The Removal of Blame from the Great Imāms: An Annotated Translation of Ibn Taymiyyah’s. Raf al-Malām ‘an al-A’immat al-A’lām

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I

INTRODUCTION

Ahmad b. ‘Abd al-Ḥalīm b. ‘Abd al-Salām b. ‘Abd Allāh b. Abī ’l-Qāsim al-Khīdr b. Mūhammad b. Taymiyyah1 (661-728/1263-1328) is arguably the most distinguished and influential medieval Ḥanbali jurist2 and perhaps one of the most prolific among them.3 He was born in Harrān (present day Turkey) and lived during the era of the first Mamluks (648-784/1250-1382). However, he was forced to move from his native region and take up residence in Damascus due to the Mongol onslaught from the East.4 He lived in turbulent

times when Muslim political fragmentation was clearly visible. Moreover, legal fanaticism and doctrinal laxity prevailed in Muslim lands and he is historically portrayed as someone who sought to rectify both religious and political disparities and deviances which led to open encounters with his contemporaries as well as to long spells in prison.5

Ibn Taymiyyah is often seen through a simplistic anti-rationalist prism, that is, as someone with strict and literal inclinations towards Ḥadith which he over emphasised and preferred to acceptance of broader legal theories and principles. The present text would suffice to undermine that view. Raf al-Malam ‘an al-A’immat al-Ālam is a short text in which the reader observes Ibn Taymiyyah as a jurist par excellence. In this treatise, which has a balanced tone and is couched in erudite language, he proceeds to argue as to why a mujtahid might depart from directly acting upon a hadith text and follow instead his methodological principles (usūl). This forms the basis of his delineating the reasons underlying the disagreements found among Muslim jurists in general and their holding differing legal opinions and proffering divergent arguments in support of those opinions.

It is interesting that Ibn Taymiyyah turned down the request of some of his students to compose a treatise in the Science of Jurisprudence (usul al-fiqh) which would contain all of his jurisprudential opinions and preferences in order to be used as a basis for issuing legal verdicts (fatawa). He justified his refusal by pointing out that rulings on jurisprudential issues are based upon independent reasoning (ijtihād) and there is no harm for the subject of the law (mukalla‘f) to imitate a mujtahid for that purpose.6 Thus, Ibn Taymiyyah did not see the existence of various jurisprudential approaches to be problematic; rather, he believed that the real problem lay in intolerance and fanaticism. In Raf al-Malam, Ibn Taymiyyah pleads for tolerance by identifying the different possible causes for jurisprudential disagreements (ikhtilāf) and seeks to absolve the mujtahid of any blame in committing an error and/or in departing from a hadith in his judgment.

No doubt, Ibn Taymiyyah’s espousal of this position was an outcome of various contributory factors. In what follows, I hope to give to the reader a glimpse of Ibn Taymiyyah’s life and thought which would hopefully provide some insight into the reasons underpinning this sensitivity. The first section of this Introduction will focus on some of the statements of his contemporaries as mentioned in the biographical sources, which reflect their opinions regarding Ibn Taymiyyah’s “natural and acquired attributes.” The next section will present some of the unique features of Ibn Taymiyyah’s scholarship, such

5 See, al-Matroudi, The Hanbali School of Law, 13–16.
6 Al-Bazzār, al-Ālam, 35–37.
as his distinguished knowledge of Hadith and jurisprudence and some of his opinions with regard to legal imitation (taqlid) and ijtihad. The last section will draw attention to some of the salient points in Raf al-Malām in the hope of presenting to the reader the sense and context of this treatise before finally offering a full translation of the original Arabic text.

The biographical sources extol the virtues of Ibn Taymiyyah and biographical works are replete with praise by his contemporaries, especially his students, and also his successors. He was fortunate that his father Shihāb al-Dīn 'Abd al-Ḥālim b. 'Abd al-Salām (d. 682/1283) and his grandfather Majd al-Dīn 'Abd al-Salām b. 'Abd Allāh (d. 652/1254)—both distinguished legal scholars in their times—greatly contributed to his early learning. So thorough and intense was his early training that by the age of twenty or even earlier, he was issuing legal opinions within the Ḥanbali School and according to the statement of the great Ḥanbali jurist, Muḥammad b. Ḥamd Ibn 'Abd al-Ḥādi (d. 744/1345), who was also Ibn Taymiyyah’s student, the people of Damascus, where Ibn Taymiyyah lived, were dazzled by the intensity of his intelligence and acumen. It is no wonder that while he was still a child, he was described as a “precocious genius.”

Ibn Taymiyyah had a phenomenal and prodigious memory and there would be very little he would read and fail to commit to memory. Often he would memorize a large number of works in various branches of learning, and ‘Umar b. ‘Alī al-Bazzār (d. 749/1348) remarked that it was rare to find a book which Ibn Taymiyyah did not know about. His sharp and systematic memory enabled him to acquire knowledge of encyclopaedic proportions and Muḥammad b. ‘Alī al-Zamalkānī (727/1327) notes that when Ibn Taymiyyah would answer a question in one of the traditional disciplines, the listener would think that he did not know any other discipline due to the depth and comprehensive nature of his answer. Even a cursory reading of Ibn

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7 His students include the most pre-eminent figures such as Ibn Kathir, al-Dhahabi, Ibn Qayyim al-Jawziyyah, al-Bazzār and Ibn ‘Abd al-Ḥādi.
8 Indeed, the sources also document the more controversial episodes of Ibn Taymiyyah’s life especially his doctrinal conflicts and legal interpretations that have been discussed and treated elsewhere. See, Al-Matroudi, The Hanbali School of Law, 20–23 for an account of his admirers and detractors.
9 Ibn ‘Abd al-Ḥādi, al-‘Uqūd, 3.
11 See, Ibn al-‘Imād, Shadharatā al-Dhahab, 8: 144.
13 Ibid.
14 Ibid., 7. For further details of the testimony of leading scholars regarding the breadth of his knowledge, see, Ibn ‘Abd al-Ḥādi, al-‘Uqūd, 3–26; al-Bazzār, al-A’lām, 22–31 and al-Karmi, al-
Taymiyyah’s works reveals a thoroughness and an encompassing attention to detail, possible only on the basis of extensive knowledge and sharp understanding of the various Islamic and non-traditional disciplines.\textsuperscript{15} As a leading scholar replied when asked about him, “I saw a man as though all the sciences [were laid] open before his eyes and he took as he wished.”\textsuperscript{16}

Ibn Taymiyyah not only read theology, Arabic grammar and semantics as well as exegesis (\textit{taafsīr}), but he also became proficient in Algebra, logic, history and philosophy. As a result, he wrote polemical treatises refuting Aristotelian philosophy that had seeped into the academic life of his day.\textsuperscript{17} Although it must be mentioned that thanks to his studies in logic, there are undeniable traces of its influence especially in his systematic presentation of arguments and his use of explicit reasoning from established premises.

Aside from the tributes paid to Ibn Taymiyyah’s intellectual and scholarly qualities, the biographical sources also mention the strength and resolve of his character. Al-Bazzār, for example, describes Ibn Taymiyyah as “one of the most courageous people who he had not seen the likes of.”\textsuperscript{18} This courage is reflected in his long periods of detention in both Cairo and Damascus. Although Ibn Taymiyyah’s detentions were extremely distressing for him, it is obvious that he was able to turn them to his advantage by concentrating on scholarly pursuits of teaching and writing.\textsuperscript{19} This is perhaps

\textit{Kawākih}, 55–72, 80–82.


\textsuperscript{17} See, Muḥammad b. ‘Alī al-Dāwūdī, \textit{Tabaqāt al-Mufassirin} (Beirut: Dār al-Kutub al-Ilmiyyah, 1983), 1: 49. Ibn Taymiyyah composed several works to refute Greek logic, most notable being his, \textit{Naqūd al-Manṭiq} (Cairo: Maktabat al-Sunnah al-Muḥammadiyyah, n.d.) and volume 9 of his, \textit{Majmū‘ Fātāwā Shāykh al-Islām Aḥmad Ibn Taymiyyah} (Riyadh: Dār ‘Ālam al-Kutub, 1991), [henceforth referred to as “Fātāwā”]. It is not difficult to see the reason underpinning his scathing attack as it was through inheriting Greek logic that Islamic philosophers espoused the doctrine of the eternity of the world; an incongruent account of the nature and attributes of God; the Platonic cosmological hierarchy with mediatory roles of the ‘Intelligences’; a deficient notion of prophethood; the creation of the Qurān, etc. All these teachings, as espoused by the philosophers, stood in stark contrast to what Ibn Taymiyyah perceived to be the Sunnī or orthodox position that was dictated by the text of the Qurān and the Sunnah. See, Wael B. Hallaq, \textit{Ibn Taymiyyah against the Greek Logicians} (Oxford: Clarendon Press, 1993), xii.


\textsuperscript{19} This can be seen clearly through the vast number of extant treatises. Ibn ‘Abd al-Hādī, \textit{al-‘Uqūd}, 51; Ibn Rajab, \textit{al-Dhayl}, 2: 403, he observes that the majority of Ibn Taymiyyah’s books were written in prison often without any references to consult and use. See also, al-Bazzār, \textit{al-}
what Ibn Taymiyyah meant when he declared, “There is great benefit in it,” when he was informed of his imprisonment. Indeed, apart from the opportunity provided by these detentions to concentrate on scholarly pursuits, there is no doubt that these detentions also added to his fame.

Important for the comprehension of the present text is the fact that Ibn Taymiyyah was especially noted for his knowledge in Hadith and fiqh. With regard to Hadith, Ibn Taymiyyah was not a jurist who had just a smattering of it. Far from that, he had studied it under several eminent Hadith specialists (muhaddithun) of his time. So extensive was his knowledge of Hadith that it evoked the admiration of the most distinguished Hadith scholars. Muhammad b. Ahmad al-Dhahabi (d. 748/1348), for example, remarked that if someone claimed that if any particular hadith was not known to Ibn Taymiyyah, it could not be counted as a hadith, his claim will be true. In addition, Yusuf b. ‘Abd al-Rahmân al-Mizzi (d. 742/1341) asserts that he had not seen anyone more knowledgeable than Ibn Taymiyyah in Qur’ân and Sunnah.

Ibn Taymiyyah’s vast knowledge of Hadith had a significant impact on his opinions. It enabled him to declare in plain terms that a correct text does not conflict with correct reason, and that several opinions in some of the schools of law had “no supporting proofs,” or at best, they were supported

A’lâm, 24; Muhammad b. ‘Ali al-Shawkâni, al-Baḍr al-Ṭalî’ bi Maḥāsin man ba’d al-Qarn al-Sâbî’ (Cairo: Matbâ’at al-Sa‘dah, 1348), 1:72, he states that if Ibn Taymiyyah had not been confronted by all the excessive trials (mihan) he would have presented more research. It could be also safely concluded that if Ibn Taymiyyah had not faced all these mihan, he would have probably directed more of his attention to other areas such as jurisprudence and its fundamentals or Hadith.

20 Al-Karmi, al-Kawâkib, 149.
21 Al-Bazzâr, al-A’lâm, 78.
22 See, Ibn al-‘Imâd, Shadharât al-Dhahab, 8:145.
24 For instance, he used to hold the opinion that when the water is less than qullatayn, it becomes impure as soon as it meets dirt even if its smell, colour or taste has not been changed. However, later on he changed his opinion concerning this issue as we find him denying the use of qullatayn as a measure. This change in Ibn Taymiyyah’s opinion seems to reflect the change in his knowledge of hadith, as he later arrived at the conclusion that the hadith of qullatayn is not correct, going further to say that it was attributed incorrectly to the Prophet (peace be on him), and these are instead the words of one of the companions. For other examples, see, Ibn Taymiyyah, Fatūwâ, 21:512–518, 22:71–72 and for another example, see, ‘Ali b. Muhammad al-Ba‘lî, al-Itkhtiyârât al-Fiqhîyyah min Fatâwâ Shaykh al-Islâm Ibn Taymiyyah (Riyadh: Maktabat al-Riyadh al-Ḥadîthah, n.d.), 16, [henceforth referred to as “al-Itkhtiyârât”].
25 Ahmad b. ‘Abd al-Ḥâlim Ibn Taymiyyah deals with this issue in various parts of his treatises; see, for instance, his work Dar’ Ta‘âruḍ al-Aql wa l-Naqîl (Beirut: Dâr al-Kutub al-‘Ilmiyyah, 1997).
26 For some examples of this point, see, Ibn Taymiyyah, Fatūwâ, 22:595–596 and 26:270.
by “weak evidences.”

On several occasions, Ibn Taymiyyah’s knowledge of Hadith helped him to deal with the problem of the existence of conflicting jurisprudential opinions. He asserts that in some cases, all the different opinions have “correct bases,” i.e. they are grounded in Hadith and therefore all of these opinions are accurate but all of them ought not to be simultaneously acted upon. He perceived differences of opinion on legal issues as instances of legal diversity rather than of conflict.

Moreover, Ibn Taymiyyah’s knowledge of the terminology of Hadith influenced his legal judgements in several disputes involving jurisprudential specifics. Ibn Taymiyyah asserts that the reason behind these disputes lay in the misunderstanding of some of the complex and ambiguous terminologies related to and found in Hadith texts.

With regard to fiqh, Ibn Taymiyyah possessed a broad and detailed understanding of the statements and jurisprudential terminology of the eponym of the Ḥanbali School of law, Ahmad ibn Ḥanbal (d. 241/855). There are, for instance, several rulings issued by Ḥanbali scholars which Ibn Taymiyyah has argued to be “incorrect.” He attributes this to the misunderstanding of Ahmad ibn Ḥanbal’s statements and words and his discussions and clarifications were to have a lasting influence on the subsequent discussions within the school. He does add, however, that at times

27 For instance, in the Ḥanbali School there is an opinion which states that the recommended prayer before the obligatory zuhr prayer is four rak‘āt. This opinion is attributed to Ahmad ibn Ḥanbal and held and mentioned by several leading Ḥanbali scholars, such as Abū ‘l-Khaṭṭāb Mahfūd b. Ahmad al-Kulawdānī and Muhammad b. al-Ḥusayn al-Ājurri (d. 360/971). This opinion is based on the hadith reporting that the Prophet used to pray four rak‘āt before the ‘Asr prayer. See, ‘Ali b. Sulaymān Al-Mardāwī, al-Insāf fi Ma‘rifat al-Rājīj min al-Khilāf ‘alā Madhhab al-Imām Ahmad ibn Ḥanbal (Beirut: Mu‘assasat al-Ta‘rikh al-‘Arabi, n.d.), 2: 177. Ibn Taymiyyah states that this ruling is not accurate as it is based on a weak hadith. He asserts that there is no correct hadith which supports this ruling. For other examples of this point, see, Ibn Taymiyyah, Fatāwā, 21: 512.

28 Ibn Taymiyyah gives various examples of this point, see for example, his, Fatāwā, 22: 335-355.

29 For example, in the issue of the type of ḥajj which was performed by the Prophet (peace be on him), Ibn Taymiyyah attributes the existence of the conflicting opinions in this issue to a number of factors, one of which is the misunderstanding of some terms mentioned in hadiths dealing with this point. See, Ibn Taymiyyah, Fatāwā, 22: 292-293 and 26: 61-79. For further examples of this point, see, ibid., 21: 122.

30 For examples of this point, see, al-Ba‘lī, al-Ikhtiyārāt, 54, 76, 211-212. Another point to note is that Ibn Taymiyyah thinks that this problem i.e. the misunderstanding of Ahmad’s words, was not only confined to Ḥanbali scholars, he points out that even some Imāms, such as Ibn ‘Abd al-Barr of the Maliki School also misunderstood some of Ahmad's texts. See for example, Ibn Taymiyyah, Fatāwā, 22: 589.
Hanbali scholars who did correctly understand the statements and words attributed to Ahmad, nevertheless failed to correctly apply them to the legal issues under consideration. He further adds that internal discussions in the school were conflated with newly introduced matters that were presumably ascribed to Ahmad ibn Hanbal but on later scrutiny were not entirely accurate and conversely, Ibn Taymiyyah asserts that there are some issues where it is claimed that Ahmad did not refer to them but the fact was that he did make such reference.

After a scrutiny of Ibn Taymiyyah’s discussions of jurisprudential matters it becomes evident that in most cases he would follow a particular method to reach his jurisprudential preferences, or what is known as *al-ikhtiyārāt al-fiqhiyyah*. Ibn Taymiyyah would investigate the various narrations and opinions of his school in a meticulous and comparative manner and would thereafter prefer to a particular opinion.

Ibn Taymiyyah’s preferences within Hanbali jurisprudence provided the scholars of his school with the platform upon which they could still be identified as Hanbalis and at the same time adhere to “the most correct opinion” in relation to the various jurisprudential issues. Thus, on account of his extensive knowledge in *Hadith* and *fiqh*, Ibn Taymiyyah was ideally placed to critically examine conflicting reports and pass judgements on internal conceptual and methodological disputes of the school.

Ibn Taymiyyah’s opinions with regard to *taqlid* and *ijtibād* also had a significant impact on his jurisprudential thought. This influence is evident in his position towards the different schools of law.

Ibn Taymiyyah had reservations about having excessive bias towards one particular scholar, stating that it is difficult to argue for one particular scholar as being “the best scholar” because every scholar has strengths where his opinion outweighs those of others. Also, he mentions that any strict preference for a single scholar is no more than a generalisation which is often based on presumption if not mere caprice. This, according to him, leads to contentious disagreements in the Muslim community which is expressly forbidden in Islam.

Instead of such preference between scholars, Ibn Taymiyyah insists upon tolerance between the various schools of law. He cites the example of the Prophet’s Companions who accepted different views, declaring that the

31 See, for instance, ibid., 23: 280.
32 See, for instance, ibid., 23: 278.
34 Ibid., 22: 293.
various parties would be rewarded for their independent reasoning.\textsuperscript{36} Therefore, Ibn Taymiyyah concludes, the same principle must be applied to the opinions of other scholars. Those who prefer to imitate al-Shafi‘i, for instance, should not disapprove of those who prefer to follow Ahmad ibn Hanbal and vice versa.\textsuperscript{37} He asserts that no one can impose the opinions of his school on others.\textsuperscript{38} Furthermore, he insists that partial conversion from one school of law to another in some situations is even obligatory. For instance, if the imitator (muqallid) knows that certain opinions in his school are in opposition to clear texts and that correct opinions are held by another school of law, he must follow what is correct even though it is not from his own school.\textsuperscript{39}

Similarly, Ibn Taymiyyah asserts that the existence of these “incorrect opinions” in a school of law should not be used as an excuse to attack those scholars. As he explains, this is because those scholars were mujtahids. In reality, however, these scholars were targets of strong attacks from lay people and even some scholars. In an attempt to counter this antagonism, Ibn Taymiyyah composed Raf‘ al-Malām in which he defends the mujtahid scholars and clarifies the reasons underlying their rulings which were thought to be in opposition to the texts. Ibn Taymiyyah argues that the leading scholars did not deliberately intend to oppose the sunnah of the Prophet (peace be on him) in any manner. It is clear that he is limiting his assertion to those scholars whom he describes as “generally accepted by the Muslim ummah.”\textsuperscript{40} He justifies his assertion in arguing further that the leading scholars did not deliberately oppose the sunnah of the Prophet (peace be on him) by the fact that “they are in definite agreement on the obligation of following the Prophet (peace be on him), while it is allowed that the words of anyone other than the Prophet can [either] be accepted or rejected.”\textsuperscript{41}

In his attempt to absolve a mujtahid from any blame of contravening direct textual evidences, Ibn Taymiyyah proposes three most likely reasons which lead to disagreement and at times even conflict among jurists: the first rests upon the mujtahid’s belief in the non-existence of a hadith text cited as evidence by his opponent. The second is that the mujtahid may have thought that the implication of the hadith (textual or otherwise) had no connection

\textsuperscript{36} See, ibid., 22: 292–293.
\textsuperscript{37} Ibid.
\textsuperscript{38} Ibid., 27: 300.
\textsuperscript{41} Ibid., 9.
with that aspect of the question that he was investigating. Finally, the mujtahid may have thought that the ruling contained in the hadith had actually been abrogated.\textsuperscript{42}

Ibn Taymiyyah argues that the first reason for the conflict can exist in several ways. Firstly, it may have been the case that the scholar had no knowledge of the hadith text. According to Ibn Taymiyyah, this is the predominant reason for the divergence between the text and the ruling derived by a mujtahid. This, as he explains, is because of the vastness of the Sunnah. Ibn Taymiyyah does not think that this reason was confined to the era before the canonical collections of Hadith as these collections do not contain all of the Sunnah. Moreover, it is difficult for every scholar to know all the hadiths contained within these canonical collections, for their number is very large.\textsuperscript{43}

Secondly, a scholar may believe that the hadith that was cited was not actually uttered by the Prophet (peace be on him) because the mujtahid had received the hadith through an unreliable chain of transmission (isnād). This second case, as Ibn Taymiyyah observes, existed more widely after the first generation of Islam, because during the first century there was no need for studying chains of transmitters contrary to the successive generations where the need for caution and rigorous evaluative methods were required owing to extensive fabrication of the hadiths.\textsuperscript{44} Thirdly, it is possible that the hadith was known to the mujtahid but he did not base his ruling on it either because he forgot the hadith itself or did not consider it to be relevant.\textsuperscript{45}

The second cause of disagreement, according to Ibn Taymiyyah, is that the mujtahid may have failed to know the indications of the text relevant for the ruling. This may be because of the existence of some “strange" and anomalous (gharīb) words or complex and ambiguous terms in that text which prevented the mujtahid from comprehending the intended meaning. It may also be due to the fact that the mujtahid might have concluded that there is in fact no indication that exists in the text relevant for the corresponding ruling.\textsuperscript{46}

The difference between this last point and the previous one, as Ibn Taymiyyah explains, is that in the latter case the scholar did not extract the ruling on this text because of his understanding and his application of the principles of jurisprudence, whereas in the former case what prevented the scholar from implementing the relevant text is his failure to grasp the full

\textsuperscript{42} See, ibid.
\textsuperscript{43} See, ibid., 9-18.
\textsuperscript{44} See, ibid., 18-19.
\textsuperscript{45} See, ibid., 22-25.
\textsuperscript{46} See, ibid., 25-29.
implication of the text required for an informed extraction of a ruling.\(^{47}\)

The third and final cause for conflict, according to Ibn Taymiyyah, is that the mujtahid did not act upon a hadith text because it was in conflict with something that led him to believe in its weakness or that he thought that the ruling it contained had been abrogated.\(^{48}\)

Ibn Taymiyyah is aware that a mujtahid unquestionably has the right to apply his legal principles (\(\text{\$us\text{"{u}}\text{\$}\)) whereby all legal texts are cumulatively understood and assessed within a dynamic framework of interpretation and analysis as opposed to a static approach of merely taking the hadith text \textit{prima facie} without any other consideration. This constitutes an additional cause for a hadith text to be discarded in favour of methodological principles. The additional factors that Ibn Taymiyyah mentions are, firstly, that one mujtahid may discard the hadith cited as evidence by another mujtahid on the consideration of the locality of transmitters within the corresponding isnād. Thus, some scholars from Hijāz reject transmitters or narrations from parts of ‘Irāq or Shām as legitimate evidence unless they initially originated from Hijāz. Ibn Taymiyyah comments that “most people, however, do not use this as a basis for deeming such a hadith weak (\(\text{\textit{d}a\text{"{i}}}\text{\text{"{f}}}\)). So whenever the chain of transmitters is sound, the hadith is authoritative, regardless of whether it is Hijāzi, ‘Irāqi, Shāmi or from other regions.”\(^{49}\)

The second additional cause of disagreement is generated by the different conditions stipulated by different scholars for the acceptance of the singular reported hadith (\(\text{\textit{khabar al-wāhid}}\)).\(^{50}\)

The third additional factor for creating conflict is what Ibn Taymiyyah characterises as “perceived consensuses.” He defines this form of consensus as “not being aware of any dissenting view.” This, according to Ibn Taymiyyah, led to the reluctance of some scholars in following some of the textual proofs due to the fear of opposing this “perceived consensus.”\(^{51}\)

More importantly, Ibn Taymiyyah deals in Rāf\(^{\circ}\) al-Malām with the result of \(\text{\textit{ijtihād}}\) and its link to the promise of a reward or the threat of a punishment. He asserts that even when there exist good reasons to necessitate that a person deserved that the threat of punishment be applied, it might still not come about due to the existence of a legal or justifiable impediment (\(\text{\textit{māni}}\)), and there are various types of impediments which he regards as unlikely to be lacking as far as the mukallaf is concerned, such as repentance (\(\text{\textit{tawbah}}\), asking

\(^{47}\) See, ibid., 29.

\(^{48}\) See, ibid., 31.

\(^{49}\) Ibid., 21-22.

\(^{50}\) See, ibid., 22.

\(^{51}\) See, ibid., 31-33.
for forgiveness (istīghfār), good deeds that erase sins (al-ḥasanāt al-māḥiyah li 'l-
sayyi'āt), tribulations (balā' al-dunyā) and calamities (maṣā'ib).52

Ibn Taymiyyah argues that the function of a threat is to clarify that the deed associated with the threat is a reason for the punishment mentioned in the threat and therefore the prohibition of that deed and its reprehensible nature could be inferred from the threat. However, he thinks that it is not justified to conclude that if the reason for the threat was to be found in someone, then this would necessitate the occurrence of its effect which is the punishment. He relates this to the fact that the effect depends on the existence of its conditions and the removal of all of its impediments.53

These opinions of Ibn Taymiyyah regarding the issues of ijṭihād, taqlīd and jurisprudential disputes (ikhtilāf) have undoubtedly influenced his understanding of Islamic law as well as his relation with the Ḥanbali school and other schools. This can be seen clearly from his use of independent reasoning and his “corrections” of various rules and rulings within these schools, especially the Ḥanbali school. Also, these opinions led to Ibn Taymiyyah’s readiness to acknowledge his own mistakes54 and to have a forgiving attitude towards his opponents.55 It is likely that this consideration and sensitivity stems from the fact that Ibn Taymiyyah had studied under a great number of scholars who belonged to various schools and thus acquired a diverse legal training and education.56 This cumulative experience, no doubt, shaped Ibn Taymiyyah’s legacy on Islamic law, one which calls for more intellectual tolerance among jurists and one which is clearly manifest from the following text.

Raf' al-Malām should, however be read in the context of the time in which Ibn Taymiyyah lived. This was an era of staunch taqlīd in which entrenched allegiances and affiliations and even a degree of fanaticism were quite widespread, not only among the lay public but also in the circles of the learned.

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52 See, ibid., 42.
53 See, ibid.
55 See, al-Karmi, Al-Kawākib, 139, 174.
56 See, Henri Laoust, Naṣāriyyāt Shuykh al-Īslām Ibn Taymiyyah fi al-Siyāsah wa 'l-Ijtimā' (Cairo: Dār al-Ansār, 1977), 204.
II

TRANSLATION

of

Raf' al-Malām 'an al-A'immat al-A'lam

In the Name of Allah, the Beneficent, the Merciful

Praise is due to Allah for His bounties. I testify that there is no deity except Him; He has no associates in the heavens and the earth. And I testify that Muḥammad is His slave and Messenger and the seal of His Prophets—peace be on him and his family and Companions, continuous prayers and blessings until we meet him.

To proceed:

It is obligatory upon Muslims, after being loyal to Allah the Exalted and His Messenger (peace be on him), to be loyal to the believers, as the Qur'ān declares, especially to the scholars who are the inheritors of the Prophets (peace be on them), whom Allah made like stars that serve as guides through the darkness of the land and the oceans. The Muslims are in agreement as regards their guidance and understanding. For prior to the advent of our Prophet Muḥammad (peace be on him), the scholars of the earlier [Prophets'] communities were less inclined to good, whereas the scholars of the Muslim community (ummah) were deemed to be the finest as they carried the mantle of knowledge bequeathed by the Prophet (peace be on him) and they are the revivers of whatever was forgotten of his Sunnah. Through them the Qur'ān is established, and they act upon it; the Qur'ān speaks through them, and they articulate whatever the Qur'ān contains.

It should be known that none of the Imāms who are generally accepted by the Muslim ummah would intentionally oppose the Prophet (peace be on

57 It should be indicated that the two terms (al-Nabi and al-Rasūl), have been both rendered into English as "Prophet" due to the fact that in Raf' al-Malām the author uses them interchangeably as in most cases in the text they are both used in association with the Prophet Muḥammad (peace be on him) and therefore the discussion regarding the difference between al-nabi and al-rasūl among theologians would not arise in this case. Also, the term (al-kitāb) referring to the Qur'ān has been rendered into English as the Qur'ān rather than 'the Book' as the latter might lead to confusion especially if the reader is not aware of such technical terminologies.
him) in any aspect of his Sunnah, whether small or great. This is because they are in profound agreement regarding the obligation of following the Prophet (peace be on him). They believe that the words of anyone other than the Prophet (peace be on him) may be accepted or rejected. If any of their opinions was found to be in opposition to an authentic hadith, then there must be a just excuse for that and these excuses fall under one of the three categories:

Firstly, that the scholar did not believe that the Prophet (peace be on him) [actually] uttered the hadith.

Secondly, that the scholar did not think that the issue in question was [actually] intended to be covered by the Prophetic hadith.

Thirdly, that the scholar believed the ruling [contained in the hadith] to have been abrogated.

These three categories can be further divided into a number of more specific reasons:

The first reason: that the hadith did not reach the concerned scholar; and whoever is not aware of a hadith, is not held responsible for not knowing its ruling. Thus, if the hadith did not reach him and he gave a judgement regarding a particular question on the basis of the apparent meaning of a verse or another hadith or on the basis of analogy or the presumption of continuity (istiṣḥāb), then his opinion might fortuitously agree with the hadith in one case while opposing it on another.

This is the most likely reason for most of what is found in the opinions of the Pious Predecessors (al-salaf al-ṣāliḥ) that oppose certain hadiths. Indeed, it is simply not possible for any single member of the ummah to know all the hadiths of the Prophet (peace be on him). The Prophet (peace be on him) used to speak, issue legal verdicts (fatāwā), pass judgement, or perform an action which was heard or seen by those who were present at the time and they, or some of them, would convey it to others who would in turn convey it to others until it would reach whomever Allah (the Most High) willed among the scholars from amongst the Companions of the Prophet, their Followers and those who came after them.

And in another assembly, such matters would be heard or seen by those who were absent from the first gathering and they [too] would convey it to whomever they were able to. As a result, the first group would know what was not known by the other and vice versa and so the scholars among the

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58 See, Muḥammad b. Idris al-Shāfiʿi, al-Risālah (Cairo: Matbaʿat al-Ḥalabī, 1939), 74, 104.
Companions and those who came after them would surpass each other in the relative levels of their knowledge or the quality of it.

[As we have said], it is absolutely impossible to claim that any one person could encompass all of the hadiths of the Prophet (peace be on him) and this can be illustrated through the example of the Righteous Caliphs, who were most knowledgeable regarding the affairs of the Prophet (peace be on him), his Sunnah and other matters relating to him, especially [Abū Bakr] al-Ṣiddiq (may Allah be pleased with him), who was never far from the Prophet whether at home or on his travels. In fact he was with him most of the time to the extent that he used to stay with him at night to deal with the Muslims’ affairs.59 This is also true of ‘Umar b. al-Khaṭṭāb (may Allah be pleased with him) and you will find many hadiths in which the Prophet (peace be on him) said, “I entered with Abū Bakr and ‘Umar” and “I went out with Abū Bakr and ‘Umar.”60 Despite this, when Abū Bakr (may Allah be pleased with him) was asked about the grandmother’s share of inheritance, he replied, “There is nothing prescribed for you in Allah’s Book, nor do I know anything for you in the Sunnah of the Prophet of Allah (peace be on him), but I will ask people [about it].” So he did ask them and al-Mughirah b. Shu‘bah and Muḥammad b. Maslamah came forward and testified that the Prophet (peace be on him) had given her a sixth.61 This sunnah was also reported by ‘Imrān b. Ḥuṣayn.62 Thus, even though none of these three Companions was of the same stature as Abū Bakr and the other caliphs, they were the only ones who knew this particular sunnah about whose practice the ummah has since agreed upon.63

Similarly, ‘Umar b. al-Khaṭṭāb (may Allah be pleased with him) did not know the sunnah relating to “seeking permission” (isti’dhān) [before entering a

dwellings] until he was informed about it by Abū Mūsā al-Ashʿarī who cited the Anṣār in support of his narration, and this is while 'Umar was more knowledgeable than the one who related this *sunnah* to him. Likewise, 'Umar did not know that the wife inherits from the blood money of her deceased husband. Instead, he thought that the blood money belonged to the *aqilah* until al-Ḍāḥḥāk ibn Sufyān al-Kilābī, who was appointed by the Prophet (peace be on him) as a governor of certain regions, wrote to 'Umar informing him that the Prophet (peace be on him) gave the wife of Ashyam al-Dībābī (may Allah be pleased with him) [a share] of her deceased husband's blood money. As a result, 'Umar abandoned his opinion in favour of this *hadith* and said: "If I had not heard this *hadith*, I would have judged contrary to it." 66

'Umar also did not know the ruling of *jizyah* for the Magians [followers of a fire-worshipping religion] until he was informed by 'Abd al-Raḥmān b. 'Awf (may Allah be pleased with him) that the Prophet (peace be on him) said, "Treat them as you treat the People of the Book." Moreover, when 'Umar reached Sargh [near Tabūk] and was informed that a plague had stricken al-Shām [the region of greater Syria], he consulted the early Muhājirūn who were with him at the time. He then asked the Anṣār, then he asked those who accepted Islam at the time of the conquest of Makkah, and every one of them told him what they thought and none of them was able to inform him of a *sunnah* from the Prophet (peace be on him) until 'Abd al-Raḥmān b. 'Awf came and told him of the *sunnah* of the Prophet (peace be on him) with regard to plagues, when he said: "If the plague appears in a land while you are in it,

64 See, al-Bukhārī, *Ṣaḥīḥ*, Kitāb al-Istīʿādān, Bāb al-Taṣlīm wa l-Istīʿādān Thalāṭahān; Muslim b. al-Ḥaẓījāj al-Naysābūrī [henceforth referred to as "Muslim"], *Ṣaḥīḥ Muslim* [henceforth referred to as "Ṣaḥīḥ"], Kitāb al-Ādāb, Bāb al-Istīʿādān.

65 There is a discussion about who is meant by *aqilah* in Islamic law. One of the opinions is that it is the paternal uncles and their children, however distant they are in descent. Another opinion states that *aqilah* includes the father, sons, brothers and every agnatic heir. Ibn Taymiyyah holds a different opinion from these two. He asserts that *aqilah* is "every individual who helps and supports the person at the time and the place." See, al-Matrudi, *The Hanbali School of Law*, 118–119.


68 The emigrants from Makkah to Madinah.

69 The Madinah followers of the Prophet (peace be on him) who granted him refuge after the *hijrah* to Madinah.
do not depart in flight from it and if you hear that it has smitten a land, do not go towards it."\(^{70}\)

On another occasion, 'Umar discussed with Ibn 'Abbās (may Allah be pleased with both of them) the problem of one who has experienced doubts concerning his prayer [i.e. whether he had missed an element of it or not] and 'Umar was not aware of any *sunnah* pertaining to this matter. He was then informed by 'Abd al-Rahmān b. 'Awf that the Prophet (peace be on him) said that "the one performing the prayer should ignore his doubt and base his action on whatever is certain to him."\(^{71}\) Finally, 'Umar was once travelling on a particularly windy day. He asked: "Who can tell us [from the Prophet] something with regard to the wind?" Abū Hurayrah (may Allah be pleased with him) said: "I was informed of 'Umar's request while I was at the back of the group so I spurred my riding camel to hasten forward until I reached him and narrated to him what the Prophet (peace be on him) ordered when the wind would rage."\(^{72}\)

Thus, these were the issues that were not known to 'Umar until he was informed about them by those who were not his equal in rank. Indeed, there were other issues in which 'Umar knew nothing from the *sunnah* as a result of which he pronounced a judgement, or issued a *fatwā* on them in a way that might not have been in [direct] conformity with the *Sunnah*. An example of this is his judgement on the blood money for fingers, namely that they are different from one another based on their different functions, whereas both Abū Mūsā and Ibn 'Abbās (may Allah be pleased with them), both of whom were lesser in degree of knowledge than 'Umar, knew the Prophet's saying, "This and this are equal,"\(^{73}\) meaning the thumb and little finger. This *sunnah* reached Muawiyah (may Allah be pleased with him) during the time of his rule, and he judged in accordance with it and the Muslims felt that it was incumbent upon them to follow it. The fact that 'Umar was not aware of this *hadith* was not considered a shortcoming on his part.

Another example is 'Umar and his son 'Abd Allāh (may Allah be pleased with both of them) as well as other notable scholars prohibiting the wearing of perfume by the one who is about to enter into a state of ritual consecration (*ihram*) and by the one who is about to go to Makkah for circumambulation

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\(^{73}\) See al-Bukhārī, *Ṣahih*, Kitāb al-Diyāt, Bāb idhā 'Aḍḍa Rajulan fa Waqa'at Thanāyāḥ.
of the Ka'bah (tawfāf) after throwing the stones at Jamarat al-'Aqabah, not being aware of the hadith of 'A'ishah (may Allah be pleased with her) in which she said: "I perfumed the Prophet (peace be on him) for his ihram before he entered into the state of ihram, and I also perfumed him before performing the hajj circumambulation (tawfāf al-ifādah) (i.e. after the first state of ihram elapses)."74

‘Umar used to allow the one who wears leather socks to wipe over them until he takes them off without any restriction [as to time]. This was adhered to by a group of the early pious predecessors because the hadith regarding the time restriction on wiping that was authenticated by some of those who were not their equal in knowledge had not reached them.75 This hadith was narrated from the Prophet (peace be on him) through various authentic channels of transmission.76

The same holds for ‘Uthmān (may Allah be pleased with him) who did not know that a woman should spend the waiting period following the death of her husband in the house where she lived before his death, until al-Furay'ah bint Mālik—Abū Sa‘īd al-Khudrī’s sister (may Allah be pleased with both of them)—related to him that when her husband passed away the Prophet (peace be on him) told her “Remain in your house until you fulfil the period stated in the Qur’ān for this matter [four months and ten days].” ‘Uthmān (may Allah be pleased with him) then acted upon this hadith.77

He was also once given meat [i.e. while he was in a state of ihram] from a hunt which was hunted specially for him as a gift and upon sitting down to eat it ‘Ali (may Allah be pleased with him) informed him that the Prophet (peace be on him) rejected the meat [from a hunt] given to him as a present.78

And likewise ‘Ali (may Allah be pleased with him) who said: “When I used to hear a hadith from the Messenger of Allah (peace be on him), directly Allah made me benefit from all that He desired me to benefit from, whereas if anyone else would relate something to me, I would make him swear an oath and if he did, I would believe him. Abū Bakr told me—and he was being truthful—and he mentioned the well-known hadith related to the Prayer of Repentance (ṣalāt al-tawbah).”79

74 See, al-Bukhārī, Sahih, Kitāb al-Ḥājj, Bāb al-Ṭib ‘ind al-Ihram; Muslim, Sahih, Kitāb al-Ḥājj, Bāb al-Ṭib li ‘l-Muḥrīm ‘ind al-Ihram.
76 See for example, Muslim, Sahih, Kitāb al-Ṭahārah, Bāb al-Tawqīf fi ‘l-Maḥṣ.
78 See, Ahmad, Musnad, 1: 100.
79 See, Abū Dāwūd, Sunan, Kitāb al-Ṣalāḥ, Bāb fi ‘l-Istighfār; Ibn Mājah, Sunan, Kitāb Iqāmat al-
'Ali and Ibn 'Abbās (may Allah be pleased with them), among others, issued a fatwā that the woman whose husband died while she was pregnant, must observe the longer of the two specified waiting periods. The sunnah of the Messenger of Allah (peace be on him) regarding Subay'ah al-Aslamiyyah (may Allah be pleased with her) had not reached them. Upon the death of her husband Sa'd b. Khawlah, the Prophet (peace be on him) told her that her waiting period continues to the point of the child's delivery.  

Finally, 'Ali, Zayd, Ibn 'Umar and others (may Allah be pleased with them all) issued a fatwā regarding the woman who authorizes her husband to determine her dower (al-mufawwidah) that, "if her husband passes away, she is not entitled to any dower." The sunnah of the Messenger of Allah (peace be on him) pertaining to Barwa' bint Wāshiq (may Allah be pleased with her) had however not reached them.  

This is a vast subject area in which a tremendous amount of narrations is related from the Companions of the Prophet (peace be on him). As for that which is related from those other than the Companions it runs into the thousands. This was the position with regard to the Companions who were the most knowledgeable, the most grounded in jurisprudence, the most mindful of Allah and the best among the Muslim community. As for those who came after them, they are lesser in rank and it goes without saying that some of the corpus of the Sunnah was hidden from each and every one of them. Therefore, whoever believes that every authentic hadith reached each and every one of the Imāms or indeed any one specific Imām, commits a grave and abhorrent error.  

It should not be said that the hadiths have all been documented and compiled and therefore it is unlikely that they would have been unknown. This is because the well-known collections of Hadith were compiled after the demise of the Imāms who are followed (may Allah have mercy on them all). Also, it is not acceptable to claim that the hadiths of the Prophet (peace be on him) are limited to those found in the specific collections of Hadith. Moreover, even if this were to be the case, not everything in these collections would be known by a single scholar, and this is highly unlikely to be the case with any

80 See, al-Bukhārī, Sahih, Kitāb al-Tafsīr, Bāb wa ūlāt al-Ahmūl; Muslim, Sahih, Kitāb al-Ṭalāq, Bāb Inqīḍa' al-Iddah.  
81 See, Abū Dāwūd, Sunan, Kitāb al-Nikāh, Bāb fī man Tazawwajā wa lam Yusami Sidāqān ḥattā Māt; Ṣibīl Majāh, Sunan, Kitāb al-Nikāh, Bāb al-Rajul Yatazawwaj wa lā Yafriḍ laḥā; al-Tirmidhi, Sunan, Kitāb al-Nikāh, Bāb mā Jā' fī l-Rajul Yatazawwaj al-Mara'ah fī Ya'mūt 'Anhā qabla an Yafriḍ laḥā. The ruling according to these narrations is that the widow will be granted her full dower.
person; indeed it is possible that a scholar might possess a large number of collections of Ḥadīth and yet not be aware of all of the ḥadīths contained within them. In fact, those who came before the emergence of these Ḥadīth collections were by far more knowledgeable in the Sunnah than those who came after them. This is because a large part of the Sunnah that had reached them and had been authenticated by them might not have reached us except through unknown transmitters or a severed chain of narration or might not have reached us at all. Thus, it can be said that their “Ḥadīth compilations” were preserved in their hearts, which contained several times as much as that which is found in the physical collections and the one who is well versed in this issue will have no doubts about this [point].

Nor should it be said that whoever does not have knowledge of all of the ḥadīths should not be considered a mujtahid. This is because if we were to stipulate as a condition of the mujtahid that he must be aware of all of the Prophet’s words and actions relevant to legal rulings then there would not be a single mujtahid in the Muslim community. Rather, the mujtahid’s objective should be to know most of the ḥadīths so that only a few of the details will escape him and hence he might only contradict the few details that had [not] reached him.

The second reason: that the ḥadīth had reached the mujtahid but its authenticity, in his opinion, was not established. This may be because the [direct] transmitter of the ḥadīth to him or the one before him or any one of the transmitters in that ḥadīth’s chain of transmission is considered by him to be unknown [or unidentifiable], or of doubtful reputation (muttaham), or deficient in memory. It may also be because the ḥadīth did not reach the mujtahid with a continuous chain but rather with a severed chain of transmitters, or that the transmitter was not precise when transmitting the wording of the ḥadīth even though the same ḥadīth was transmitted to other scholars by trustworthy transmitters with an uninterrupted isnād. This might be because the one whom the mujtahid considered unknown was known by others to be trustworthy or that it was narrated by other than those whom he considered to be impugned authorities (majrūḥūn), or that the ḥadīth was narrated through another uninterrupted chain, or that some of the memorizers among scholars of Ḥadīth narrated the wording of the ḥadīth meticulously, or that there were shawābīd [i.e. other Companions transmitting supporting narrations] and mutāba’at [i.e. the ḥadīth being narrated by another chain of transmitters reaching back to one of the transmitters after the Companion] indicating the authenticity of that narration.

82 The word (not) is missing from the printed text of all available published editions of Raf’ al-Malām ‘an al-ʿimmat al-ʿlām.
This [second reason] was also very common at the time of the first generation of Successors (tābi‘īn) and the second generation of Successors (tābi‘ī‘l-tābi‘īn) up to the time of the well known Imāms, more so than the first generation. Indeed, it is more common than the first reason. Hadiths were widespread by then and well known but they reached many of the scholars through weak channels, even though they had reached others through comparatively authentic channels. Therefore, they were considered to be an authoritative source (hujjah) because they were transmitted through these authentic channels, and yet they were not known to those who opposed them because of the weak transmissions available to them. This is why we find that many scholars suspended judgement on account of a hadith until its authenticity was properly established, so they would say: “my opinion in this issue is such and such. However, if there is a hadith narrated with regard to this [containing another ruling], and if its authenticity was to be established, then my ruling would be in accordance with it.”

The third reason: that the hadith was deemed to be weak on the basis of the ijtihād of one scholar while others disagreed with him, regardless of whether the narration of the hadith arrived through another channel or whether the correct opinion was that of this mujtahid, his opponents, or both of them, according to those who say that “every mujtahid is correct.”

There can be various causes for this:

One of them is that one scholar believes that a transmitter of the concerned hadith is weak whereas the other believes him/her to be trustworthy. And the science related to identifying transmitters is a vast one. It is possible that the correct mujtahid is the one who believes that the transmitter is weak, because he was aware of an impugning factor. Also, it is possible that the correct opinion is with the other mujtahid because he knew that the cause was not an impugning factor, either because it did not actually fall into a valid class of impugning factors or that the transmitter had an exemption which precludes the effect of the impugnation upon him.

This is another vast subject area and the scholars specialising in the transmitters and their conditions [i.e. the study of the reporters of Hadith] have their agreements and disagreements with regard to this issue, just as the scholars specialising in all of the other sciences do.

Another reason is that the mujtahid does not believe that the transmitter heard the hadith from the narrator on the authority of whom he is transmitting it whereas another mujtahid believes that the transmitter did

indeed hear the hadith [from the narrator on the authority of whom he is transmitting it]. And the causes bringing this about are well-known.

Yet another reason is that the transmitter has two states: a state of soundness and a state of confusion (uṣūrāb), e.g. when a transmitter becomes confused or when his books are burnt down. Therefore, all that he transmitted while in a sound state is [considered] correct and all that he transmitted while in a state of confusion is [considered] weak. As a result, it might not appear clear to one mujtahid as regards the state in which the hadith was transmitted whereas another mujtahid was certain that the transmitter related that hadith while in his sound state.

Another reason is that the transmitter forgets that he related the hadith and is hence unable to remember it at a later date or he actually denies that he ever related the hadith. Hence, one mujtahid might believe that this is a defect necessitating the abandonment of the hadith whereas another mujtahid might believe that it is acceptable to cite that hadith as evidence—and this topic of dispute [too] is well-known.

A further reason is that many of the Hijazi scholars hold the view that the ‘Iraqi or Shamī hadith should not be cited as an evidence unless it originated in Hijaz, to the point where some of them remarked: “Give the hadiths of the people of ‘Iraq the same status as the narrations of the People of the Book; neither affirm them nor disbelieve them.” And another [Hijazi] was asked: “Is the following chain of transmission authoritative: Sufyān from Mansūr from Ibrāhīm from ‘Alqamah on the authority of ‘Abd Allāh b. Mas‘ūd?” The reply was: “If it did not originate in Hijaz, then no.”

This is due to the fact that they believed that the people of Hijaz had mastered the Sunnah, so that none of it had escaped them, whereas there was confusion regarding the hadiths of ‘Iraq which necessitated a suspension of judgement on them. Some of the ‘Iraqis, on the other hand, think the same about the hadith of the people of Shām. Most people, however, do not use this as a basis for weakening a hadith. So whenever the chain of transmitters is sound, the hadith is authoritative, whether it is Hijāzī, ‘Iraqī, Shamī or from other places. Abū Dāwūd al-Sūjistānī (may Allah have mercy upon him) compiled a book on the narrations of hadiths known to be related only by individuals from certain regions (masāri‘), in which he clarified those hadiths which could only be found with continuous chains of transmission in those particular regions and not in other regions. This includes hadiths from Madinah, Makkah, Tā‘īf, Dimashq, Himṣ, Kūfah, Baṣrah and others. There are reasons other than these as well.

The fourth reason: that the scholar stipulates some conditions for the acceptance of hadith which was transmitted by one trustworthy memorizer
but is opposed by others [who do not accept such conditions]. For instance, some stipulate that the *hadith* must be compared to what is in the Qurʾān and the established *Sunnah*; or that the transmitter must be a jurist if his narration happens to oppose that which can be deduced from textual principles (*qiyās al-ʾusūl*); or the stipulation by some that the narration of the *hadith* needs to be widespread and known if it deals with an issue known to have occurred frequently at the time of the Prophet. There are other conditions, well-known within their respective places [of discussion].

The fifth reason: that the *hadith* has reached the scholar and its authenticity has been established to him, but he forgets the narration. This can occur with regard to the Qurʾān and the *Sunnah*. For instance, there is the well-known *hadith* related on the authority of ‘Umar (may Allah be pleased with him) that he was asked about the person who is in a state of major ritual impurity but finds no water while he is traveling. ‘Umar said he must not pray until he finds water. ‘Ammār b. Yāsir (may Allah be pleased with him) then said, “O Commander of the Faithful! Do you not remember when you and I were [herding] camels and we were both in states of major ritual impurity and I rolled in the dust and performed prayer while you did not perform your prayer? And [do you not remember] that I mentioned this to the Prophet (peace be on him) and he replied, “It was enough for you to do it in this way” and then he struck the ground with his hands and then wiped his face and hands with his palms?” ‘Umar then said: “O ‘Ammār, fear Allah!” So ‘Ammār said, “If you so wish, I will not narrate it,” upon which ‘Umar remarked, “We hold you responsible for what you claim.”

Thus, this is a *sunnah* which was witnessed by ‘Umar (may Allah be pleased with him) and one which he later forgot. Moreover, he even issued a *fatwā* opposing it and even when ‘Ammār (may Allah be pleased with him) sought to remind him he failed to remember. Despite this, he did not accuse ‘Ammār of lying but instead [implicitly] ordered him to narrate this *hadith*.


87 See, Muslim, *Ṣaḥīḥ*, Kitāb al-Ḥayḍ, Bāb al-Tayyammum.
More illustrative of this point is [the occasion] when 'Umar delivered a speech to the people in which he stated, "No one must exceed the dowry paid by the Prophet (peace be on him) to his wives and the dowry of his daughters [and if he does] I will return it [to the payer]." A woman then said to him: "O Commander of the Faithful! Why do you deny us what was given to us by Allah?" Then she recited (... and you have given one of them a heap of gold, then take not from it anything). Following this 'Umar retracted his opinion and accepted hers for he had memorised the verse but had forgotten [its relevance].

This is similar to what was narrated about 'Ali who reminded al-Zubayr during the battle of al-Jamal about something which the Prophet (peace be on him) had entrusted to them; so al-Zubayr remembered and gave up the fighting because of it.

Incidents of this kind [i.e. of learning a text and then forgetting it] are frequent among both the early and later scholars.

The sixth reason: that the scholar does not know the implication of the concerned hadith. This can be due to the fact that a term mentioned in the hadith was considered by him to be unfamiliar (gharib), such as [the terms]: al-muzabananah, al-mukhabarah, al-muhaqalah, al-mulamasah, al-munabadhah, al-gharar and other such unfamiliar terms about the interpretation of which scholars might disagree. An example is the hadith transmitted by a chain attributed back to the Prophet (peace be on him): "No divorce and manumission [of a slave] in a state of igblaq." Igbliq was interpreted [by some] to mean 'coercion' while those who disagreed were not [fully] aware of this [linguistic] interpretation.

It may sometimes also be because the meaning [of the hadith] in the scholar’s dialect and customary usage which was not [in conformity with] that language employed by the Prophet (peace be on him), so the scholar would

88 Qur'an 4: 20.
correlate it to what he understood from the term in accordance with his
tongue, basing this on the principle that a word retains its original meaning
[until proven otherwise].

This is like some of the scholars who heard some reports (āthār) which
allow a concession with regard to nabidh, so they thought it referred to some
types of intoxicants; due to the fact that this term (i.e. nabidh) was used for
those [intoxicants] in their native tongue, whereas in reality this term refers to
that which was left in the water to sweeten it and was consumed before it
attained any intoxicating qualities. This meaning is made clear through several
authentic hadiths.92

Similarly, some scholars encountered the term ‘khamr’ in the Qur’ān and
Sunnah and they thought it referred to intoxicants made from grapes only on
the basis that this was the meaning of the term in their dialect, but there are
authentic hadiths which confirm that the term khamr is a name for every
intoxicating drink.93

Sometimes the scholar did not know the implication of the hadith because
the term [used in that text] was either a homonym, ambivalent in its meaning,
or one that hovered between the literal and metaphorical sense, so the scholar
took what he thought is the nearest [to the intended meaning] even though the
intended meaning may turn out to be the other meaning of the term.

Again, some of the Companions understood the “white thread and the
black thread” [in the verse dealing with the time for beginning the fast]94 to
refer to an actual rope (habl).95 Others also understood ‘hands’ in the verse
[dealing with dry ablation] {and rub therewith your faces and hands}96 to cover
the entire arm up to the armpit.97

[The scholar] sometimes [did not know the implication of the hadith]
because its import was obscure (khaft). This is due to the fact that the
indications that can be drawn from a statement are often very diverse and so
people naturally differ in their ability to comprehend them and to grasp their
meaning depending on what Allah has bestowed upon them.

Then a person might know the general implication of a text but he might
not recognise that this specific case is included within that general context. It is

92 See, for instance, Muslim, Sahih, Kitāb al-Ḥajj, Bāb Wujūb al-Mabīt bi Minā; Abū Dāwūd,
Sunan, Kitāb al-Ashribah, Bāb Šīfat al-Nabidh.
93 See, Muslim, Sahih, Kitāb al-Ashribah, Bāb Bayān anna Kull Muskir Khamr.
94 Qur’ān 2: 186.
95 This verse was revealed in the context of setting the time for beginning the fasting which is at
dawn time.
96 Qur’ān 4: 43.
97 This verse was revealed in the context of dry ablation (al-tayammum).
possible that he might recognise that this specific case is included under that
general context but then he forgets this later on. This is such a vast subject that
can be encompassed by none but Allah. It is also possible that a person
commits a mistake by deriving from a statement what is not conceivable
within the Arabic language which the Prophet (peace be on him) was sent
with.

The seventh reason: that the scholar thought that the hadith did not carry
any specific implication (dalālah).

The difference between this reason and the one before it is that in the
previous [instance] the scholar did not know that specific implication whereas
in this reason he knows the specific implication but believes that it ought not
to be applied based on some principles he had which invalidated that
implication, regardless of whether he was in reality right or wrong.

Examples of those principles include: that the scholar believes the
specified general text (al-ʾamm al-makhṣūs) is not a valid proof, or that the
implication (al-mafšūm) is not a valid proof,98 or that a general ruling
established for a specific cause is applied only where that cause exists, or that a
general imperative does not necessitate obligation or immediate compliance, or
that the alif and lām [constituents of the Arabic definite article] do not denote
generality, or that negated verbs neither negate its essence nor all of its rulings,
or that the required meaning (al-muqtaḍā) does not necessitate a general
import and as a result he would not claim the existence of a general import in
the omitted elements (al-muḍmarāt) and the effective cause [al-maʿānī].99

And likewise with other examples which would need a lengthy discussion
were we to delve into them, as indeed half of the disputes that have arisen in
usūl al-fiqh come within this field [i.e. the implications]; even though the
absolute principles [i.e. Qurʾān and Hadith] do not encompass all of the
disputed implications. One of the questions in this topic is whether certain
sub-categories of classes of implications are included under the main class or
not. For instance, a scholar might believe that a certain term is ambivalent
(mujmal) due to the fact that it is a homonym (mushtarak), and there is
nothing to indicate the preference of one of its two meanings over the other,
or other [such] examples.

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98 For details related to the discussion on the authority of the implications, see, ‘Abd al-Malik b.
‘Abd Allāh al-Juwayni, al-Burhān fi Usūl al-Fiqh (Cairo: al-Wafā’, 1418 H), 1: 298; Idem, al-
Ibn Qudāmah, Rawdat al-Nādir wa Jannat al-Munāẓir (Riyadh: The Imām University, 1399),
262; al-ʿAmidi, al-ībād, 3: 73.

(Cairo: Maṭbaʿa al-Madani, 1964), 81.
The eighth reason: that the scholar deems that implication of the text to be opposed by something indicating that it could not have been so intended. Examples include a general term being opposed by a specific one, an absolute term (al-mušlaq) by a qualified one (al-mugayyad), an absolute imperative by that which negates it, or the literal (al-ḥaqiqah) one by that which indicates a metaphor (al-majāz), and so on. This is also a vast subject; for indeed the conflict between the numerous implications of a phrase and the task of giving preference to some of them over others is like a wide ocean.

The ninth reason: that the scholar thinks that the ḥadith is opposed by contrary evidence which is accepted by all scholars, such as a Qurʾānic verse, another ḥadith, or consensus, thereby indicating the ḥadith’s weakness, abrogation, or interpretation, if it is amenable to interpretation. This is of two types:

First: that the scholar believes that the contrary evidence is preferable (rājib) in general, leading to one of the three possibilities [that is, the weakening of the ḥadith, its abrogation, or its interpretation away from the undesirable meaning] without specifying any one of them.

Second: that the scholar specifies one of the three, so he believes that the proof is abrogated or interpreted away. There is the possibility, however, that he might commit a mistake regarding the abrogation by considering the later evidence to be the earlier one. Alternatively, he might err in interpretation by understanding the ḥadith in a way which its wording does not permit, or where there is something extraneous which rules out that interpretation.

And if the new evidence was to oppose the earlier evidence in general terms, there might be a possibility that the opposing evidence does not give rise to the meaning which the scholar understood. It is also possible that the opposing ḥadith is not equal in strength to the first one in terms of the authenticity of its chain of transmitters and the clarity of its text (matn). The same points and others apart from them could of course also be said for the first ḥadith.

In most cases the claim of a consensus is actually no more than the absence of knowledge about any opposing opinion. And we have found among the distinguished scholars those who arrived at certain opinions on the basis of the non-existence of any contrary opinion, even though the apparent meaning of the evidence necessitates, according to them, other than that opinion. It was unthinkable, however, for that scholar to espouse an opinion which was not known to have been held by any earlier scholar, despite knowing that the people disagree with that view, to the extent that some scholars qualify their opinion by saying, "If there is a consensus on this issue then it is the most deserving to be followed. If not, I think the ruling with
regard to this issue is such and such.”

An example of this is the statement of the one who says, “I do not know anyone who allowed the testimony of a slave” whereas the acceptance of it is narrated from ‘Ali, Anas, Shurayh, and others. Another is the saying, “It is agreed that the partially freed slave does not inherit” whereas this right of inheritance is narrated from ‘Ali and Ibn Mas‘ūd (may Allah be pleased with them) and there is a hasan hadith from the Prophet (peace be on him) to that effect. And finally, “I do not know of anyone who made obligatory the prayer upon the Prophet (peace be on him) in the prayer” whereas its obligation is narrated from Abū Ja‘far al-Bāqir.

This is due to the fact that the ultimate aim for many scholars is to know the opinions of the scholars who were their contemporaries within their region while not knowing the opinions of other scholars. We also find many of the early scholars who only knew the opinions of the Madinans and Kūfans, and many later scholars only knew two or three opinions from amongst those of the reputed scholars, while anything outside this was considered by them to be opposed to the consensus because they did not know of any statement to the contrary [from a reputed scholar] even though they always heard views opposing what they knew.

It will not be possible for such a person to use a hadith opposed to this alleged consensus, because of his fear that this will lead to opposing consensus or that he believes that it does actually oppose the consensus, whilst [in his mind] consensus is the greatest of evidences. This is the extenuating reason of many people in many cases where they did not adhere to the obvious import of the evidence. Some of them in reality can be excused, whereas others cannot be excused. This is also true with regard to the aforementioned and later reasons.

The tenth reason: [the scholar thought that] the hadith was opposed by evidence indicating the hadith’s weakness, abrogation, or contrary interpretation, whereas his view that this is a contrary evidence is not shared by other scholars, or even by those who belong to his group, or the contrary evidence is not in reality the prevalent one.


101 See for example, al-Bukhārī, Ṣahīh, Kitāb al-Shahādat, Bāb Shahādat al-Imāmah, and ‘Abid.


An example of this is of the approach of many of the Kūfans who, when an authentic hadith is opposed by the apparent meaning of a Qur'ānic text, believe that the apparent Qur'ānic text, such as one expressing generality, is given preference over the explicit meaning of a hadith.

A scholar might consider something to be apparent which is not in reality apparent; this is because there are many potential implications of a statement. So, as a result, the hadith of “the witness and the oath”¹⁰⁴ was rejected by the Kūfans [on the basis that it was in opposition to an apparent Qur’ānic text], even though other scholars know that there is nothing in the apparent Qur’ānic text to prevent giving judgement in favour of someone on the basis of one witness and the claimant’s oath. And if it should be the case [i.e. even if an apparent Qur’ānic text opposing this hadith was to be found], then, according to these scholars the Sunnah is the ‘interpreter’ of the Qur’ān. And there are well known statements from al-Shāfi‘ī regarding this principle. Also, Aḥmad [ibn Ḥanbal] has his well known book on the refutation of the opinion of those who claimed the sufficiency of apparent Qur’ānic texts (zāhir al-Qur’ān) without the need to interpret such texts with the Sunnah of the Prophet (peace be on him). He mentioned in it evidences which the limitation of space prevents us from mentioning here.

And another example of this is to reject the hadith (al-khabar) which specifies the general meaning of a Qur’ānic text, or which qualifies an absolute Qur’ānic text, or adds to the Qur’ānic ruling. The belief of those who say this is that adding to a text, as well as qualifying an absolute text, is a form of abrogation, and specifying a general text is also [a form of] abrogation.

Another example concerns a group of the Madinans who oppose authentic hadiths in preference to the practice of the people of Madinah, on the basis that they (i.e. ahl al-Madinah) must have been in agreement not to act upon those hadiths, and their agreement is a proof which is given preference over the hadith. For instance, they did not act upon the hadiths related to the right of withdrawal from transactions (khiyār al-majlis)¹⁰⁵ on the basis of this principle. Most scholars, however, affirm the existence of disagreement among the Madinans on this issue [that is, regarding the right of withdrawal from transactions] but state that even if the Madinans were in agreement and they were opposed by other scholars [who are supported by Hadith evidences], then the most authoritative source would be the Ḥadīth.


¹⁰⁵ See, Muslim, Sahīḥ, Kitāb al-Buyū‘, Bāb Thubūt Khiyār al-Majlis.
Another example is that of some people of the two cities (Madinah and Kūfah) opposing some hadiths with explicit analogy (qiyās jalī) arguing that general principles cannot be refuted by such hadiths.

And so on with similar areas of dispute regardless of whether the scholar opposing the hadith is right or wrong. So, these ten reasons are clear.

It is possible in many cases that the scholar has a proof for not acting upon a hadith which we are not aware of because the ways of comprehending knowledge are manifold and we cannot know all of what is in the hearts of the scholars. The scholar might have mentioned his proof or might not have, and if he were to mention it, it may or may not have reached us; and even if it was to reach us we may or may not comprehend the thrust of his argument, irrespective of whether his proof was in reality correct or not.

However, if we allow this possibility [that the proof supporting a mujtahid's argument is unknown to us], it is not permitted for us to turn away from an opinion whose authority is established by an authentic hadith and is followed by some people of knowledge for another opinion proclaimed by another scholar who might possibly have an answer to that proof, even if he was more knowledgeable [than the first scholar]. This is due to the fact that the opinions of scholars are more prone to error then the shari' evidence itself. The shari' evidences are Allah's proof against all of his servants and this is not the case with regard to the opinion of the scholar. Indeed, it is impossible for the shari' evidences to contain error if they are not contradicted by other similar evidence and this cannot be said for the opinion of a scholar.

And if practicing this [i.e. following the opinion of a scholar in the face of an opposing shari' evidence] were to be allowed, then none of the evidences which accept this possibility [i.e. being open to ijtiḥād] will remain as such.

However, the purpose [of what we mentioned earlier] is that the scholar might have had a valid excuse for not following the shari's evidence, and we are excused for not following his opinion. And Allah (Glorified and Exalted is He!) says: *(This is a people that have passed away; they shall have what they earned and you shall have what you earn, and you shall not be called upon to answer for what they did.)*

And Allah (Glorified is He!) also said, *(And if you have a dispute concerning any matter, refer it to Allah and the Messenger if you are (in truth) believers in Allah and the Last Day.)*

It is not permitted for anyone to oppose an authentic hadith of the Prophet (peace be on him) and give preference to the opinion of any human being. On one occasion, when Ibn 'Abbās (may Allah be pleased with him and

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106 Qur'an 2: 134.
107 Qur'an 4: 59.
his father) was asked by a man about an issue, he answered with a *hadith*. The man responded, ‘[But] Abū Bakr and 'Umar said such and such [with regard to that issue],’ Ibn ‘Abbās said: ‘You are about to be struck by stones from the sky! I say to you that the Prophet (peace be on him) said such and such, and you reply, ‘[But] Abū Bakr and ‘Umar said such and such’!”

If it is accepted that some of the reasons mentioned above could cause a scholar to not follow a *sharī‘* evidence, and if an authentic *hadith* is found which contains permissibility, prohibition or another ruling, it is not permissible to believe that a scholar who did not adhere to it (whose reasons for departing from the text have been given above) should be punished because he made the prohibited permissible or vice versa, or that he gave judgement on the basis of what was not revealed by Allah. Similarly, if a *hadith* contains a threat, by the mention of a *la‘n*, anger or punishment, or something similar, then it is not permitted to say that the scholar, who permitted such an action or undertook it, would fall within the purview of that threat. We know of no disagreement among the scholars of the *ummah* with regard to this issue except something narrated from some of the Baghdadī Mu'tazilites such as Bishr al-Marrīs and his like who alleged that those among the mujtahids who make a mistake would be punished on account of this mistake. This is because the one who commits a prohibited action would be liable for the threat only if he was aware of the prohibition or if he was able to obtain that knowledge and failed to do so. As for those who are brought up in the *bādiyyah* [remote places away from civilisation], or are new converts to Islam and who commit a prohibited action without being aware of its prohibition, they will not be sinning, and they cannot be punished with prescribed punishments (*budūd*) even if they did not base their action on *sharī‘* evidence. Therefore, *a fortiori*, those who were not aware of the prohibiting *hadith* and based the permissibility of an action upon *sharī‘* evidence are more deserving to be

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excused. This is why such a scholar is rewarded and praised because of his independent reasoning. Allah (the Exalted) says: \textit{(And remember David and Solomon, when they gave judgement in the matter of the field into which the sheep of certain people had strayed by night: We did witness their judgement. To Solomon We inspired the (right) understanding of the matter: to each (of them) We gave Judgement and Knowledge).}^{111}

So Solomon was distinguished for his understanding [in this case] while both were praised for [having] sound judgement and knowledge. In the two \textit{Sahih}s of al-Bukhārī and Muslim it is narrated on the authority of 'Amr b. al-‘Āṣ (may Allah be pleased with him) that the Prophet (peace be on him) said, “When a judge exercises independent reasoning and gives the right judgement, he will have two rewards, but if he errs in his judgement, he will still have earned one reward.”^{112}

Therefore, it is clear that the mujtahid, despite his error, is rewarded because of his \textit{ijtihād} and his mistake is forgiven due to the fact that arriving at the correct opinion on every occasion is either impossible or highly unlikely. And Allah the Exalted says, \textit{(And Allah has not laid upon you in religion any hardship)}^{113} and He said, \textit{(Allah desires ease for you, and He does not desire for you difficulty).}^{114}

In the two \textit{Sahih}s of al-Bukhārī and Muslim it is narrated that the Prophet (peace be on him) said to his Companions in the Year of the Trench, “None of you should pray the ‘\textit{Asr}’ prayer until you reach Banū Qurayyāh” and so when it was time for ‘\textit{Asr}’ prayer and the companions were still on their way, some of them said, “We will not pray (‘\textit{Asr}’ prayer) until we arrive at Banū Qurayyāh [i.e. even if the time for ‘\textit{Asr}’ prayer elapses].” Others said that this was not the intended meaning and they prayed ‘\textit{Asr}’ prayer while on the way and the Prophet found no fault with either of the two groups.\textsuperscript{115}

The first group held to the generality of the communication (\textit{‘umūm al-khitāb}) and therefore they considered the lapse of the appointed time [for the Prayer] as being included under that generality. The other group felt they had the evidence necessitating the exclusion of this [the lapse of the appointed time] from the general import of the communication. They understood the command to be an encouragement to them to make haste in reaching those

\begin{footnotesize}
\begin{enumerate}
\item[111] Qur‘ān 21: 78–79.
\item[113] Qur‘ān 22: 78.
\item[114] Qur‘ān 2: 185.
\end{enumerate}
\end{footnotesize}
that the Prophet (peace be on him) had taken under siege.

This is an issue upon which there is a well known disagreement among the jurists, namely, "Can the general be particularised by analogy?" (hal yu/khass al-umūm bi 'l-qiyyās). However, [my view is that] those who prayed on the way were more correct in what they did.

Similarly, when Bilāl (may Allah be pleased with him) sold two slaught of one type of dates for one slaught of another type of dates, the Prophet (peace be on him) ordered him to return it116 [on the basis that this was a transaction involving ribā] but he did not indicate that Bilāl came within the sphere of the rulings for consuming ribā such as depravity (tafsiq), condemnation (al-la'n) and sternness (taghib), because Bilāl had not been aware that this transaction was prohibited.

Also, 'Adī b. Ḥātim and a group of the Companions (may Allah be pleased with them) thought that the Qur'ānic verse {...until you can identify the white thread from the black thread}117 referred to [the literal meaning of the word al-khayfat] i.e. the white rope and the black rope. So one of them would leave two strings near his pillow, one white and the other black, and would eat until he could identify one from the other. Upon learning of this, the Prophet (peace be on him) said to ‘Adi, "Your pillow seems to be very large! It is only the whiteness of the dawn and the blackness of the night."118

Therefore, the Prophet (peace be on him) indicated by this that ‘Adi had not correctly comprehended the meaning of the verse, yet the Prophet did not attribute to him the censure of one who did not observe the fasting of Ramadān, even though it is one of the major sins.

In contrast [to this] are those who gave a fatwā to a man who had a head injury (in the skull) that he had to wash the whole of his body [i.e. due to being in a state of major ritual impurity] so he did. He died as a result and the Prophet (peace be on him) said, "They killed him; may Allah kill them! Should not they have asked if they did not know? Indeed, the cure for ignorance is inquiry."

Hence these people committed a mistake without [proper] ijtihād as they were not from among the people of knowledge.


118 See, al-Bukhārī, Ṣābih, Kitāb al-Tafsīr, Bāb wa Kulū wa‘shrabū; Muslim, Ṣābih, Kitāb al-Ṣiyām, Bāb Bayān ann al-Dukhul fi ’l-Ṣawm Yaḥṣulu bi Ṭulū‘ al-Fajr.

Another example is that the Prophet (peace be on him) did not impose retaliation, blood money or expiation upon Usâmah b. Zayd when he killed the person who had testified that “There is no God but Allah” in the battle of al-Huraqât.¹²⁰ Usâmah believed that it was permissible to kill him on the basis that his Islam was invalid, even though it is clear that his killing was unlawful. The salaf and the majority of the jurists acted upon this when they concluded that the rebels would not be liable for retaliation, blood-money or expiation, in cases such as shedding the blood of innocent people, which they legitimated on grounds of some plausible reason (ta’wil sâ’igh), they [rebels] will not be held responsible even though the killing and fighting they engaged in were prohibited.¹²¹

The aforementioned condition for the applicability of a threat does not need to be repeated in every communication because the knowledge of it is well known and established in the hearts.

This is just like the promise [of reward] for carrying out a good deed is prefaced upon its being done with sincerity for the sake of Allah and that the deed was not rendered void by apostasy. This condition, also, is not mentioned in every hadîth which promises a reward for an action.

And even when the conditions necessitating the applicability of a threat are present, the threat might be removed through the existence of an impediment (mâni‘). There are various types of such impediments, including repentance, asking for forgiveness, good deeds that erase sins, tribulations and calamities, the intercession of someone whose intercession is accepted and the mercy of the Most Merciful.

It is only when all of these impediments are lacking—and this will not be the case except with regard to the one who was arrogant, rebellious and fled from Allah in a way similar to that of a camel straying from its people—that the threat will be duly applicable to him. This is because the main function of a threat is to emphasise that the deed in question is a cause for the punishment mentioned in the threat, thus creating the inference that the deed is prohibited and reprehensible. However, to say that the existence of the reason for the threat in any person would necessitate the occurrence of the consequence (i.e. the punishment) is indeed an absolutely invalid conclusion. [As we have explained], the effect of a threat depends upon the presence of its conditions and the removal of all of the impediments to it.

¹²⁰ See, al-Bukhârî, Ṣâhib, Kitâb al-Diyât, Bâb Qawl Allâh Ta’âlâ wa man Ahyâhâ; Muslim, Ṣâhib, Kitâb al-Imân, Bâb Tahrim Qatl al-Kâfir ba’d an Qâl Lâ Ilâh illa ‘llâh.
¹²¹ What Ibl Taqimyyah is discussing here is the issue of giving amnesty to rebels and, as he asserts somewhere else, non-belief is not a legitimate reason for killing.
To clarify this further, there are three possibilities with regard to the one who did not act upon a given hadith:

First: that his leaving the hadith is permissible according to the agreement of all Muslims. An example of this is the person who did not act upon a hadith because he was not aware of it, although he had sought to the best of his ability to find out about it in view of his need for a fatwa or a judicial ruling, as we mentioned in the case of the rightly guided Caliphs and others (may Allah be pleased with them). There is no doubt in any Muslim’s mind that such a person will not be liable for the sin resulting from the neglect of a deed [due to ignorance of the existence of the obligation/prohibition].

Second: that the leaving of the hadith is not permissible. It is highly unlikely that we will find the Imams not acting upon a hadith without a legitimate reason, God (the Exalted) willing.

[Third:] What might be possible, however, is that some scholars may sometimes give an opinion on an issue despite the fact that they did not fully comprehend the issue in question, so they would give their opinion without having fulfilled the proper requirements for giving a ruling on that issue, even though they have some understanding and capacity for ijtihad on it.

[It is also possible that] the scholar is deficient in his deduction, so he would conclude with an opinion without an evidence for such conclusion even though he might have used some form of ijtihad or he would arrive at his opinion before having taken his reasoning to its appropriate conclusion, even where he is basing his opinion on some evidence, or he might be influenced by a custom or predisposition which prevents him from an exhaustive treatment of the issue which would include a study of that which opposes his view, even if he based his opinion on some ijtihad and reasoning. This is due to the fact that the [precise] limit [or extent] to which it is necessary to determine ijtihad might not be precisely identified by the mujtahid.

This is the reason that the scholars used to fear that the recognised form of ijtihad (al-Ijtihad al-Mu'tabar) might not have been achieved on a given issue. This is indeed a sin but the punishment for the sin is only applicable if its performer did not repent. Moreover, the sin can be erased by asking for forgiveness, doing good to others, [undergoing] tribulation, intercession, and Allah’s Mercy.

However, not included under this [i.e. the one who is pardoned] is the one who is overcome and defeated by his desire to the extent that he supports what he knows to be false, or the one who asserts authoritatively the correctness or error of an opinion without knowing the evidence for what he claims, either in affirmation or negation. Indeed, these two are in the Hellfire, as the Prophet (peace be on him) said, “The judges are of three types: two in
the Hellfire and one in Paradise; as for the one in Paradise, it is a person who knew the truth so he judged according to it. As for those who are in the Hellfire: it is the one who gave judgement among the people on the basis of ignorance and the one who knew the truth but gave judgement contrary to it.”

This is also true with regard to the muftis but there are impediments for the applicability of a threat to a specific person, as we explained earlier.

If the occurrence of something like that was theoretically possible from some of the distinguished scholars who are praised by the ummah—even though it is remote (or even non-existent)—he will [surely] not be short of one of the aforementioned reasons [which nullify the threat]. And even if such an occurrence were to be found, this would not diminish their stature as Imāms at all. This is because we do not believe that these people are infallible; rather we accept that they are capable of sin, and at the same time we wish for them the highest of ranks in Paradise because of what they were granted by Allah of righteous deeds and high status, and that they were never persistent in committing sin. We say also that they were not superior in rank to the Companions (may Allah be pleased with them). Furthermore, we say with regard [to the Companions] that which we said regarding the Imāms, in reference to their ijīḥād in fatwās, judgements, and the spilling of blood which occurred between them (may Allah be pleased with them all) and other matters [related to their ijīḥād].

Having said that [the scholar] who did not act upon a given text is not only excused but even rewarded [i.e. for his ijīḥād], this does not prevent us from following the authentic hadiths in respect of which we know of no opposing evidence, neither does it prevent us from believing that it is an obligation upon the ummah to act upon them [i.e. authentic hadiths] and to narrate them—and there is no disagreement among the scholars with regard to this.

Moreover, these hadiths are of two types:

[The first is the definite hadith]; the scholars are in agreement upon the obligation of knowing and acting upon them. This is because both the chains of transmission and the contents (matan) of these hadiths are of definite (qat‘ī) nature. We have certainty that the Messenger of God (peace be on him) uttered such a hadith as well as that he intended by it that specific form.

The second is a hadith of probable, rather than definite, proof.

As for the first type, it is obligatory to believe in its implication in theory and in practice and there is no disagreement in general among the scholars.

with regard to this. They might of course differ with regard to some narrations (al-akhbār), as to whether they have definite chains of transmission or not and whether the implication of a narration is definite or not. An example of this is their disagreement over those solitary hadīths which were either received by the ummah with conviction and belief or which they agreed to act upon. According to the majority of jurists and most Muslim theologians (mutakallimūn), this type of hadith creates certainty, while some groups of the mutakallimūn disagreed.

Similarly, a hadith which is transmitted from various channels, each corroborating the other from certain specific authorities, might lead to certain knowledge for the one who is aware of all those channels [of transmission], the status of the transmitters as well as circumstantial and supporting evidences that encompass the narrations; whereas this certainty might be hidden from another scholar who does not possess this information. This is why the leading scholars of Hadith who possessed both a critical mind and an exacting approach to knowledge (may Allah be pleased with them) might reach absolute certainty with regard to some narrations whereas other scholars might not even believe in that authenticity let alone the certainty of such authenticity.

This is based on the fact that the narrations which lead to certainty do so on occasions from the multiplicity of their reporters and at other times from the status of these narrators; through the act of narrating itself; through the perception of the one who receives the narration or from the content of the narration.

So a narration transmitted by a few transmitters might lead to certain knowledge because of that which is known regarding their piety and strong memory, such that it preserved them from being implicated with lying and error. On the other hand, multiple numbers of the same figures from other transmitters might not lead to such certainty. This is no doubt the correct opinion, and it is the opinion of the majority of jurists and Hadith scholars as well as groups from among the mutakallimūn.

On the other hand, some groups of the mutakallimūn and some jurists adhered to the opinion that if a number of transmitters led to certainty in one case, then this same number of other transmitters must lead to certainty in every case. There can be no doubt that this is utterly incorrect, but this is not the right place to discuss this.

As for the question of the influence of circumstantial evidence that is not related to the transmitters of the Hadith, we have not mentioned it because this circumstantial evidence might lead to certainty by itself. And if it was to lead to certainty by itself then it should not be considered as dependent on the
narration without restriction, just as the narration is not dependent on the circumstantial evidence. Rather, both may lead to certainty at one time or probability at another, and sometimes they may come together to create certainty while at other times certainty may arise from one of them and only probability from the other.

A person who has superior knowledge in the field of narrations might be more certain with regard to the authenticity of some narrations, whereas others who are not of his calibre might not attain that level of certainty.

Sometimes the scholars also differ with regard to whether a given hadith is definitive or not because of their disagreement over whether the hadith is explicit (nass) or apparent (zāhibir) in its implication, and if it is apparent whether it contains something which can exclude the less likely meaning. This too is a vast subject, as some scholars might be convinced of the certainty of implication of some hadiths, whereas others do not share that view with them. The first group might be certain that the given hadith can only admit that particular meaning, or that it is not allowed to interpret the hadith in accordance with the other meaning, or because of some other evidence that leads them to achieve certainty of interpretation.

With regard to the second type, that is the apparent (al-zāhibir) text, all recognised scholars subscribe to the opinion that it is obligatory to act upon it in legal matters. If, on the other hand, it contains a ruling pertaining to belief, such as a threat [of chastisement] and similar notions, the scholars have differed over it:

Some groups from amongst the jurists adhere to the opinion that if a threat of punishment is promised for the commission of an action contained in the narration of a trustworthy solitary transmitter, then it is obligatory to act upon it and to consider that deed as prohibited, but the hadith will not actually be used to establish the threat itself unless the narration was definite in import. The same applies if the content of a hadith was definite [in terms of its authenticity] but only apparent with regard to its implication. The following statement of 'Ā'ishah (may Allah be pleased with her) was understood according to this principle. 'Ā'ishah said to the wife of Abū Ishāq al-Sabī'ī, "Tell Zayd b. Arqam that he has invalidated his jihad with the Prophet (peace be on him) unless he repents." Thus they argued that 'Ā'ishah expressed this threat because she was knowledgeable and certain of it. We, however, are obliged to act upon her narration in establishing the prohibition even though we do not hold this threat of punishment due to the fact that the hadith has only reached us through a solitary narration. These

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123 See for the full text, 'Abd al-Razzāq, Muṣannaf, 8: 185; al-Dāraquṭnī, Sunan, 3: 52.
scholars point out that the threat of punishment is a matter of belief and can only be affirmed through a definite (qat‘i) text. Moreover, if the ruling on the action is the subject of ijtihad, its doer will not be liable to the threat. According to the opinion of this group, the hadiths pertaining to threats can be used to establish the prohibition of deeds generally, but the punishment itself is not established unless the meaning of the hadith is unequivocal.

Another example is the reliance of most scholars upon the variant readings of the Qur'an, the authority of which has been established from some of the Companions (may Allah be pleased with them) even though these readings were not in the 'Uthmanic mushaf (may Allah be pleased with 'Uthmān). These narrations contained practice and theoretical knowledge and were solitary authentic hadiths. They cited these readings to affirm the practice, whilst they did not recognise them as part of the Qur'an due to the fact that recognising them as part of the Qur'an is a theoretical issue which cannot be established except through certainty.

Most of the jurists, however, hold the opinion—and this is also the opinion of the generality of the pious predecessors (salaf)—that these hadiths are authoritative proof in all that they contain of threats because it was the habit of the Companions of the Prophet (peace be on him) and their Successors to affirm threats on the basis of these hadiths, just as they also affirmed acting upon them. They would unequivocally declare in general that the threat contained within these hadiths is applicable to the one who commits such actions. This is widespread in their narrations and fatāwā. Their view is that the threat of punishment falls within those shar'I rulings that can sometimes be established by probable evidence and other times by definite evidence. It is not necessary that there be absolute certainty as regards the threat, but only a belief that is grounded in certainty or a high probability, and this is the case with regard to theoretical rulings.

There is no difference between a person's belief that Allah has prohibited an action and threatened its doer with a general punishment, and his belief that Allah has prohibited an action and threatened its doer with a specific punishment; both of them are ascribed to Allah (the Exalted). Just as it is acceptable to attribute to Him the first category by the use of unrestricted evidence, [i.e. unrestricted in terms of the punishment being unspecified], it is likewise acceptable to attribute to Him through the second type of evidence [which contains a threat of a specific punishment].

Moreover, even if someone were to say that to act upon the threat is more deserving and appropriate, he would be correct. This is why they used to show a degree of leniency in the acceptance of hadiths related to moral exhortation (al-targhib wa 'l-tarhib) that they did not show in the hadiths
related to legal rulings. [It was felt] that believing in the threat encourages the souls to abstain from prohibited matters. If that threat was true, the person would escape the threatened punishment, and if the threat turned out not to be true, and the consequence of that action would be less severe than that which was threatened, then his mistaken belief that the punishment was greater [than what it was in reality] would not harm him, if he were to leave that action. This is due to the fact that if he had believed that the punishment was less than it was [in reality], he could also have been mistaken. This could also be true if he neither affirmed nor denied the extra punishment, he could still be mistaken.

An erroneous limitation of the punishment might lead him to find it easier to commit the prohibited act and as a result become liable for the extra punishment (if it is established) or it might create a reason for him to deserve such punishment.

Therefore, the possibility of an error in belief using either the existence or non-existence of a punishment is identical; but escaping possible punishment through believing in the existence of a threat is more likely, and so is given preference. It is on the basis of this principle that the majority of scholars give preference to the evidence prohibiting an act over the one permitting the same act.

Many jurists adopted the principle of precaution (al-iḥtiyāḥ) in many rulings on the basis of this argument. Indeed, precaution with regard to action is almost unanimously treated as meritorious among those possessed of wisdom in general.124

If an individual’s fear of error by denying a threat stands in opposition to his fear of error in the opposite belief, the residual evidence necessitates belief in the existence of the threat and that punishment could be avoided on the basis of that belief [affirming the threat] and these are two evidences free of any opposition.

It is not acceptable for one to say that the non-existence of a definite proof for the threat is an evidence for its non-existence; as it is in the case of the non-existence of mutawātir narration for the extra readings not included in the ‘Uthmānic Mushaf. This is because the non-existence of evidence (‘adam al-dalil) does not necessitate the non-existence of that which is derived (al-madāli‘ ala‘yih).

One who negates one of the theoretical issues on the basis of the absence of definite evidence for its existence—as is the methodology of a group of the scholastic theologians (mutakallimūn)—is in very clear error. However, when

124 For more details on Ibn Taymiyyah and precaution see, Matroudi, The Hanbali School of Law, 103–107.
we know that the existence of something necessitates the existence of its proof (dālī), and we are able to affirm non-existence of the proof [whether it be definite or indefinite], then we can assert with certainty the non-existence of that thing. This is on the principle that the absence of the antecedent (lāzīm) is a proof for the absence of the consequent (mazām).

Having learnt the motivating factors behind the transmission of the Book of Allah and His religion, we know that it is not possible that the ummah has concealed that which the people were in need of receiving as a general proof (hujjah 'ummah). Thus, when there is no common narration about a sixth obligatory prayer or another surah [of the Qur'an], we know for sure that it does not exist. Having said that, the category of threats does not come under this rule, as it is not a condition for every threatened punishment that it be conveyed in a mutawātir manner, just as it is not a condition for establishing the ruling about that action.

It has been established that hadiths containing threats must be acted upon in accordance with what they indicate, with the conviction that the doer of that action is under the threat associated with the action. Liability for the punishment, however, depends on the existence of certain conditions and there are impediments. This principle can be illustrated with some examples:

It is authentically narrated from the Prophet (peace be on him) that he said: "May Allah reject the receiver of interest, its payer, its witnesses and its scribe." It is also authentically narrated—through more than one authentic chain of transmission—that the Prophet (peace be on him) said to the one who sold two sā [of one quality] in exchange for one sā [of another quality]: "Woe to you! This is usury (ayn al-ribā)." And he also said: "And wheat for wheat amounts to interest unless they are exchanged on the spot ..."

This encapsulates both kinds of interest (ribā)—both surplus interest (ribā l-fadl) and (ribā l-nasā), but then those who were aware of the Prophet’s statement: “Interest is only in al-nasī‘ah,” saw it as permissible to exchange two sā for one sā in a direct exchange (yadan bi-yadīn), such as Ibn ‘Abbās (may Allah be pleased with him and his father) and his followers e.g. Abū

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125 See, Muslim, Sahih, Kitāb al-Musāqāh, Bāb La’n Ākil al-Ribā wa Mukīlīh.
126 A measure of volume.
127 See, n. 116 above.
128 See, al-Bukhārī, Sahih, Kitāb al-Byū‘, Bāb Bay‘ al-Tamr bi al-Tamr; Muslim, Sahih, Kitāb al-Musāqāh, Bāb al-Šarf.
129 Taking something of a superior quality in exchange for more of the same kind of thing but of poorer quality.
130 Taking interest on loaned money.
131 See, Muslim, Sahih, Kitāb al-Musāqāh, Bāb Bay‘ al-Ṭa‘ām Mithlān bi Mithl.
al-Shaʿthaʾ, ʿAṭāʾ, Ṭawūs, Saʿid b. Jubayr and ʿIkramah as well as others among the distinguished Makkans who were among the best of this ummah in knowledge and practice. It is not permissible for a Muslim to believe that any of them specifically or one who imitates any of them—to the extent that such imitation is permissible—will be liable for the laʾn mentioned for the one who consumes interest because they did this on the basis of a conceivable interpretation of the texts.

Another example is that which is narrated from a group of the distinguished Madinans regarding the [matter] of having anal intercourse with the wife despite ʿAbū Dāwūdʾs narration from the Prophet (peace be on him) that he said, “Whoever has anal intercourse with his wife, he has disbelieved in that which was revealed to Muḥammad.”132 Does anyone think that it is permissible for a Muslim to say that “So and so were disbelievers in that which was revealed to Muḥammad?”

Again, it is established from the Prophet (peace be on him) that he said: “Allah has rejected ten [categories of people] regarding intoxicants (khamr): the one who squeezes the juice, the one who asks for it to be squeezed, the one who drinks it ... [etc.]”133 Moreover, it is also established through various channels that the Prophet (peace be on him) said: “Every intoxicating drink is khamr”134 and he also said: “Every intoxicant is khamr.”135 Also, ʿUmar (may Allah be pleased with him) said in a speech while on his pulpit in the presence of the Muhājirūn and Anṣār: “Khamr is that which befuddles the mind.”136

Allah revealed the prohibition of khamr, and the occasion for its revelation is that they [people] used to drink [it] in Madīnā. They only used to have drinks made from dates, not from grapes at all. Yet there were some among the most eminent Kūfan scholars of this ummah—in terms of both practice and knowledge—who believed that khamr was derived only from grapes, and that the nabīḍh produced from other than grapes and the nabīḍh produced from dates is not prohibited except where the quantity leads to a state of intoxication. They, therefore, drank what they believed to be within the permissible limit. It is not permissible to say: “These scholars fall within the threat of punishment [related to khamr],” because they had an extenuating

133 See, Ahmad, Musnad, 1: 316; ʿAbū Dāwūd, Sunan, Kitāb al-ʾAshribah, Bāb al-ʾIḥāb Yaḥṣār li ʾl-Khamr; Ibn Mājah, Sunan, Kitāb al-ʾAshribah, Bāb Luʾinat al-Khamr ʿalā ʾl-Ashrat Awjuh.
134 See, al-Bukhārī, ʾṢaḥīḥ, Kitāb al-Wuḍūʾ, Bāb lā Yaḥṣū al-Wuḍūʾ bi al-Nabīḍh wa lā ʾl-Muski; Muslim, ʾṢaḥīḥ, Kitāb al-ʾAshribah, Bāb Bayān ann Kull Muskir Khamr [Every intoxicating drink is prohibited].
135 See, Muslim, ʾṢaḥīḥ, Kitāb al-ʾAshribah, Bāb Bayān ann Kull Muskir Khamr.
136 See, al-Bukhārī, ʾṢaḥīḥ, Kitāb al-ʾAshribah, Bāb al-Khamr min al-ʾAsal.
reason which they used to form an interpretation, or because of other possible extenuating circumstances. At the same time, it is not permissible to affirm that the drink they consumed was not considered to be a type of khamr where the drinker is seriously censured.

The basis of the general statement must incorporate this drinking; there was after all no khamr made from grapes in Madinah. The Prophet (peace be on him) had pronounced la'ın against the one who sells khamr. Some of the Companions sold khamr [at the time of 'Umar] and the news of this reached 'Umar (may Allah be pleased with him) who said: "May Allah fight so and so! (qātala Allah fulān). Does he not know that the Prophet (peace be on him) said: 'Allah condemned [those] Jews to whom it was made prohibited the selling of the fat of the carcass but they melted it and then sold it and made use of its price.' "137 That particular Companion was not aware of the prohibition of selling khamr, yet this did not stop 'Umar (may Allah be pleased with him) from outlining the punishment for this sinful act even though he knew that the person in question was not aware of the prohibition. [He did it] so that that person and others would be discouraged from committing such an act after being made aware of its prohibition.

Furthermore, the Prophet (peace be on him) pronounced la'ın against the one who squeezed the juice of khamr and the one who asked for it to be squeezed. Despite this, many jurists permit a person to squeeze grapes for someone else, even if he knew that his intention is to make khamr from it. We have, therefore, an explicit text (maṣṣ) regarding the la'ın upon someone who squeezes grapes [for khamr], but it is also known that a person might be excused from the ruling because of the existence of an impediment.

Similarly, there are a number of hadiths containing the la'ın of the wāṣilah (i.e. the woman who connects extensions to another's hair) and al-mawsūlah (i.e. the woman who sits to have this done to her),138 but some of the jurists considered it to be only disapproved.

Another example is that the Prophet (peace be on him) said, "He who drinks from a silver vessel is in fact swallowing the fire of Hell down his belly."139 Yet, again, some of the jurists merely consider this to be strongly disapproved (karāhat tanziybiyyah).

137 See, al-Bukhari, Sahih, Kitāb al-Anbā’, Bāb mā Dhukira ‘an Bāni Isrā‘il; Muslim, Sahih, Kitāb al-Musāqāth, Bāb Taḥrīm Bay‘ al-Khamr.
138 See, al-Bukhari, Sahih, Kitāb al-Libās, Bāb al-Waṣl fi ‘l-Sha’r; Muslim, Sahih, Kitāb al-Libās, Bāb Taḥrīm fi ‘l-Wāṣilah wa al-Mustawsilah.
139 See, al-Bukhari, Sahih, Kitāb al-Asrīrah, Bāb Āniyat al-Fiḍḍah; Muslim, Sahih, Kitāb al-Libās, Bāb Taḥrīm Isti‘māl Awānī al-Dhahab wa ‘l-Fiḍḍah.
Also it is necessary to act by his statement: "When two Muslims fight each other with their swords, both the killer as well as the slain will enter the Hell-fire" when it comes to the prohibition of two believers fighting each other without just cause. Despite this, we know that the participants in [the battles of] al-Jamal and Ṣiffin are not people of the fire, as they had extenuating reasons and interpretations justifying the fighting and good deeds which prevented the otherwise necessary cause (muqtadi) from taking its effect.

The Prophet (peace be on him) said in an authentic hadith, "There are three kinds of people with whom Allah will neither speak on the Day of Resurrection, nor look at them, nor purify them [from sins]. They will have a painful chastisement. A person who has more water than he needs and yet he refuses to give it to the traveller; so Allah will say to him on the Day of Judgement: 'Today I will deprive you of My grace, just as you withheld the surplus of that which you did not create yourself;' a person who pledged allegiance to the Imam but for the sake of worldly gain, so that if the Imam bestowed on him something out of that worldly gain, he was satisfied but if he was not given it, he became discontent; and a person who swears a false oath to another person after [the start of the time of] ʿāṣr [prayer] that he was offered a higher price for a commodity than that offered by the second party."

This is a very severe threat to the one who withholds surplus water. Yet there was a group of scholars who permitted such withholding. The existence of such an opinion, however, does not prevent us from believing in the prohibition of this practice on the strength of this hadith. Conversely, the existence of this hadith does not prevent us from believing that the one who has a reasonable interpretation for the hadith [which led him not to act upon it] is excused and is not liable for the punishment stated in that hadith.

The Prophet (peace be on him) said, "May Allah reject the muḥallil and muḥallal lahu." This is an authentic hadith narrated from the Messenger of
Allah (peace be on him) and from his Companions (may Allah be pleased with them all) through many channels. However, a group of scholars unreservedly validated the contract of marriage of the *muballil*. Others validated the contract if the intention to legitimise her remarriage to her previous husband was not stipulated in the contract itself, and they have well-known mitigating factors for concluding with these opinions. This is because the first party [i.e. those who unreservedly validated the above-mentioned contract of marriage], believes that what is in accordance with the general principles is that the contract of marriage does not become invalidated by incorrect conditions, just as it is not invalidated by not knowing one of the two remunerations (*'iwadayn*). Whereas the second party believes that what is in accordance with the general principles is that the conditions which are not stipulated in the contract itself do not affect its validity. It seems this hadith did not reach those who held this opinion, as their early works do not mention it. If it had reached them, they would have mentioned it either to act upon it or in response to it. Alternatively, it might have reached them but they interpreted it away, or they thought that it was abrogated or they had some other evidence that opposed it.

Therefore, we know that such people are not liable for this threat, even if they were to commit *talil* themselves, believing it to be permissible in that form.

This does not stop us from knowing that *talil* is the cause of such punishment [as a general rule], even if it was not to apply with regard to particular individuals because of the absence of a condition or the presence of an impediment.

Finally, there is Muʿāwiyyah's (may Allah be pleased with him) claim of kinship with Ziyād ibn Abīh even though he was born from the wedlock of al-Ḥārith b. Kildah, because Abū Sufyān used to say that he was from his own sperm. This was even though the Messenger of Allah (peace be on him) said, "If somebody knowingly claims to be the son of any other than his real father, Paradise will be forbidden to him." He also said, "If somebody claims to be the son of anyone other than his real father, or attributes himself in patronage to other than the one who freed him from slavery, upon him is the ḥān of Allah and the angels and all people. Allah will neither accept repentance nor

remarriage of a man (*muballil labn*) to his former wife, from whom she has been divorced thrice and thus irrevocably divorced.

144 The *muballil* is the man who marries the divorcee for the purpose of legitimising her remarriage to her previous husband who had irrevocably divorced her.

ransom from him."146 This is an authentic hadith. The Messenger of Allah had, in any case, also ruled that the child is attributed to the husband of the mother, and this is agreed upon.

We know that the one who attributes himself to other than the husband of his mother falls within the threats of punishment stated above; but it is not permissible to single out an individual after the Companions, let alone the Companions themselves, and to say that the threat is incumbent upon him. It is possible that they were not aware of the judgement of the Messenger of Allah (peace be on him) that the child is attributed to the husband, and that they thought that the child must be attributed to the one who caused the pregnancy, and they believed that Abū Sufyān was the one who made Sumayyah, Umm Ziyād, pregnant.

Indeed this ruling might not have been known to many people, especially before the spread of the Sunnah, and because it was contrary to the practice in the pre-Islamic period. There might also be other impediments averting the applicability of the threat such as good deeds that erase bad deeds and so on.

This also is a vast subject area. It includes all prohibited matters derived from the Qur'ān and the Sunnah, whenever some of the Imāms were not aware of the prohibiting evidence and they saw an act as permissible, or that the prohibiting evidence was opposed, according to them, by other evidence which they considered to be preponderant, and they used their independent reasoning in giving preference to one over the other based on their intellect and knowledge.

Prohibition has implications such as incurring sin, censure, punishment, iniquity [i.e. not meeting what is perceived to be the legal requirements of righteousness in Islam], and so on; but there are conditions and impediments to the applicability of these implications. Prohibitions might sometimes be established but these consequences cannot be applied due to the absence of their conditions or the existence of an impediment, or because the prohibition does not apply to that particular person even though it is established and can be applied to others.

We have only repeated our statements on this issue because the scholars are divided into two camps on this point:

The first: —which is the position held by the majority of the salaf and the jurists—is that Allah has only one ruling with regard to any given issue and the one who differs from that position on the basis of an acceptable piece of independent reasoning is mistaken, excused and rewarded. Therefore, the act itself which was committed by the person who had this interpretation is

146 See, Muslim, Ṣahih, Kitāb al-Ḥajj, Bāb Faḍl al-Madinah.
prohibited but the implications of prohibition are not applicable to him due to Allah's attribute of forgiveness as He does not charge a soul with more than it can bear.

The second is that the prohibited matter is not considered prohibited for that person, as the prohibiting evidence did not reach him, even though it is considered to be prohibited for others; thus the action itself of that person is not prohibited.

The two opinions are in truth similar, and it is more of a difference in semantics.

This then is what can be said with regard to the hadiths containing threats where differences exist [among the scholars], i.e. that the scholars are in agreement on the citation of these hadiths for the prohibition of the action to which the threat is related, regardless of whether they are in agreement or not as to the ruling itself. In fact, in most cases, the need to cite the hadiths of threat is related to areas of disagreement. They differed, however, in establishing the threat on the basis of such hadiths where there was nothing definitive available, as we have already mentioned earlier.

And if it was to be asked: why did you not say that hadiths containing threats cannot be found within the area of dispute, but rather they lie only in the area of agreement, and for every action whose doer is censured or threatened with wrath or punishment, must be interpreted to mean an action whose prohibition is agreed upon, so that those mujtahids who acted upon what they thought to be permissible will not be included within the threat of punishment. In fact, the one who believes [in the permissibility] is more serious than the doer; as the former is the one who ordered the latter to do that action, so he is the one who made him liable for the la'n or wrath by implication?

We say that the answer can be given in many ways:

The first answer: the ruling of prohibition is either capable of being established where there is disagreement or it is not. If it cannot be established in the event of disagreement, then this necessitates that there be no prohibited matter except one that is agreed upon. As a result every disputed prohibition would become permissible. This is evidently in opposition to the consensus of the ummah, and must of necessity be considered invalid in the religion of Islam.

And if prohibitions were to be established despite the presence of disagreement, even if on only one issue, then the mujtahid who considered that prohibited action to be permitted would either be liable to the censure and punishment of the one who permits what is prohibited or the one who commits it, or he would not.
Now, whether it is said that he would be liable, or that he would not be liable, then the same will hold true with regard to the established prohibition found in the hadith containing a threat, which is agreed upon as well as one which is disputed, as elaborated upon earlier.

In fact the threat is only related to the doer and the punishment for the one who permits what is prohibited is essentially more than that of the punishment for the one who did it without conviction or belief.

Therefore, if it is possible that the prohibition be established, despite there being a dispute, and the mujtābid who permitted the action will not be liable for the punishment of making the prohibited permissible because of his extenuating reason, then it is more appropriate that the doer of the action not be liable for the punishment resulting from that action. Also, as this does not necessitate that the mujtābid is included under the effects of this prohibition—such as censure, punishment, etc.—then it equally does not necessitate his inclusion under the threat; a threat is after all no more than a type of censure and punishment. If the inclusion of threat under this type (jins) [of censure and punishment] is acceptable, then what was said as an answer for some of its categories is an answer to the others. There is also no benefit in differentiating between the degrees of censure, or how heavy or light the punishment is, because mild censure and punishment in this context is just as problematic as a heavy one; the mujtābid is liable to neither the mild nor the heavy censure and punishment. Rather, he is deserving of their opposites, namely reward and recompense.

The second answer: agreement or disagreement with regard to the ruling of an action are matters external to the action itself and its attributes; they are only incidental and occur as a result of lack of knowledge of the issue amongst some of the scholars.

If the general wording (al-laʃf al-ʾāmm) was actually meant to refer to a specific meaning (al-khāṣṣ), then there has to be evidence presented to support the specification. This evidence has to come simultaneously with [the general] communication, according to those who do not permit any delay in clarification (taʾkhīr al-bayān), or according to the majority of scholars it needs not be chronologically simultaneous, being revealed instead at the time it is needed.

There is no doubt that those who were addressed by a communication at the time of the Messenger of Allah (peace be on him) were in need of knowing the ruling contained in that communication. If the general meaning conveyed by the laʾn upon the one who receives ribā and the muhallil and other similar cases was intended where there is an agreement upon its prohibition, and yet this [agreement] could not be known except after the death of the Prophet
(peace be on him), and the subsequent discussion of the ummah upon all the ramifications of that general communication, then that would have meant a postponement in the clarification of the words of the Prophet (peace be on him) until such time. This is [clearly] not acceptable.

The third answer: the ummah was addressed by such communication so that it would recognise what is prohibited and avoid it, and will use it as a basis for their consensus, and cite it as evidence when they disagree. If the intention was that prohibition would only be derived from what is agreed upon, then knowledge of the intended meaning would have been dependent on consensus. Its use as evidence, then, would not be valid before the existence of the consensus, but this means it cannot form the basis for a consensus either. This is because the basis for a consensus must exist before it, and therefore it is impossible for the evidence to follow the consensus, as this would lead to an invalid circular argument. Since the people of consensus then will not be able to cite the hadith as evidence for any meaning until they know that this meaning is intended, and this cannot be achieved until they have agreement, so the citation depends on the occurrence of the consensus preceding it, whilst the consensus depends on the citation of the hadith, if indeed the hadith was their proof. Therefore, the matter becomes dependent upon itself and thus its existence is impossible, and cannot be an authoritative evidence in the area of disagreement as that evidence simply does not exist. This creates a suspension of the use of hadith to indicate rulings in areas of agreement and disagreement. The [inevitable] consequence of this is that none of the texts which refer to the gravity of an action can also inform us of the prohibition of that action, and this must be absolutely invalid.

The fourth answer: this requires that none of these hadiths can be relied upon unless it is known that the ummah agreed on a given meaning for them. Therefore, it would not have been permissible for the first generation (al-sadr al-awwal) to have used these hadiths as evidence. In fact, those who heard these hadiths directly from the Messenger of Allah (peace be on him) would not be allowed to cite them as evidence. It would have been obligatory upon a person, who hears such a hadith and finds that many scholars had acted upon it and finds no opposition to it, not to act upon it until he is satisfied that there is nobody opposing it anywhere in the world. It is also not allowed for him to cite consensus upon an issue until he carries out a similarly thorough investigation.

This will lead to the invalidity of the citation of a hadith of the Messenger of Allah (peace be on him) by the mere existence of one mujtahid holding an opposing opinion. As a result, the opinion of one person validates and invalidates the words of the Messenger of Allah (peace be on him).
If that person happened to be mistaken, then his mistake will have invalidated the words of the Messenger of Allah (peace be on him). This is known to be void by necessity; because if it were to be said that a hadith cannot be cited except after knowing the existence of a consensus upon it, then this leads to the implications of texts becoming dependent upon consensus, and yet this is in opposition to consensus! If it were to be true, there would be no meaning to be derived from texts, as only consensus would have relevance, whereas texts would have no significance.

If, on the other hand, it were to be said that it should be cited as evidence solely on the basis that a conflicting opinion is not known, then this would still result in the opinion of one person within this ummah invalidating the implication of a text, and this too is in opposition to consensus and is invalid by necessity in Islam.

The fifth answer: is that either the belief of the entire ummah in the prohibition is stipulated for a communication to be comprehensive, or the belief of the scholars alone regarding that prohibition is sufficient.

If the first were correct, then it would not be permissible to cite the hadiths on threats as evidence for prohibition until it was known that the entire ummah—even those who were brought up in the most isolated valleys and those who recently converted to Islam—believed that the prohibition exists. No Muslim can claim this, nor indeed any sane person, because knowledge subjected to this condition is practically impossible.

If it were to be said that the belief of all scholars in the prohibition is sufficient, the response would be that the consensus of the scholars was made a condition out of fear that the threat of punishment might encompass some of the mujtahids, even where they were only mistaken. This is akin to the layman who did not hear the prohibiting evidence, as fear of this person’s falling under the la’n is similar to the fear of a mujtahid falling under it.

This argument cannot be dismissed by saying that the mujtahid in question is among the loftiest and most righteous of this ummah, whereas that person is on the fringe of and one of the laymen of this ummah; the difference in their status does not necessitate that they be excluded from the ruling. This is because just as Allah (the Exalted) forgives the mujtahid when he makes an honest mistake, He also forgives the mistake of an unlearned one who was unable to learn. In fact, the mischief resulting from a layman committing a prohibited act, which he was not aware of and which it was not possible for him to know, is far less than the harm resulting from some of the Imāms permitting that which has been prohibited by the Lawgiver, through lack of awareness of the prohibition as well as the incapability of knowing it. For this reason it was said, “Beware of the lapse of the scholar, for when he slips a
whole community slips as a result.”\(^{147}\) [On this subject] Ibn `Abbās (may Allah be pleased with them both) said, “Woe to the scholar from those who follow him.”\(^{148}\)

Thus, if the mistake of a scholar can be pardoned, despite the enormity of the harm caused by his action, then it is more appropriate that a layman be forgiven, since the harm caused by his action is less severe.

Granted, they are different from another aspect, namely that the mujtahid has based his opinion on ijtibād and the harm caused by his mistake is buried within his account of good deeds accumulated through the dissemination of knowledge and revival of the Sunnah. Allah has differentiated between them in this respect so he rewarded the mujtahid for his ijtibād and the scholar for his knowledge and this reward was not shared with the ignorant lay persons. Therefore, they are equal with regard to forgiveness but dissimilar with regard to reward. Punishing someone who does not deserve punishment is inconceivable, regardless of whether he is noble or lowly. Therefore, ruling out this possibility of punishment in the context of a hadith should be understood in a way that includes both parties [i.e. both scholar and layman].

The sixth answer: among the hadiths on threat there are those that are explicit texts on the disputed issue, such as “the la'n of the muhdall labu.”\(^{149}\)

Some scholars say that this person could not possibly incur any sin as he was not an integral part of the first marriage contract, so how is it possible to say that he was condemned due to his belief that it is obligatory to fulfil the tahlīl contract? Hence, whoever believes that the contract of marriage for the first person (i.e. the muhdallil) is valid, even if the condition attached to it is invalid, then the remarriage by the second (i.e. the muhdallal labu) must be permissible. This scholar, therefore, does not believe that the second person has committed a sin.

And even the muhdallil is either condemned because of the act of tahlīl or because of his belief that it is obligatory to fulfil the condition attached to the contract, or because of both reasons. If it is the first or the third reason then the intent of the hadith has been achieved. If it is the second, then this belief is the cause of the la'n regardless of whether there was a contract of tahlīl or not. This would mean that what is mentioned in the hadith would not be the actual reason for the la'n and the actual reason for the la'n was not mentioned in the


\(^{149}\) Muḥdallal labu is the husband of a woman who divorces her thrice, after which another man who marries her solely for the purpose of legitimising her remarriage to him.
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**THE REMOVAL OF BLAME FROM THE GREAT IMĀMS**

hadith and this is not acceptable. If the person who believed in the necessity of fulfilling the tahlil contract was ignorant [of the law] there is no la' n upon him. If he knew that it is not obligatory, then he could not believe in its obligation, except if he was an opponent of the Messenger of Allah (peace be on him) and he would then be a disbeliever, and then the hadith's la' n would be related to the la' n upon disbelievers. But disbelief is not linked to the denial of this minor ruling alone. This would be akin to saying: “Allah has rejected the one who disbelieves in the Messenger's ruling that the stipulation of divorce in a contract of marriage is invalid.”

This is a general statement in both wording and meaning and it is spontaneous generality ('umūm al-mubtada'). It is not permissible to link such generality to an unusual ramification, lest the statement be considered as including incorrect linguistic usage or suggest an incapability of expression similar to one who interprets the Prophet's saying, “Any woman who marries without the permission of her guardian, then her marriage is invalid”150 as being related only to the mukātabah.151

And to clarify the unusual nature of this interpretation [in the context of the hadith on tahlil it would mean that the ignorant Muslim would not be included within this hadith nor the Muslim who knows that it is not obligatory to fulfil this condition152 and he does not stipulate it in the contract believing that its [fulfilment] is an obligation except if he was a disbeliever, and the disbeliever does not marry in the way Muslims do, unless if he was a hypocrite. Marriages that occur in this manner are very rare occurrences. Indeed, it would be right to suggest that such a meaning is unlikely to have occurred in the mind of the speaker when the hadith was uttered.

We have cited many evidences in other places on the fact that this hadith is meant to address the mubhallil who intended his action even if he did not stipulate it in the contract itself.

The same is true also with regard to specified threats, such as la' n and the fire and the like, which were explicitly stated in the texts even though disagreement clearly remains. For instance, there is the hadith of Ibn 'Abbās (may Allah be pleased with him) from the Prophet (peace be on him) that he said, “May Allah reject the female visitors to the graves and those who build

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151 The mukātabah is a slave who ratifies a contract of emancipation to free herself in return for instalments attaining complete freedom upon completion of the agreed payment. See, Ibn Manṣūr, Lisān al-‘Arab, 1: 700.

152 T. e. to divorce the wife after ratifying the marriage to wave the way for her previous husband to remarry her after divorcing her triply.
mosques and [place] lamps on graves."  

153 Al-Tirmidhī said that this is a hasan hadith.  

154 Yet, the visitation of graves by women was allowed by some scholars, and disapproved—not prohibited—by others.

Another example is that of 'Uqbah b. 'Āmir (may Allah be pleased with him) on the authority of the Prophet (peace be on him) who said “May Allah reject those who have anal intercourse with women.”  

155 There is the hadith of Anas (may Allah be pleased with him) from the Prophet (peace be on him), in which he said, “The importer (of commodities) is blessed and the monopolist is rejected.”  

156 We have already mentioned the following hadith: “The three persons to whom Allah would neither speak on the Day of Resurrection, nor look at them, nor purify them (from sins), and they will have a painful chastisement...”  

Among them is one who refuses to give the surplus water in his possession to one who needs it.

Similarly, “the one who sells khamr is rejected” whereas some of the early people sold it.

Also, it is established as authentic from more than one channel that the Prophet (peace be him) said: “Allah will not look at the one who trails his garment on the ground out of pride.”  

159 The Prophet also said, “There are three whom Allah will not speak to, look at, or praise on the Day of Judgement and theirs will be a painful punishment: the one who wears his garment below his ankles, the one who reminds others of his favours, and the one who sells his product by means of making false oaths.”  

160 [This] despite some jurists’ stating that wearing the garment below the ankles and trailing the garment on the ground out of pride are disapproved and not prohibited.

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154 Al-Tirmidhī, Sunan, Kitāb Abwāb al-Šalāt, Bāb mā Jā' fī Karāhiyat an Yutakhadh 'alā 'l-Qabr Maṣjid.


156 See, 'Abd al-Razzāq, Muṣannaf, 8: 204.

157 See n. 142 above.

158 See n. 133 above.

159 See, al-Bukhārī, Ṣaḥīḥ, Kitāb Fadā'īl al-Šaḥabah, Bāb Qawl al-Nabi law kunt Muttakhidhan Khalīl; Muslim, Ṣaḥīḥ, Kitāb al-Libās, Bāb Karāhat mā Zād 'alā 'l-Ḫajah min al-Fīrāsh wa 'l-Lībās.

160 See, Muslim, Ṣaḥīḥ, Kitāb al-Imān, Bāb Bayān Ghilāz Taḥrim Isbāl al-İzār.
Similarly, there is his [i.e. the Prophet's] saying (peace be on him), "Allah has rejected al-wāsīlāb and al-mawsīlāb"\textsuperscript{161} and this is one of the most authentic hadiths. And there is well-known disagreement over the extensions of the hair.

Finally, there is his [i.e. the Prophet's] statement (peace be on him), "He who drinks out of silver utensils is only filling his abdomen with Hell Fire"\textsuperscript{162} while some of the scholars did not deem this to be a prohibition.

The seventh answer: the reason necessitating generality is present whereas the aforementioned opposite is not deemed as acceptable because, taken to its logical conclusion, it would mean its application in issues of agreement and disagreement and this will lead to the inclusion, within the threat of punishment, of some who do not deserve to be included.

The response to this is that if the particularisation [of a ruling] is against the norm, then its multiplication (takhtirūhu) (i.e. by the inclusion of other than those who were intended to be included under it) stands against the norm. As a result the one who is excused for his ignorance, or ijtihād, or imitation (taqlīd), he is exempt from the generality of the text. On the other hand, the ruling includes those who were not excused, in the way that it includes the issues of agreement. This [type] of particularisation (i.e. the exemption of some people from the generality of the text because they were excused) is less and therefore it is more deserving to be accepted (awlā).

The eighth answer: if we were to understand the text in accordance with this, then it would have contained mention of the reason for the la'n and the ruling would hence not apply to the exception because of the existence of an impediment. There is no doubt that the one who promises or issues a threat, does not have to specifically mention those who are exempted because of the existence of an impediment. Therefore, the statement will continue to be consistent with the proper methodology.

If, however, we were to associate the rejection (la'n) with committing an act the prohibition of which is agreed upon, or we made the holding of a belief opposing consensus as the reason for the la'n, then that reason is not mentioned in the hadith. Moreover, that generality in the text has to be specified. If specification is a must in both cases, then it is more appropriate to apply it in the first case because of its agreement with the correct methodology and the absence of implication of a missing syntactical part (idmār).

The ninth answer: the reason behind this claim is to negate the inclusion in the la'n of the one who is excused. We have already mentioned that the intention behind the hadiths containing a threat is to make clear that the act in question is a cause for that la'n, so the implicit statement is as follows: "this act

\textsuperscript{161} See n. 139 above.

\textsuperscript{162} See n. 139 above.
is a reason for the la‘n.” This does not, however, necessitate the fulfilment of
the ruling upon every person, although it does bring about the existence of
the cause without its implication and there is nothing objectionable in this.

We have already established that there is no censure for the mujtahid to
the extent that we say: the one who permits the prohibited act incurs more sin
than the doer of that act, but despite this we say that the one who has an
extenuating reason is excused.

And if it were to be asked: who is to be punished seeing as the doer of this
prohibited matter is either a mujtahid or someone who follows him (muqallid
lahnu) and neither of them are included under the punishment? We will say: the
answer has different aspects:

The first aspect: the aim of the text is to clarify that this act necessitates
punishment regardless of whether someone actually commits that act or not.

If it were assumed that every doer of that act is lacking the [requisite]
conditions for the punishment or there is an impediment that prevents the
application of the punishment, then this would not negate the forbidden
quality of the act. Rather, we will know that it is prohibited and [it is hoped]
that whoever knows of the prohibition will refrain from it. The existence of
excuses for the one who commits a prohibited act is something bestowed from
Allah’s Mercy.

This is similar to the principle that minor prohibited acts are prohibited
even though they can be expiated for [by the commission of certain good
deeds]—provided that the major prohibited acts are avoided. This is the case
with all acts on which there is dispute regarding their prohibition. When it is
clear that they are prohibited, even though the one who does so on the basis of
ijtibād or imitation might be excused, this does not stop us from believing in
their prohibition.

The second aspect: the clarification of a ruling is a reason for the removal
of any doubts which prevent the applicability of the punishment. This is
because an excuse based on the [mistaken] belief is not meant to last forever;
rather, the aim is for doubts to be removed if at all possible. If this was not the
case then the clarification of knowledge would not have been obligatory, it
would have been better to leave the people in their ignorance, and it would
have been better for them to disregard the evidence available in disputed issues
rather than seek to clarify them.

The third aspect: the clarification of the ruling and the threat support the
one who has abstained from committing the prohibited act in remaining with
firm resolve. If it were not [for the clarification of the ruling and the threat]
the commission of such acts would become widespread.
The fourth aspect: that an excuse cannot be considered as an excuse except where one is unable to remove it. Therefore, whenever it is possible for a person to know the truth and he falls short, he is not to be excused.

The fifth aspect: some people who commit the [prohibited] act might perhaps exercise an ijtiḥād which falls short of the ijtiḥād that would permit that action to the person or an imitator whose imitation was not of a standard that could make the action permissible for him. Therefore, this kind of example has within it a cause for the applicability of the threat without the existence of this specific impediment. As a result, he will be liable to the threat and he will be subjected to it, unless another impediment was to be found for him, such as repentance or good deeds which erase bad deeds, and so on.

Then again, this is problematic, because the person might think that his ijtiḥād or imitation permits him to do what he did and he could be right sometimes and mistaken at other times. If, however, he sought the truth and did not leave it to his desires, then Allah does not charge a soul with more than it can bear.

The tenth answer: [i.e. to the claim that the hadiths containing threats are related to the issues of agreement only]: Whilst understanding these hadiths upon their required meanings leads to the inclusion of some mujtahids within the scope of the threat, giving some other meaning may similarly lead to the inclusion of some mujtahids within it. Therefore, if the inclusion is unavoidable in both cases, then the hadith is free of opposing evidence and as a result it is obligatory to implement it.

To clarify this: many imāms stated that the doer of a disputed act is blameworthy, among them being 'Abd Allāh ibn 'Umar (may Allah be pleased with him). When he was asked about the one who marries a woman to legitimise her subsequent remarriage to her previous husband, while she and her previous husband were not aware of [his intention], he said: “This is fornication and not marriage. May Allah reject the muḥallal and the muḥallal lāhu.”163 This is narrated from him through more than one channel. It is also narrated from others, among them Imam Aḥmad ibn Ḥanbal (may Allah have mercy upon him) who said, “If he seeks to legitimise remarriage to a previous husband, then he is a muḥallil, and he is rejected.”164 This sort of opinion has been narrated from groups of the imāms in many issues of disagreement, such as khumr, usury and the like.

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If the *shar'i* la' *n* and the other forms of threat do not apply except in issues of agreement, then this would mean that these scholars have pronounced rejection (*la'n*) against someone who is not permitted to have a *la'n* pronounced against them and consequently they deserve the threat which was narrated in several *hadiths* such as the statement of the Prophet (peace be on him): "Pronouncing *la'n* against the Muslim is the same as killing him."\(^{165}\) and his statement (peace be on him) in the narration of Ibn Mas'ūd (may Allah be pleased with him) that, "Insulting the Muslim is iniquity and fighting him is disbelief."\(^{166}\) These are agreed upon *hadiths*.

It is narrated from Abū 'l-Dardā' (may Allah be pleased with him) that he heard the Messenger of Allah (peace be on him) say: "Verily, insulators and those who pronounce *la'n* will not be given the right of intercession on the Day of Judgement nor will they be accepted as witnesses.\(^{167}\)

And it is narrated from Abū Hurayrah (may Allah be pleased with him) that the Messenger of Allah (peace be on him) said: "It is not appropriate for one who is very truthful to pronounce *la'n*."\(^{168}\) [Imām] Muslim narrates both of these two *hadiths*.

And it is narrated from 'Abd Allāh ibn Mas'ūd (may Allah be pleased with him) that the Messenger of Allah (peace be on him) said: "The believer is not an insulter, nor does he pronounce *la'n*, nor is he indecent, nor shameless."\(^{169}\) This is narrated by al-Tirmidhi, who said that it is a *hasan* *hadith*.

And in another narration [Prophet (peace be on him) said]: "No person pronounces *la'n* against something which does not deserve it except that the *la'n* will rebound upon him."\(^{171}\)

So this is the threat which accompanies this type of *la'n*, to the extent that it is said that whoever pronounces *la'n* against one who is undeserving of it, he will in turn receive *la'n*, and this kind of *la'n* is an iniquity that takes away truthfulness, the right of intercession, and being a witness [on the Day of Judgement]. This [as mentioned earlier] applies to the one who pronounces *la'n* against one who does not deserve it.

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\(^{167}\) See, Muslim, *Sahih*, Kitāb al-Bīrā wa 'l-Ṣilah, Bāb al-Naḥy 'an La'n al-Dawāb wa Ghayrihā.

\(^{168}\) See, ibid.


\(^{170}\) See, al-Tirmidhī, *Sunan*, Kitāb al-Bīrā wa 'l-Ṣilah, Bāb mā Jā' fi 'l-La'nah.

\(^{171}\) See, Abū Dāwūd, *Sunan*, Kitāb al-Adab, Bāb fi 'l-La'n.
Therefore, if the one who commits a disputed act is not included in the
purview of the source text, then he does not deserve it and the one who
pronounces *la'n* against him will be liable to this other threat. This would
mean that those *mujtabids* who considered issues of dispute to fall within the
ambit of the *hadith* would be liable to this threat.

Therefore, if that which is feared can exist regardless of the presence or
otherwise of a dispute, then it will be known that it is in fact not to be feared,
and nothing can impede the use of the *hadiths* as evidence.

However, if the feared possibility is not found in either of the two
possibilities (i.e. the disagreed upon issue or agreed upon issue) then this means
that the feared possibility does not exist at all

That is so because when inseparability (*talázum*) is established and it is
known that they (i.e. the *mujtabids*) are included within the scope of a threat
in issues of disagreement, it necessitates that they also fall within it in the
absence of disagreement. Thus, one of two matters must be affirmed, that is
either the existence of the cause and the effect which would mean they are all
included or the non-existence of the cause and effect which would mean their
exclusion as a whole. This is because whenever the cause exists, so too does its
effect and conversely, whenever the cause is non-existent, so too is the effect.

This is enough to refute the counter-argument. Our belief, however, is
that the reality is that *mujtabids* are not included under either of the two
possibilities as we have just clarified. This is because to fall within the scope of
a threat, there must be no mitigating factors present in the commission of an
act. The one who has a *shar'i* excuse is not included within a threat under any
circumstances. Likewise, the *mujtabid* is excused. Indeed, he is rewarded. A
necessary condition for inclusion within a threat is therefore absent in his case
and as a result he cannot fall within its ambit whether he believes that the
*hadith* must be interpreted according to its apparent meaning, or whether
there is some dispute in this regard, for which he is excused. And this is a
devastating implication (of their argument) (*ilzâm muhfîm*) which cannot be
avoided except through one argument, which is to say: I accept that among the
*mujtabid* scholars there are those who believe that issues of dispute can still be
included within the texts pertaining to threat, and they therefore utilise threats
in such issues of disputes on the basis of that belief, so they would, for
instance, pronounces *la'n* against the one who did the action in question.
Nevertheless, they are mistaken in this belief, although this is a mistake for
which they are excused and [instead] rewarded [for their *ijtihâd*].

As a result, they would not be included within the purview of the threat
regarding the one who pronounces *la'n* against another without legitimate
reason. This is because such a threat, according to me, is related only to the
la'\text{'n}, the prohibition of which is agreed upon. Therefore, whoever utters a la'\text{'n}
the prohibition of which is agreed upon, he has exposed himself to the
aforementioned threat. If the la'\text{'n} is, however, a disputed issue, it will not be
included in the hadiths of threat just as an action which is the subject of
dispute as to its permissibility or the permissibility of pronouncing la'\text{'n} against
its doer is not included within the hadiths containing such threats.

Therefore, just as I exclude the issues of dispute from the first threat I
should also exclude the issues of dispute from being included under the second
threat, and I also should believe that the hadiths containing threats in both
cases do not cover disputed issues, neither with regard to the permissibility of
the action nor the permissibility of pronouncing la'\text{'n} against its doer whether
he held the action to be permissible or prohibited. In fact, I do not, in either
case, permit pronouncing la'\text{'n} against the doer of the action or pronouncing
la'\text{'n} against the one who pronounces la'\text{'n} against the doer, nor do I believe
that the doer or the imprecator falls within a hadith containing a threat. I
would not be harsh on the one who pronounces la'\text{'n} in the manner of one
who thought he was liable to the threat of punishment; rather, I consider his
la'\text{'n} upon the doer of a disputed act to be an issue of ijtibād. I do, however,
believe he was wrong in his imprecation just as I might believe that the one
who permitted the disputed action is also mistaken, as there are three opinions
with regard to such disputed issues:

First: to hold that it is permissible.

Second: to believe in the prohibition and the applicability of the threat.

Third: to hold that it is prohibited but without such a strong threat of
punishment being applicable.

I am inclined to favour this third opinion due to the existence of evidence for
the prohibition of the action, but also for the prohibition of pronouncing la'\text{'n}
against the one who commits a disputed action, coupled with my belief that
the narrated hadiths on threatening the doer of an act and the imprecator do
not seem to imply these two cases.

So it could be said to the interlocutor: if you were to allow the la'\text{'n}
directed at the one who commits this act to be considered among the issues of
ijtibād, then it would also be allowed to use the apparent text as evidence for
this. There would then be no avoiding the possibility that disputed issues were
intended to be included within the hadiths of threat, and what necessitates it to
be intended exists and therefore it must be acted upon. If, however, you did
not allow the la'\text{'n} of this doer to be considered among the issues of ijtibād then
this la'\text{'n} is definitely prohibited. There is no doubt that the one who
pronounces *la‘n* against a *muṣṭabīd* with a *la‘n* that is prohibited with absolute certainty would fall within the narrated threat upon the imprecator, even if he did this on the basis of an interpretation, as is the case with the one who pronounced *la‘n* against some of the righteous *ṣalaf*.

Therefore, a circular argument is created whether you were convinced of the prohibition of pronouncing *la‘n* against the doer of a disputed act, or you allowed the difference of opinion on this. Your aforementioned belief does not prevent adducing texts pertaining to threats in either case, and this should be clear.

And it can also be said to him (i.e. the objector): our purpose in this argument is not to affirm the applicability of such threats to issues of disagreement, but merely to allow for the use of such *ḥadīths* pertaining to threat as evidence within such issues of disagreement. Such *ḥadīths* can indicate two rulings: (1) the prohibition of the act itself; and (2) the threat. What you have mentioned deals only with negating the *ḥadīths*’ reference to the threat. Our aim here is to clarify its implications for the prohibition. Therefore, if you were to insist that the *ḥadīths* condemning the imprecator do not treat those *la‘n* that are disputed, then no evidence would remain for the prohibition of such disputed *la‘n*. As we have mentioned, we are discussing such disputed *la‘n*, and if they are not prohibited then they must be permissible.

Or it could be said: if there is no evidence for its prohibition, it is not permissible to believe in its prohibition and yet that which necessitates such permissibility [i.e. to believe in its prohibition] is established through the *ḥadīths* cursing those who did the action. Moreover, the scholars disagreed over the permissibility of cursing him, but there is no evidence prohibiting such cursing according to this. Therefore it is obligatory to act upon the evidence indicating the permissibility of cursing him because there is nothing to oppose this evidence. This renders the question void.

There is also circularity in the argument on the part of the interlocutor from another perspective. This is that the majority of the texts prohibiting imprecation contain threats themselves. If the citation of a text containing a threat [of cursing] in matters of disagreement is not permissible then it cannot be permissible to cite them as evidence for a *la‘n* upon one who commits a disputed action, as we have clarified earlier.

If the interlocutor were to say, “I cite consensus for the prohibition of this *la‘n*,” it will be said to him that consensus has only been established for the prohibition of pronouncing *la‘n* against a specific individual who is named from amongst those of outstanding virtue, whereas you are aware of the disagreement concerning the *la‘n* upon a generic attribute or characteristic that
may be found in some people [without naming a particular individual]. It was mentioned earlier that cursing a characteristic does not mean its application to every individual case, unless the conditions for it are fulfilled and there are no impediments, and this is not the case here.

It can also be said to him that all the evidences mentioned earlier indicating the impermissibility of restricting these hadiths to issues upon which there is agreement can be used here, and they undermine this counter-argument just as they undermine the original question.

This is not, however, an example of using evidence as a premise amongst the premises for another evidence, so that it could be argued that this is actually only one evidence despite the prolongation (al-tatwîl); because the intention is to clarify that the feared outcome which they thought existed, can be found in both cases (agreement and disagreement); therefore it should not be considered a feared outcome and as a result it is one evidence that has indicated that issues of dispute are included, and that there is no problem with that.

It is not also objectionable that the evidence for one issue is used as a premise in evidence for another issue, even if the two issues are closely intertwined.

The eleventh answer: the scholars are in agreement on the obligation of acting upon the hadiths containing a threat to the extent that they imply a prohibition. Some of them only disagreed specifically with regard to the establishment of threats on the basis of hadith narrated in isolated isnāds (āhād) containing such threats, whereas there is no credible or significant disagreement on affirming prohibitions based on āhād hadith. Indeed, it was the habit of the scholars among the Companions and their followers and the jurists after them (may Allah be pleased with them all) in their letters and treatises to cite āhād hadith in issues of disagreement and other issues. In fact, if a hadith contains a threat, this is stronger in emphasising the prohibition, as this would normally be understood by the intellect from such statements.

Also, we have already indicated the preference for the opinion of those who act upon them [āhād hadiths] in rulings and believe in the threats contained within them, and that this is the opinion of the majority of scholars. No argument can, therefore, be accepted which contradicts an opinion agreed upon by the scholars.

The twelfth answer: the texts containing such threats within the Qurʾān and the Sunnah are abundant, and to base opinions upon them must be considered obligatory in general and absolute terms without specifying individual culprits. Thus, it could be said that "this is rejected" or "the object of wrath" or "liable for the hellfire," especially if the actual person in question
were to possess virtue[s’] and good deeds. This is because all humans other than the Prophets (peace be on them all) are capable of committing minor and major sins, whilst that person might remain a siddiq (an extremely truthful person) or shahid (a martyr) or righteous as a consequence of the effects of a sin—as mentioned earlier—being nullified through repentance, seeking forgiveness, good deeds erasing bad ones, trials and tribulations expiating sins, intercession, or simply through the Will and Mercy of Allah.

So when we affirm what is necessitated by the statement of Allah (The Exalted): (Those who unjustly consume the property of orphans, are actually swallowing Fire into their own bellies: They will be enduring a Blazing Fire!);\(^{172}\) and (But those who disobey Allah and His Messenger and transgress His limits will be admitted to a Fire, and there they will stay: And they shall have a humiliating punishment);\(^{173}\) and (O you who believe! Do not wrongfully consume each other’s wealth but trade by mutual consent: do not kill each other, for verily Allah is Merciful to you! If any of you does these things, out of hostility and injustice, we shall make him suffer the Fire: that is easy for Allah);\(^{174}\) and other verses containing a threat or when we speak about what is necessitated by the statements of the Prophet (peace be on him), “May Allah reject the one who drinks khams"\(^{175}\) or “the one who is recalcitrant toward his parents, or changes the landmarks of the land”\(^{176}\) or “May Allah reject the thief”\(^{177}\) or “may Allah reject the one who takes ribā, the one who gives it, and the two witnesses and the scribe”\(^{178}\) or “may Allah reject the one who does not pay his zakāt or exceeds the boundaries in this regard”\(^{179}\) or “he who introduces any innovations [in religion] in Madīnah, or gives a shelter to someone who committed a crime, Allah’s la’n is upon him, as well as that of the angels and all the people”\(^{180}\) or “the one who trails his garment on the ground out of pride, Allah will not look at him on the day of judgement”\(^{181}\) or “He who has

\(^{172}\) Qur’ān 4: 10.
\(^{173}\) Qur’ān 4: 14.
\(^{175}\) See n. 133 above.
\(^{176}\) See, Muslim, Ṣaḥīḥ, Kitāb al-Adāh, Bāb Taḥrīm al-Dhahb li Ghayr Allāh Ta’ālā.
\(^{177}\) See, al-Bukhrā, Ṣaḥīḥ, Kitāb al-Hudūd, Bāb La’ān al-Sāriq idhā lam Yusam; Muslim, Ṣaḥīḥ, Kitāb al-Hudūd, Bāb Ḥadd al-Sāriqah.
\(^{178}\) See note 125 above.
\(^{180}\) See, al-Bukhrā, Ṣaḥīḥ, Kitāb al-Ḥajj, Bāb Ḥaram al-Madinah; Muslim, Ṣaḥīḥ, Kitāb al-Ḥajj, Bāb Faḍl al-Madinah.
\(^{181}\) See n. 158 above.
in his heart the weight of a mustard seed of pride will not enter Paradise"\(^{182}\) or "He who acts dishonestly towards us is not of us"\(^{183}\) or "If somebody claims to be the son of any other than his real father, or attributes himself to other than the one who freed him from slavery, will not enter Paradise"\(^{184}\) or "He who swore a false oath in order to entitle himself [to possess] a property, will meet Allah in a state that [Allah] would be angry with him"\(^{185}\) or "He who appropriates the right of a Muslim by swearing a false oath, Allah would make Hell-fire necessary for him and would declare Paradise forbidden for him"\(^{186}\) or "The one who severs the ties of kinship will not enter Paradise"\(^{187}\) and other such \textit{hadiths} containing such threats, it is not permissible to single out a particular person from among those who committed these actions and to say that the relevant threat has befallen that person. This is because of the possibility of repentance and other ways of removing the punishment.

It would also not be permissible to say that this (i.e. the existence of such \textit{hadiths}) necessitates pronouncing rejection (\textit{la'\textsc{n}}) against Muslims or the \textit{ummah} of the Prophet Mu\textsuperscript{h}ammad (peace be on him) or pronouncing \textit{la'\textsc{n}} against the \textit{siddiqin} or the upright ones. This is because it might be that whenever the upright righteous one commits one of those prohibited actions, there would no doubt be an impediment preventing the applicability of the punishment to him, despite the cause of the punishment being present.

Hence, whoever did these actions thinking that they were permissible—either on the basis of \textit{ijithād}, imitation or other similar reasons—the last resort is that he is from a class of the righteous from whom the threat was lifted through an impediment, just as the threat might be impeded by repentance, good deeds which erase the bad ones, and other such reasons.

Note that this is the path that must be adopted [with regard to this matter], as there are only two ugly alternatives to this:

The first: to assert the applicability of the threat to each and every individual [committing the act] with the argument that this is merely acting upon what is necessitated by the texts.

\(^{182}\) See, Muslim, \textit{Ṣaḥīḥ}, Kitāb al-\textit{Īmān}, Bāb Taḥrim al-Kibr.

\(^{183}\) See, Muslim, \textit{Ṣaḥīḥ}, Kitāb al-\textit{Īmān}, Bāb Qawl al-Nābi man Ghashshanā fa layṣa Minnā.

\(^{184}\) See n. 145 above.


\(^{186}\) See, Muslim, \textit{Ṣaḥīḥ}, Kitāb al-\textit{Īmān}, Bāb Wa‘id Man Ḥaqq al-Muṣlim bi Yāmin Fājiratin bi al-Nār.

\(^{187}\) See, Muslim, \textit{Ṣaḥīḥ}, Kitāb al-Bīr\textit{r} wa ‘l-Ṣilah wa ‘l-‘Ādāb, Bāb Šilat al-Raḥim.
This claim is uglier than the opinion of the Khārijīs who accused those who committed sins with disbelief, the Mu'tazilah and others. The invalidity of this opinion is known by necessity in the religion of Islam, and the proofs for this are confirmed in places other than here.

The second: to abandon forming opinions and actions based upon what is required by the hadiths of the Messenger of Allah (peace be on him), assuming that to argue according to them leads to the defamation of those who contravened those hadiths. Yet this abandonment would lead to misguidance and following in the footsteps of the People of the Book who have taken their rabbis and their monks and the Messiah, the son of Mary (peace be on him and her), as lords besides Allah, as the Prophet (peace be on him) said, "They did not worship them, [meaning their monks and rabbis], but these monks and rabbis made lawful to them what Allah has forbidden, and prohibited what Allah has made lawful, and they obeyed them in this." Thus, this abandonment leads to obeying the created ones in disobedience to the Creator. It also leads to an ugly result and incorrect interpretations. This could be understood from the implied meaning of the statement of the Exalted, (Obey Allah, and obey the Messenger, and those charged with authority among you. If you differ in anything among yourselves, refer it to Allah and His Messenger, if you do believe in Allah and the Last Day. That is better and fairer in the end).

The scholars differ in various issues. If every tradition containing sternness (taghîliz), which was opposed by someone meant that this taghîliz would be abandoned or that the tradition would not be acted upon, then the outcome necessitated by this (which is the abandonment of the hadiths of the Prophet) would be greater in enormity than to attribute someone with disbelief or abandonment of the religion. If this feared outcome (i.e. abandonment of the hadiths of the Prophet) was not greater than what was before it (i.e. attributing someone with disbelief or abandonment of the religion), it will certainly not be inferior to it.

Therefore, it is a must for us to believe in the entire Book (the Qur'ān) and to follow all that was revealed by Allah to us. And we should not believe in a part of the Book and disbelieve in another part. Our hearts should not be inclined to follow some of the Sunnah and avoid following some of it on the basis of customs and desires. This would indeed be an abandonment of the straight path in preference to the way of those who have brought wrath upon themselves, and those who have gone astray. May Allah guide us to what He loves and is pleasing to Him in terms of speech and action in a state of

189 Qur'ān 4: 59.
goodness and well-being for us and all Muslims. And praise be to Allah the Lord of the worlds, and countless salutations and blessings be upon Muhammad, the seal of the Prophets, and upon his family and his righteous Companions and his wives, the Mothers of the Believers, and those who follow them in goodness till the Day of Judgement.¹⁹⁰

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¹⁹⁰ The translation of this text was based on the edition of Raf al-Malām an al-'Aimmah al-‘Ālam (Riyadh: al-Ri‘āsah al-‘Āmmah li Idārat al-Buḥūth al-‘Ilmiyyah, 1413 AH). The opinions expressed in the translated text are those of the author, Ibn Taymiyyah, and not necessarily those of the translator.