taking a weak Hadīth as evidence is when some scholars stated that the Tasbīh prayer is recommended. The manner to perform the Tasbīh prayer is by offering two Rak'ahs (units of prayer), reciting Al-Fātihah in both, making Tasbīh (saying: Subhānallah) fifteen times

as well as while bowing and prostrating, etc. I am not aware of further details about it since I do not believe it to be from the Shariah. Other scholars believe the Tasbīh prayer is a disliked religious innovation mentioned in a Hadīth that is not authentic. Imam Ahmad (may Allah have mercy upon him) is one of those who adopted that opinion. He said: "It was not authentically reported from the Prophet (may Allah's peace and blessings be upon him)."

Shaykh al-Islam Ibn Taymiyyah (may Allah have mercy upon him) said:

"Its Hadīth is falsely attributed to the Messenger of Allah." As a matter of fact, whoever contemplates about this prayer will find it strange even for the Shariah. An act of worship is either beneficial and essential for the heart, and could thus be practiced anytime anywhere, or it is of no benefit and thus could not be practiced. The Hadīth that mentions

the Tasbīh prayer states that one may perform it daily, weekly, monthly, or once in a lifetime, and there is nothing like that in the Shariah. This indicates its oddity in terms of its chain of narrators and wording. Whoever says it is a lie, like Shaykh al-Islam, is right. That is why, Shaykh al-Islam said: "None of the leading scholars said it is recommended."

I gave that example specifically because many men and women ask about the Tasbīh prayer and I fear this religious innovation would become permissible. I am saying that it is a religious innovation, although that is hard for some people,

because we believe that whatever is practiced as part of religion despite not being found in the Qur'an or the Sunnah, is considered a religious innovation.

The same applies to those who adopt faulty reasoning where the evidence used is strong but weak in terms of supporting a certain opinion.

An example of that is what some scholars understood from the Hadīth stating: "A fetus [of animal] is lawfully slaughtered with the lawful slaughtering of its mother." It is known among scholars that the meaning of this Hadīth is that if a pregnant animal is slaughtered in the Shariah-approved manner, then its fetus will need no further slaughtering after being extracted from her because it is dead by slaughtering its mother, so

there is no point in slaughtering it after its death, so its meat is permissible.

Some scholars, however, understood that this Hadīth means that the lawful slaughtering of the fetus should be like that of its mother; by cutting its jugulars and causing its blood to gush out. But this is unlikely

because the blood does not gush out after death.

The Messenger of Allah (may Allah's peace and blessings be upon him) said: "If the blood is caused to gush out and the name of Allah is mentioned thereupon, then eat (from that slaughtered animal)." It is known that blood cannot be caused to gush out after death.

These are the causes that I wished to call attention to, although there are many more. Now, what is our stance on such difference of opinion among scholars?

As I said at the beginning, people started having doubts and are wondering whom to follow because of all types of media; print and broadcast, and because of the difference of opinion among scholars or among those who talk in media.

There are so many who talk nowadays about religious affairs

and that makes people confused and not knowing whom to follow.

Our stance on that difference - and the difference I am referring to is that among scholars whom we

know to be trustworthy in terms of their knowledge and religion and not the so-called scholars

whom we do not consider as real scholars and we do not take their opinions into consideration - our stance regarding those scholars is of two aspects:

1- How did such leading scholars contradict the essential implications of the Qur'an and Sunnah?

The answer to this could be any of the causes of difference that we mentioned above, or those that we did not mention, which are many and which are clear to knowledge seekers, even if they do not have extensive knowledge.

2- What is our stance on following them? And whom should we follow of those scholars?

Should one follow a leading scholar who insists on his opinion, even if it is not the sound opinion; a typical behavior of fanatical followers of Schools of Jurisprudence; or should one follow what he believes to be predominant evidence, even if it contradicts the School of Jurisprudence he belongs to?

The answer is the second choice, because it is obligatory for one who becomes aware of the evidence to follow it, even if he contradicts any of the leading scholars,

as long as he does not contradict the scholars' consensus. Whoever believes that anyone, other than the Messenger of Allah (may Allah's peace and

blessings be upon him) should be followed to the letter in all cases and under any circumstances has attributed characteristics of the divine mission to other than the Messenger of Allah (may Allah's peace and blessings be upon him). The instructions of none other than the Messenger of Allah (may Allah's peace and blessings be upon him) should be followed to the letter; this is unique to him. All others, however, could be agreed or disagreed with.

There is still the problem of: Who is capable of deriving the rulings from evidence?

This is a problem because everyone feels entitled to that, which is not good as a matter of fact. It is true that the objective and the intention are both good, in which one is led by the Qur'an and Sunnah. However, opening the door to all of those who know the evidence, to say whatever they want, even if they are unaware of its meaning, will lead to misinterpreting the Shariah and corrupting people and society. In this regard, people are divided into three categories:

1- A scholar whom Allah has granted knowledge and understanding.

2- A knowledge seeker who has knowledge, but is not yet well-versed.

3- A layman who knows nothing.

The first one has the right to make Ijtihād (personal reasoning). Rather, he is required to state the essential implication of the evidence as he

believes it to be regardless of whoever contradicts him, because he is commanded to do so.

قال تعالى: {الْعِلْمَةُ الَّذِينَ يَسْتَنْبِطُونَهُ مِنْهُمْ} [النساء: 83]،

Allah Almighty said: {...Then the ones who [can] draw correct conclusions from it would have known about it...} [Al-Nisā': 83]

He is from those who can draw conclusions and who know the indications of the words of Allah and His Messenger (may Allah's peace and blessings be upon him).

The second is one whom Allah has granted knowledge, but has not reached the level of the first one. There is no blame on him if he adopts the generalities and what has reached his knowledge. However, he has to be cautious and keen to ask those who are higher than him in terms of knowledge because he is prone to error.

He may not be aware of something that has specified what was general, or that has restricted what was absolute, or that has abrogated what he believed to be precise.

The third is one who possesses no knowledge. It is obligatory on him to ask scholars, as Allah Almighty said:

{فَاسْأَلُوا أَهْلَ الذِّكْرِ إِنْ كُنْتُمْ لَا تَعْلَمُونَ} [الأنبياء: 7]، وفي آية أخرى: {إِنْ كُنْتُمْ لَا تَعْلَمُونَ بِالْبَيِّنَاتِ وَالزُّبُرِ} [النحل: 43-44].

{...So ask the people of the knowledge if you do not know.} [Al-Anbiyā': 7]

In another verse Allah says: {...So ask the people of the knowledge if you do not know. [We sent them] with clear proofs and written ordinances...} [Al-Nahl: 43-44]

It is the duty of such a person to ask, but whom should he ask? There are many scholars in the country and all claim to be scholars or are claimed to be so.

Should he seek the one closer to what is sound and adopt his opinion, or should he ask whomever he wants from those he believes to be scholars? It should be taken into consideration that one of a lower status in knowledge might attain the sound opinion on some issue, whereas the one higher than him might not. Scholars held different opinions in this regard.

Some believe that a layman must ask whomever he thinks to be the most reliable of scholars in his country, because just as one seeks the best physician to treat his physical ailment, he must do the same in this case, as knowledge is the cure for hearts.

So, one must choose to ask whomever he believes to be the strongest in terms of knowledge just like he chooses the best for treating his ailment.

Some scholars, on the other hand, believe that this is not obligatory for the layman because the strongest in knowledge may not necessarily be the most knowledgeable in every single issue. This is

supported by the fact that people, during the time of the Companions (may Allah be pleased with them), would ask the one with lesser knowledge in the presence of the one with more knowledge.

My opinion is that the layman could ask whomever he believes to be better in terms of religion and knowledge, not as an obligation but only as a priority, because the better one might err in that specific issue, whereas the one with lesser knowledge might reach the right opinion. It is better to ask the one who is closer to what is sound owing to his knowledge, piety, and religiosity.

Finally, I would like to remind myself and my fellow Muslims, especially from among the knowledge seekers, not to hasten and give an opinion on any issue without having certain and sufficient knowledge so as not to be attributing lies to Allah.

The mufti (person who issues religious verdicts) is a channel of communication between the people and Allah, who convey the Shariah of Allah. The Prophet (may Allah's peace and blessings be upon him) is authentically reported to have said:

«العلماء ورثة الأنبياء».

“Scholars are the heirs of prophets.”

The Prophet (may Allah's peace and blessings be upon him) said: “Judges are of three types: only one

of them will be in Paradise, and that is the one who knows the truth and judges in accordance with it.”

Moreover, if one is faced with a contemporary issue, it is important for him to flee to Allah with his heart and express his dire need for his Lord to grant him knowledge and understanding, especially when it comes to serious issues that many people are unaware of.

One of our Shaykhs once told me that the one who is asked about an issue should make Istighfār a lot (ask Allah for forgiveness), for Allah Almighty said:

{إِنَّا أَنْزَلْنَا إِلَيْكَ الْكِتَابَ بِالْحَقِّ لِتَحْكُمَ بَيْنَ النَّاسِ بِمَا أَرَاكَ اللَّهُ وَلَا تَكُنْ لِلْخَائِنِينَ خَصِيمًا وَاسْتَغْفِرِ اللَّهَ إِنَّ اللَّهَ كَانَ غَفُورًا رَحِيمًا} [النساء: 105-106]،

{Indeed, We have revealed to you, [O Muhammad], the Book in truth so you may judge between the people by that which Allah has shown you. And do not be for the deceitful an advocate. And seek forgiveness of Allah. Indeed, Allah is ever Forgiving and Merciful.} [Al-Nisā': 105-106]

Making frequent Istighfār entails the elimination of the consequences of sins, which are a cause for forgetting knowledge and for ignorance.

كما قال تعالى: {فِيمَا نَقُضُهُمْ مِيثَاقَهُمْ لَعَنَّاهُمْ وَجَعَلْنَا قُلُوبَهُمْ قَاسِيَةً يُحَرِّفُونَ الْكَلِمَ عَنْ مَوَاضِعِهِ وَنَسُوا حَظًّا مِمَّا ذُكِّرُوا بِهِ} [المائدة: 13].

Allah Almighty said: {So for their breaking of the covenant We cursed them and made their hearts hard. They distort words from their [proper]

usages and have forgotten a portion of that of which they were reminded...} [Al-Mā'idah: 13]

It was reported that Al-Shāfi'i composed a poem saying

that when he complained to Wakī' (his teacher) about his bad memorization,

he advised him to quit sins,

since knowledge is light

and the light of Allah could not be attained by one disobeying Him.

There is no doubt, then, that making Istighfār could possibly be a cause for being granted Allah's support.

May Allah grant me and you guidance and success,

and make us firm with the firm word in this life and in the Hereafter, and may He not let our hearts deviate after being guided, and may He bestow upon us from His mercy, indeed, He is the Bestower.

All praise is due to Allah, Lord of the Worlds,

and may His peace and blessings be upon our Prophet Muhammad, his family and Companions.

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