

due to some other [abrogating] evidence. None can meet the responsibility of knowing this except those who deepened their learning and obtained fiqh." Imâm al-Haytamî said something similar.<sup>5</sup>

Ibn Wahb is also reported to say: "I met three hundred and sixty learned people of knowledge but, without Mâlik and al-Layth, I would have strayed."<sup>6</sup> Another versions states: "Were it not for Mâlik ibn Anas and al-Layth ibn Sa'd I would have perished: I used to think everything that is [authentically] related from the Prophet - Allâh bless and greet him - must be put into practice."<sup>7</sup>

Another version has: "I gathered a lot of h.adîths and they drove me to confusion. I would consult Mâlik and al-Layth and they would say to me, 'take this and leave this.'"<sup>8</sup> Ibn Wahb had compiled 120,000 narrations according to Ah.mad ibn S.âlih.<sup>9</sup>

Hence, Ibn 'Uqda replied to a man who had asked him about a certain narration: "Keep such h.adîths to a minimum for, truly, they are unsuitable except for those who know their interpretation. Yah.yâ ibn Sulayman narrated from Ibn Wahb that he heard Mâlik say: 'Many of these h.adîths are [a cause for] misguidance; some h.adîths were narrated by me and I wish that for each of them I had been flogged with a stick twice. I certainly no longer narrate them!'"<sup>10</sup>

By his phrase, "Many of these h.adîths are misguidance," Mâlik means their adding them in the wrong place and meaning, because the Sunna is wisdom and wisdom is to place each thing in its right context.<sup>11</sup>

Ibn al-Mubâarak said: "If Allâh had not rescued me with Abû H.anîfa and Sufyân [al-Thawrî] I would have been like the rest of the common people." Al-Dhahabî relates it as: "I would have been an innovator."<sup>12</sup>

## The Imâm's of H.adîth Defer to the Imâm's of Fiqh

Imâm Ah.mad's teacher, Yah.yâ ibn Sa'id al-Qat.tân, despite his foremost status as the Master of h.adîth Masters and expert in narrator-recommendation and discreditation, would not venture to extract legal rulings from the evidence but followed in this the fiqh of Abû H.anîfa as he explicitly declared: "We do not belie Allâh. We never heard better than the juridical opinion (ra'î) of Abû H.anîfa, and we followed most of his positions."<sup>13</sup>

Similarly, Muh.ammad ibn 'Abd Allâh ibn 'Abd al-H.akam said: "If it were not for al-Shâfi'î I would not have known how to reply to anyone. Because of him I know what I know."<sup>14</sup> As for Muh.ammad ibn Yah.yâ al-Dhuhli (d. 258) of Khurâsân, whom Abû Zur'a ranked above Imâm Muslim and who is considered an Amîr al-Mu'minîn fî al-H.adîth ("Commander of the Faithful in the Science of H.adîth"), he never considered himself a non-muqallid but said: "I have made Ah.mad ibn

# THE SUPERIORITY OF FIQH OVER H.ADITH

by GF Haddad

{He gives wisdom to whomever He will, and whoever receives wisdom receives immense good} (2:269). "He for whom Allāh desires great good. He grants him (superlative) understanding in the Religion (yufaqqihhu/yufqihhu fi al-dīn). I only distribute and it is Allāh Who gives. That group shall remain in charge of the Order of Allāh, unharmed by those who oppose them. until the coming of the Order of Allāh."<sup>1</sup>

Imām al-Shāfi'ī said: "You [the scholars of h.adīth] are the pharmacists but we [the jurists] are the physicians." Mullā 'Alī al-Qārī commented: "The early scholars said: The h.adīth scholar without knowledge of fiqh is like a seller of drugs who is no physician: he has them but he does not know what to do with them; and the fiqh scholar without knowledge of h.adīth is like a physician without drugs: he knows what constitutes a remedy, but does not have it available."<sup>2</sup>

Imām Ah.mad is related by his students Abū T.ālib and H.umayd ibn Zanjūyah to say: "I never saw anyone adhere more to h.adīth than al-Shāfi'ī. No one preceded him in writing down h.adīth in a book." The meaning of this is that al-Shāfi'ī possessed the intelligence of h.adīth after which Ah.mad sought, as evidenced by the latter's statement: "How rare is fiqh among those who know h.adīth!" This is a reference to the h.adīth: "It may be one carries understanding (fiqh) - meaning: memorizes the proof-texts of fiqh - without being a person of understanding (faqīh)."<sup>3</sup> The Salaf and Khalaf elucidated this rule in many famous statements showing that, for all the exalted status of the Muh.addith, yet the Faqīh excels him:

## H.adīth Misguides Those Devoid of Fiqh

\* Ibn Abī Zayd al-Mālikī reports Sufyān ibn 'Uyayna as saying: "H.adīth is a pitfall (mad.illa) except for the fuqahā'." and Mālik's companion 'Abd Allāh ibn Wahb said: "H.adīth is a pitfall except for the Ulema. Every memorizer of h.adīth that does not have an Imām in fiqh is misguided (d.āll), and if Allāh had not rescued us with Mālik and al-Layth [ibn Sa'd], we would have been misguided."<sup>4</sup>

Ibn Abī Zayd comments: "He [Sufyān] means that other than the jurists might take something in its external meaning when, in fact, it is interpreted in the light of another h.adīth or some evidence which remains hidden to him; or it may in fact consist in discarded evidence

ایک ماہر پر عالم کی فضیلت ایسی ہے جیسے کہ چاند کی فضیلت دوسرے تمام ستاروں پر (سنن ابوداؤد و ترمذی)

and kaafirs alike. because the evidence indicates that the prohibition on selling it is general in application, and no differentiation is made between Muslims and others.

Indeed, if we were to say that what is meant by the prohibition on selling it is selling it to kaafirs, that would not be far-fetched, because the basic assumption concerning the Muslim is that he would never buy pork: what would he do with it when he knows that Allaah has forbidden it?

Similarly, the questioner's saying that "pork existed at the time of the Messenger (peace and blessings of Allaah be upon him), and if he had wanted to forbid it and curse it he would have done so as he did with alcohol" is also not correct, because it is not essential for a thing to be forbidden that the Messenger (peace and blessings of Allaah be upon him) should have cursed the one who does it. Rather it is sufficient that he forbade it or stated that it is haraam, as he forbade the sale of pork.

#### **Fourthly:**

With regard to your taking this money, now that you know that it is haraam, it is more befitting for you to refuse to take it, especially since your taking it is like giving approval to what the company owner is doing. You have to advise him, denounce what he is doing and exhort him to give up these haraam actions. Whoever gives up something for the sake of Allaah, Allaah will compensate him with something better than it.

With regard to the money that you took before you found out that it is haraam, there is no sin on you, in sha Allah. Allaah says in the verses in which He forbids riba (usury, interest) (interpretation of the meaning):

"So whosoever receives an admonition from his Lord and stops eating Ribaa, shall not be punished for the past; his case is for Allaah (to judge)" [al-Baqarah 2:275] (The End).

comprehensive phrase which applies to everything which is intended to be used in haraam ways. These fall into two categories:

(i) Things which are to be used and will remain as they are, such as idols. The purpose for which they are used is shirk or association of others with Allaah, which is the greatest of all sins. We may add to that books of shirk, witchcraft, innovation (bid'ah) and misguidance, forbidden images, forbidden means of entertainment and also buying slave women who will serve as singers.

(ii) Things which are to be used and which will be used up. If in the majority of cases a thing is used for haraam purposes, then it is haraam to sell it. For example, it is haraam to sell pork, alcohol and dead meat even though they may – on rare occasions – be used for a permissible purpose, such as eating dead meat for those who are in extreme need, or using alcohol to stop oneself choking or to putt out a fire, or using pig hairs for beading, or making use of the hair and skin of a pig – according to those who approve of that. But because these are not the reason for which these things are produced, and the usual use for pigs and dead meat is to eat them, and the usual use for alcohol is to drink it, so no attention should be paid to these reasons, and it is haraam to sell these things.

The Prophet (peace and blessings of Allaah be upon him) indicated this when it was said to him: “What do you think of the fat of dead animals, for ships are caulked with it and animal skins are daubed with it, and the people use it to light their lamps?” He said: “No, it is haraam.” Jaami' al-'Uloom wa'l-Hukam, 1/415, 416

The Standing Committee was asked: Is it permissible to deal in alcohol and pork if one is not selling them to a Muslim? They replied: It is not permissible to deal in foods and other things that Allaah has forbidden, such as alcohol and pork, even if one is selling them to kaafirs, because it is proven that the Prophet (peace and blessings of Allaah be upon him) said: “When Allaah forbids a thing, He also forbids its price.” And because the Prophet (peace and blessings of Allaah be upon him) cursed alcohol, the one who drinks it, the one who sells it, the one who buys it, the one who carries it, the one to whom it is carried, the one who consumes its price, the one who squeezes (the grapes, etc) and the one for whom it is squeezed. Fataawa al-Lajnah al-Daa'imah, 13/49.

### Thirdly:

With regard to the questioner saying, “selling pork to non-Muslims is not haraam, and there is no text in the Qur'aan or Sunnah that says that it is haraam to sell it to non-Muslims”, this is not correct. We have quoted above evidence from the Qur'aan and Sunnah, and have stated that the scholars are agreed that it is haraam to sell pork. The general meaning of the evidence indicates that it is haraam to sell it to Muslims

**Secondly:**

Selling pork is haraam whether it is sold to a Muslim or to a kaafir. The evidence for that is as follows:

1 – Allaah says (interpretation of the meaning):

“Say (O Muhammad): I find not in that which has been revealed to me anything forbidden to be eaten by one who wishes to eat it, unless it be Maytah (a dead animal) or blood poured forth (by slaughtering or the like), or the flesh of salcohol (pork); for that surely, is impure or impious (unlawful) meat (of an animal) which is slaughtered as a sacrifice for others than Allaah (or has been slaughtered for idols, or on which Allaah’s Name has not been mentioned while slaughtering)” [al-An’aam 6:145]

And the Messenger (peace and blessings of Allaah be upon him) taught us an important principle when he said: “When Allaah forbids a thing, He (also) forbids its price.” Narrated by Abu Dawood, 3488; classed as saheeh by Shaykh al-Albaani in Ghaayat al-Maraam, 318.

2 – It was narrated from Jaabir ibn ‘Abd-Allaah (may Allaah be pleased with him) that he heard the Messenger of Allaah (peace and blessings of Allaah be upon him) say when he was in Makkah at the time of the Conquest: “Allaah and His Messenger have forbidden the sale of alcohol, dead meat, pork and idols.” It was said: “O Messenger of Allaah, what do you think of the fat of dead animals, for ships are caulked with it and animal skins are daubed with it, and the people use it to light their lamps?” He said: “No, it is haraam.” Then the Messenger of Allaah (peace and blessings of Allaah be upon him) said: “May Allaah curse the Jews, for when Allaah forbade them animal fat, they melted it down and sold it, and consumed its price.” Narrated by al-Bukhaari, 1212; Muslim, 1581.

**Al-Nawawi said:**

With regard to dead meat, alcohol and pork, the Muslims are unanimously agreed that it is haraam to sell all of these.

Al-Qaadi said: This hadeeth indicates that whatever we are forbidden to eat or make use of, we are also forbidden to sell, and it is not permissible to consume its price, as in the case of the animal fat mentioned in this hadeeth. Sharh Muslim, 11/8

Ibn Rajab al-Hanbali said, after quoting the ahaadeeth about the prohibition on alcohol:

The conclusion we may draw from all these ahaadeeth is that whatever Allaah has forbidden us to make use of, it is also haraam to sell it and consume its price, as is stated clearly in the hadeeth: “When Allaah forbids a thing, He (also) forbids its price.” This is a general.

حضرت امام شافعی رحمۃ اللہ علیہ فرمایا کرتے کہ: امام مالک اور سفیان بن عیینہ نہ ہوتے تو حجاز سے علم رخصت ہو جاتا

## Fiqhee Q & A

**Question:** I work in a seaport and serve ships that are passing through. Most of these ships are foreign and the people working on them are non-Muslims. The company owner sells pork to these ships sometimes, then he distributes the profits of these sales to us employees and we accept it on the basis that selling pork to non-Muslims is not haraam, and there is no text in the Qur'aan or Sunnah that says that it is haraam to sell it to non-Muslims. And we cannot compare alcohol to pork because pork existed at the time of the Messenger (peace and blessings of Allaah be upon him), and if he had wanted to forbid it and curse it he would have done so as he did with alcohol. But there are some people who made us doubt whether this money is halaal. Is it halaal or haraam?

If we do not participate in the sale, will it not matter if we take these profits if the company owner gives them to us like an act of charity? Do we have the right to accept charity when we know its origin? Is there any hadeeth in which the Messenger (peace and blessings of Allaah be upon him) stated clearly and unequivocally that it is haraam to sell pork to non-Muslims? Because pork is not haraam for the People of the Book.

**Answer:** Praise be to Allaah.

**Firstly:** It is not permissible for anyone to issue fatwas concerning the religion of Allaah without knowledge. It is essential to understand the seriousness of doing that, because Allaah says (interpretation of the meaning):

“Say (O Muhammad): (But) the things that my Lord has indeed forbidden are Al-Fawaahish (great evil sins and every kind of unlawful sexual intercourse) whether committed openly or secretly, sins (of all kinds), unrighteous oppression, joining partners (in worship) with Allaah for which He has given no authority, and saying things about Allaah of which you have no knowledge” [al-'Araaf 7:33]

So it is not permissible for anyone to say, this is halaal and that is haraam, if he has no sound evidence to that effect. Allaah says (interpretation of the meaning):

“And say not concerning that which your tongues put forth falsely: ‘This is lawful and this is forbidden,’ so as to invent lies against Allaah. Verily, those who invent lies against Allaah will never prosper” [al-Nahl 16:116]

کیا آپ کو معلوم ہے کہ: ☆ قانون شریعت کا دوسرا نام فقہ اسلامی ہے ☆