

بين الحديث والفقہ

Between Ḥadīth and Fiqh

By Dr. Mohammad Akram Nadwi

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سلسلة إملاء الخاطر | Imlā al-Khāṭir Series



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جميع الحقوق محفوظة

Imlā al-Khāṭir Series

In this series, which he names *Imlā al-Khāṭir* (literally, “dictation of thoughts”), Dr. Mohammad Akram Nadwi follows in the tradition of the Ḥanbalī scholar Ibn al-Jawzī’s *Ṣayd al-Khāṭir* and shares with the world his reflections on a variety of topics ranging from theology to law, history to heart softeners, philosophy, education and more. Composed in a casual, conversational style consisting of questions followed by their brief answers (each portion predicated by *qālū/qultu*, “they said”/“I responded”), he utilizes therein the highest level of Arabic, reflecting his love of the language and his extensive expertise in Arabic grammar and rhetoric. These short but poignant reflections are part of the *balāghah* genre and tradition of Arabic literature. It should be noted that these translations, done by his senior students, serve as a guide and can never fully match the style, tone and eloquence of the original Arabic. Also note that Dr. Akram does not necessarily review each translation and is not responsible for any errors, improper word choices, or the likes, that are an inevitable part of the translation process.

Dr. Mohammad Akram Nadwi

Dr. Mohammad Akram Nadwi is a world-renowned scholar of Indian origin who has resided in England for an extensive time. After receiving in-depth training to an advanced level in the traditional Islamic disciplines at the famous Nadwat al-Ulama seminary in Lucknow, India, and receiving a PhD in Arabic literature from Lucknow University, he became a research fellow at the Oxford Centre for Islamic Studies, where he conducted research for a number of years on a variety of topics, including Ḥadīth and Sufi orders in India. He has published widely in Urdu, Persian, Arabic and English, including translations (like his work on Shāh Waliullah, *Bustan al-Muhaddithin*), editions of Arabic texts (such as a renowned critical edition of *Usul al-Shāshī* in Ḥanafī jurisprudence), and original monographs on Islamic law, female ḥadīth narrators and such figures as Abū Ḥanīfah and Sayyid Abul Ḥasan ‘Alī Nadwi. His groundbreaking work, yet to be published, is an encyclopedic 40-volume documentation of the legacy of female scholarship in the Islamic tradition. He co-founded the Al-Salam Institute in 2006 where he continues to serve as Principal and Senior Lecturer.

Introduction

Building on his previous articles looking at the intersection of ḥadīth and fiqh, this monograph pushes that discussion further to more forcefully delineate the boundaries of each discipline. Specifically, he sees the two broad sources of attaining knowledge as being historical reports (in which you are informed of information from someone else) and intellectually derived views, termed philosophy (in which you essentially derive your own information). Ḥadīth reports fall under the former and require their own set of rules for verification, while fiqh, and most other disciplines, fall under the latter and require a different approach.

بسم الله الرحمن الرحيم

بين الحديث والفقه

بقلم: محمد أكرم الندوي

أو كسفورد

قالوا: أعجبنا مقال "بين الحديث والفلسفة" مستفيدين منه، ومميزين به بين طبيعة الحديث وطبيعة الفلسفة، وبين مقاييسها وموازينها التي تخص كل واحد منها، ومنتكبين تخليطاً بينها أو تلييساً، فاكشف لنا عن الفرق بين الحديث والفقه كشفاً يزيل التعقيد والتعمية، قلت: أعيدوا قراءة ذلك المقال تجدوا فيه بيانا شافيا لما سألتموني عنه، قالوا: الحديث والفقه أجل موضوعاتنا وأخطرهما شأنًا، وما أشدنا احتياجا إلى أن نسبر غورهما ونكتنهما اكتناها، وأبينا أن نسيء فهم كلامك فننسب إليك ما لم تقله، قلت: أما إذ أبيت فاسمعوا:

الحديث خبر وتاريخ، والفقه قانون وفلسفة، الحديث في الاصطلاح إخبار بقول النبي صلى الله عليه وسلم أو فعله أو تقريره أو صفته أو شأن من شؤونه، وقد يطلق على آثار الصحابة والتابعين، والفقه يراد به في الاصطلاح علم بالأحكام الشرعية العملية المستفادة من أدلتها التفصيلية

من كتاب الله وسنة نبيه صلى الله عليه وسلم، والعمل المتوارث، والإجماع، والقواعد الكلية، والقياس، وللحديث منهجه في التوثيق، ولفقه منهج يشبه الفلسفة في التقرير والإثبات، فإذا أردتم مثلاً معرفة تفاصيل غزوة بدر وصفة صلاة النبي صلى الله عليه وسلم وحجه احتجتم لإثباتها إلى سلوك منهج المؤرخين والأخباريين، وذلك ما فعله المحدثون، بل إنهم فاقوا عامة المؤرخين والأخباريين وبدؤهم في التوقي والحذر والعناية بالحفظ والإتقان، وذلك مبسوط في رسالة الإمام الشافعي ومقدمة صحيح مسلم وغيرها من كتب أصول الحديث ومصطلحاته، وإذا أردتم أن تعرفوا أركان الصلاة وسننها ومستحباتها، احتجتم لتقريرها إلى الاحتجاج بالقرآن الكريم: دلالاته النصية ودلالاته العمومية وإشاراته واقتضاءاته، وبالسنن المتوارثة من النبي صلى الله عليه وسلم إلى أصحابه وأتباعهم، وإجماع الفقهاء، وكليات وقواعد اعتمدها العلماء الصالحون المجتهدون، وقياس بالتعليل أو التمثيل.

قالوا: هل نحتاج في الفقه إلى الحديث؟ قلت: نعم، تحتاجون إليه إذا نسبتهم قولاً أو فعلاً إلى الماضين، لأن ذلك خبر وتاريخ، ومنهج المحدثين أفضل المناهج في إثبات خبر أو تاريخ، وكذلك تحتاجون في الفقه إلى معرفة تأويل القرآن، واللغة، والطب والاقتصاد، فلا بد للفقهاء من الرجوع إلى المفسرين إذا أشكل عليه تأويل آية، وإلى المحدثين إذا أراد التوثق من خبر، وإلى اللغويين إذا خفي عليه شيء من كلام العرب، وإلى

الأطباء إذا عرضت له قضية تتصل بطب الأبدان، وإلى الاقتصاديين في الشؤون المالية.

قالوا: هل تصح معارضة مسألة فقهية بحديث؟ قلت: يحتاج الأمر إلى تفصيل، فإن كان الفقيه بنى المسألة على أدلة من كتاب الله تعالى والسنة المتوارثة والكليات والقواعد الفقهية، فلا يصح معارضته بحديث وخبر، لأن الأحاديث والأخبار أمور جزئية يجري فيها الخطأ والوهم. قالوا: وهل تصح معارضته بخبر الثقات؟ قلت: لا، لأن الثقة قد يخطئ ويهم، وتجري في الأخبار الصحيحة الاحتمالات والنسخ، فلا تبلغ درجة المعارضة.

قالوا: ما هو الجزء الآخر من هذا التفصيل؟ قلت: إن كان الفقيه بنى المسألة على حديث، وليس له دليل غيره لا من قرآن ولا سنة ولا عمل ولا كليات، فحينئذ تصح معارضته بحديث أقوى منه، ويجب على الفقيه أن يعتمد على قواعد المحدثين في تصحيح الخبر وتضعيفه.

قالوا: فما للفقهاء المتأخرين ملحين على شرح أصول الحديث على مذاهبهم؟ قلت: أخطأوا في ذلك، وقد بينت وجه خطأهم في مقالي "أصول الحديث على المذهب الحنفي".

قالوا: كيف ندافع عن المذهب الحنفي إذا تقضه المحدثون بالأحاديث؟ قلت: المذهب الحنفي في غنى عن أن ندافع عنه، وإنما نحتاج إلى أن

نتقصيه وعيا وفهما وحفظا، ثم تقدمه للناس ونشرحه لهم من دون تغيير أو تعديل أو اعتذار.

قالوا: وهل يسوغ للمحدثين أن يتكلموا في الفقه؟ قلت: لا، إلا إذا بلغوا في الفقه درجة الفقهاء، وقلّ من جمع بين الحديث والفقه كالثوري ومالك والبخاري، قالوا: فما تقول في محدثين عارضوا الفقهاء؟ قلت: أخطأوا في ذلك، وليتقيد الفقهاء والمحدثون والمفسرون واللغويون والنحاة والأطباء والاقتصاديون وسائر أهل الصناعات بحدودهم غير متخطين إياها ولا متجاوزين عنها.

قالوا: وددنا أن توفينا فضل الفقهاء في الفقه على غيرهم بيانا وإيضاحا، قلت: استوعبوا ما قدمتم لكم، واصبروا، وانتظروا للمقال التالي.

Between Ḥadīth and Fiqh

By Dr. Mohammed Akram Nadwi
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They asked: We were impressed by your article “Between Ḥadīth and Philosophy”¹ and benefited from it greatly. We were able to distinguish between the true natures of ḥadīth and philosophy, recognize the scales and parameters of each, and avoid blurring the lines between them. So please reveal to us now the true difference between ḥadīth and fiqh, removing some confusions and misperceptions concerning them.

I replied:

Go back and read that article again and you will find a clear explanation concerning what you are asking me about.

They asked: Ḥadīth and fiqh are the most esteemed topics for us, as well as the most important. We have great need to probe their depths and study them profoundly. We also do not want to misunderstand your words or to attribute to you what you haven’t said.

I replied:

If you do indeed insist, then listen:

Ḥadīth are historical reports, while fiqh is law and philosophy. Ḥadīth in its technical usage is informing of the words of the Prophet, peace be upon him, or of his actions, approvals, characteristics or any other matter concerning him. It is also applied to the reports of the Companions and Followers. Fiqh in its technical usage is knowledge of the practical rulings of the Sharī’ah as deduced from its detailed evidences from the Book of God, the Sunnah of His Prophet, inherited practices, consensus, the universal maxims, and analogical deduction. Ḥadīth has its own particular methodology for verification while fiqh has its own which resembles philosophy. So if you

¹ Nadwī, Dr. Mohammad Akram. “Between Ḥadīth and Philosophy.” Imlā al-Khāṭir Series. UK: Al-Salam Institute, 2018.

want to know, for instance, about the Battle of Badr or the description of the Prophet's prayer or his Ḥajj, you need to establish that through the method of the historians, which is exactly what the ḥadīth scholars actually did. In fact, they far surpassed historians in their diligence and caution, and in their precision and accuracy. That is all laid out in the *Risālah* of Imām Shāfi'ī, the *Muqaddimah* of Imām Muslim, and other books of the science and terminology of ḥadīth. If you want to know, on the other hand, about the pillars of ṣalāh, or its recommended acts, you would need to establish those by proving them from the Noble Qur'ān—specifically its textual evidences and those evidences that are general, inferred or necessitated—and from the practices transmitted from the Prophet to the Companions and Followers, from the consensus of the jurists, from the legal maxims which were relied upon by the pious scholars of *ijtihād*, and from analogical deduction based on finding common rationales and similarities.

They asked: Do we need ḥadīth for *fiqh*?

I replied:

Yes, you would need it if you were to ascribe a statement or view to the past, because in that case it would become a historical report, and the methodology of the ḥadīth scholars is best suited for determining the veracity of historical reports. For *fiqh*, you would also require an understanding of the Qur'ān, language, medicine, and economics. It would be necessary for the jurist to refer to scholars of *tafsīr* if the meaning of a verse proved difficult, or to scholars of ḥadīth if there were a need to establish the veracity of a report, or to scholars of language if some Arabic words or expressions become problematic. A jurist would also need to refer to physicians if a problem concerning medicine of the physical body were presented to them, or to economists if the issue were one concerning financial matters.

They asked: Is it correct to oppose a *fiqh* ruling with ḥadīth?

I replied:

This matter requires further elaboration. If a jurist built a ruling on evidences from the Qur'ān, transmitted *Sunnah*, and juristic maxims and principles, then it would not be correct to oppose that with a ḥadīth or report, because

ḥadīth and other reports are peripheral matters that can contain mistakes or ambiguity.

They asked: Is it okay to oppose it with the reports of trustworthy narrators then?

I replied:

No, because even the trustworthy narrators can err and make mistakes, and because sound reports can carry multiple possibilities [of meaning and application], or even be abrogated. So such reports cannot reach the level where they could nullify rulings.

They asked: What is the other side of this explanation?

I replied:

If a jurist had built a ruling on a ḥadīth report and possessed no other evidence—neither from the Qur’ān, Sunnah, transmitted practice or legal maxim—then in that case it could be correct to oppose that with a stronger ḥadīth, and it is obligatory on the jurist to rely on the principles of ḥadīth scholars in authenticating reports.

They asked: Why do later jurists insist on explaining the principles of ḥadīth according to their schools?

I replied:

They are mistaken in that, and I have explained their error in an article entitled “Principles of Ḥadīth in the Ḥanafī School.”²

They asked: How would we defend the Ḥanafī school when ḥadīth scholars oppose it through ḥadīth?

I replied:

² Nadwī, Dr. Mohammad Akram. “Principles of Ḥadīth in the Ḥanafī School.” Imlā al-Khāṭir Series. UK: Al-Salam Institute, 2018.

The Ḥanafī school does not need us to defend it. Rather we first need to study it deeply, understand it and preserve it, and then present it to people and explain it to them without any distortion, amendment or apology.

They asked: Is it warranted for a ḥadīth scholar to talk about fiqh?

I replied:

No, unless they reached the level of expertise of jurists. Few were those that combined ḥadīth and fiqh with proficiency like Sufyān al-Thawrī, Mālik and Bukhārī.

They said: So what do you say about ḥadīth scholars that opposed jurists?

I replied:

They were mistaken in that. Let everyone—jurists, ḥadīth scholars, tafsīr scholars, grammarians, physicians, economists—confine themselves to their discipline without crossing its bounds.

They asked: We want you to acquaint us with the virtue of jurists over others.

I replied:

Try to understand what I have presented to you thus far and be patient and wait for a forthcoming article.