

Al-Ra'y, al-Bid'ah and the Challenges of Muslim Unity in Contemporary Society

Being the text of the full paper by

Ibrahim Olatunde UTHMAN, Ph. D, FIPMD
Dept. of Arabic and Islamic Studies
University of Ibadan
ibrahimuthman@yahoo.com
08036201617

Accepted for Presentation at

Conference on Islam in Nigeria (2017 COIN)
to be held at the **Art Theatre, Faculty of Arts,**
University of Ibadan, Nigeria.
20-23 November, 2017

Abstract

This paper examines the concepts of *al-Ra'y* and *al-Bid'ah* in the light of the contemporary challenges confronting Muslim unity. The *Sharī'ah* teaches strict conformity to the injunctions of the Qur'an and Sunnah, which make many people including some leading Islamic scholars to argue that *al-Ra'y* is un-Islamic. This view is strengthened by the *Sharī'ah* concept of *al-Bid'ah*, which has been explained by many to show that in the *Sharī'ah* there is no freedom of speech and opinion. Against this background, I propose to interrogate the concepts of *al-Ra'y* and *al-Bid'ah* using the comparative method, which I have described in a recent presentation as a kind of combination of the synthetic, thematic, stylistic and comparative analyses of the teachings of the Qur'an by studying the corpus of Islamic texts as a whole that differentiates between the spirit and letters of the *Sharī'ah* because while its universal and eternal principles are rigid, its derivative application is dynamic and flexible. The paper concludes that though the *Sharī'ah* permits freedom of speech and opinion, they are moderated by the regulations of *al-Bid'ah*.

Introduction

The *Sharī'ah* teaches strict conformity to the injunctions of the Qur'an and Sunnah, such that no Muslim is permitted to willfully violate these injunctions. On the basis of this, many people including some leading Islamic scholars opine that *al-Ra'y* is prohibited and thereby outlawing rational thinking, logic and philosophy as well the attendant divergent opinions that they lead to, especially in the realm of *al-Ībādah* (worship). This view is strengthened by the *Sharī'ah* concept of *al-Bid'ah* (Deviant or pernicious innovation). Against this background, this paper interrogates the concept of *al-Ra'y* and *al-Bid'ah* using the comparative method, which I have described in a recent presentation as a kind of combination of the synthetic, thematic and stylistic interpretations of the teachings of the Qur'an by studying the corpus of Islamic texts as a whole that differentiates between the spirit and letters of the *Sharī'ah* because while its universal and

eternal principles are rigid, its derivative application is dynamic and flexible.¹ But first, the paper begins by explaining the concept of the *Ummah* and its implications for Muslim unity.

The Ummah and the Challenges of Unity

Today, the *Ummah* (the Muslim global community or the Muslim world) faces multiple challenges. Though these challenges are both internal and external, the most serious and dangerous of these challenges, in the estimation of many Muslims, is that of internal disunity. It is the most threatening militating factor against the spread of Islam all over the globe. The *Da'wah* (propagation) activities of most Islamic organizations are encumbered by their propensity to pick “on one another’s mistakes, neglecting positive contributions, and belittling others’ achievements...”² This disunity is not just starting but has rather been with the *Ummah* for ages and perhaps explains why Wilfred Smith concludes that “the unity of the Muslim world is unity of sentiments.”³

The *Ummah’s* disunity is represented in the hostility of different Muslim religious groups, sects, and movements for one another. Some from among these groups want all Muslims to follow the only the juristic views of Islamic school of *Fiqh* or jurists of their choice. They do not want any Muslim to be any different from them in their practice of Islamic teachings, values and institutions. Most often, these juristic choices are presented in the name of fighting *al-Bid'ah* committed by other Muslims in their manners of praying, recitation of the Qur'an in group, group chanting of litanies, using of prayer rosary, the length of the beards and whether a woman wearing the *khimār* (veil) could leave the face and hands uncovered or must cover herself from

¹ I. O. Uthman, “9/11 versus 11/9: the American Dream, Boko Ḥarām, Global terrorism and the World in the Age of Trumpism” in Adebola B. Ekanola and Dele Adeyanju (eds.), *Topics in Humanistic Studies* (Ibadan: Faculty of Arts, University of Ibadan, 2017), 149-172.

² Hisham Altalib, *Training Guide for Islamic Workers* (The International Islamic Federation of Student Organizations, Virginia, 1991), p. 37.

³ Wilfred Cantwell Smith, *Islam in Modern History* (Princeton: Princeton University Press, 1957), 88-89.

head to toe. These have created hot debates and sometimes resulted into abuses, beatings and attacks.

This challenge has been destructive to Muslims, leading to many Muslim groups keeping to themselves while deserting and thus breaking the harmony and unity of the *Ummah*. Yet, the unity of the *Ummah* stems from the unity of the Lord whom they worship and towards whom they turn their faces. This unity of the *Ummah* is in direct contrast to the case of unbelievers who turn to different directions in their worship of various gods, saints and prophets etc. For it appears that when the unbelievers turn towards their gods, this psychologically prompt them to disunite and fight among themselves as understood in the following words of Allah: “Turn you in repentance to Him, and fear Him: establishing regular prayers, and be not among those who join gods with Allah. Those who split up their religion, and become (mere) sects,-each party rejoicing in that which is with itself!” (Q30: 31-32).⁴ To avert this sectarian tendency, Allah commands Muslims to worship Him alone and face the same direction in prayers. He also commands them to be united and to avoid disagreement as follows: “And obey Allah and His Messenger; and fall into no disputes, lest you lose heart and your power departs; and be patient and persevering: for Allah is with those who patiently persevere” (8: 46). The foundation of the unity of the Muslim world, contrary to the view of Smith above, is not “unity of sentiments” but axiomatically rooted in the unity of Allah and practically demonstrated in the concept of *Ummah* as laid down by the Prophet in the *Madīnah* Constitution, which has been referred to as the first constitution of the world.⁵ What is striking here is that the concept was used by the Prophet to mean a worldwide community of all Muslims predicated on the unity of Allah, unity of

⁴ Abdullah Yusuf Ali, *The Qur'an: English Translation of the Meanings and Commentary* (Saudi Arabia: King Fahd Publishing Complex, 1405 A. H.), 1187. This translation is used throughout this paper.

⁵ Muhammad Hamidullah, *The First Written Constitution in the World: An Important Document of the Time of the Holy Prophet* 3d rev. ed. (Lahore: Shaikh Muhammad Ashraf, 1975), 18-21.

revelation and unity of the brotherhood of Islam, against all enemies and transcending all socio-cultural and political considerations of blood, tongue, nationality, race and colour.⁶

However in spite of the above, a lot of Muslims including some Islamic scholars have always indirectly promoted the disunity of the *Ummah* by discouraging the use of *al-Ra'y* (personal opinion) on the premise that the recourse to reason and human knowledge as against revealed knowledge violates the *Sharī'ah*. Thus diversity of opinions or *Ikhtilāf* is condemned by them, which they believe is the only way to safeguard the unity of the Muslim *Ummah*. This is further accentuated by them with the Prophetic condemnation of *al-Bid'ah*. They explain *al-Bid'ah* in ways that prohibit *al-Ra'y* and the use of human initiative, creativity and innovation. It is for this reason that the next section examines the concepts of both *al-Ra'y* and *al-Bid'ah* in Islamic Law and shows how neither negates the other leading to a creative synthesis between revelation and human reason.

Understanding al-Ra'y and al-Bid'ah in Islamic Law

That disunity is the most serious challenge confronting the *Ummah* presently as seen in the various Muslim organizations' enduring and entrenched juristic divisions is confirmed by the fact that whereas the founders and leading jurists of the various schools of *Fiqh* (Islamic jurisprudence) mutually respected and recognized one another, today juristic differences have at different times led to the *Takfīr* (excommunication), boycott, fighting and even outright killing of fellow Muslims as seen in the activities of some Muslim organizations and movement such as the so-called *Salafiyyah* Groups like the al-Qaida, the Islamic State of Iraq and Syria (ISI) also

⁶ Hakim Mohammed Said, "The Islamic Community" *Hamdad Islamicus* (1982) 4/2: 33-41, Muhammad Nazeer Ka-Ka Khel, "The Rise of the Muslim *Umma* at mecca and its integration" *Hamdad Islamicus* (1982) 4/3: 59-71 and Abdo A. Elkholy, "The Concept of Community in Islam" in Khurshid Ahmad and Zafar Ishaq Ansar (eds.) *Islamic Perspectives: Studies in Honour of Mawlana Sayyid Abul Ala Mawdudi* (London: The Islamic Foundation, N.D.), 171-181.

known as the Islamic State of Iraq and Levant (ISIL), the al-Qaida of the Maghreb (AQIM) and the *Jamā 'atu Ahl al-Sunnah fī al- Da'wah Wa al-Jihād* otherwise known as the Boko Haram (BH). In most cases, they accuse other Muslims of practicing *al-Bid'ah* based on their *Al-Ra'y* and subsequently condemn them. For instance, the Taliban while in power in Afghanistan carried out different punishments such as public beatings, detention and gang rape of men and women for committing the *Bid'ah* of not wearing beards, wearing beards of insufficient length and cutting or shaving beards as well as not wearing *Burqa'* (Large gown that covers from head to toe), wearing decorated and bright coloured clothing and wearing noisy shoes, white socks and shoes respectively.⁷

Both the ISIL and BH have even gone further to pronounce *Takfir* and subsequently the death penalty on Muslims who commit the *Bid'ah* of being an advocate for democracy and friendship with non-Muslims. Such Muslims have been executed through beheading, mass slaughtering and even massacre of innocent and defenseless Muslims and non-Muslims alike.⁸ So to understand the rulings of Islamic Law on these matters, it becomes necessary to ask the questions what is *Al-Ra'y*, what is *al-Bid'ah* and what are the legal rulings regarding them in the Islamic Law?

According to Kamali,

Al-Ra'y is defined as opinion on a matter which has not been regulated by the Qur'an and Sunnah. It is a considered opinion arrived at as a result of thinking and self-exertion on the part of the individual who explores and searches for knowledge of something, about which there may exist only signs or indications. But the existing signs are such that may lead the investigator to different conclusions.⁹

⁷ Vincent Iacopino et. al, *The Taliban War on Women: A Health and Human Rights Crisis in Afghanistan: A Report by Physicians for Human Rights* (Boston and Washington DC: Library of Congress, 1998), 11-14, 33 and A. Widney Brown and Farhat Bokhari, "Afghanistan Humanity Denied: Systematic Violations of Women's Rights in Afghanistan" *A Human Rights Watch Report* (2001) 13/C: 2, 6-8 and 10-20 retrieved on November 18, 2017 from <https://www.scribd.com/document/7574245/Final-Copy-of-Master-Paper>.

⁸ See Uthman, "9/11 versus 11/9: the American Dream, 149-172, B. Richard, *The Islamic State* (New York: The Soufan Group, 2014), 18 and Fatima Mohammed Al-Majdhoub and Aziza Hamza, "Framing the ISIL: A content Analysis of the News Coverage by CNN and Aljazeera" *Malaysian Journal of Communication* (2016) 32/1: 338-355.

⁹ Mohammad Hashim Kamali, "The Approved and Disapproved Varieties of Ra'y (Personal Opinion) In Islam" *The American Journal of Islamic Social Sciences* (1990) 7/1: 40.

Al-Ra'y is therefore technically an individual opinion on a matter on which the Qur'an or the Sunnah is silent or not specific but in reality differs from a mere conjecture that is condemned by Allah in the Qur'an (6:116) because it is not allowed to obstruct the clear and explicit texts of the Islamic Law. It is self-inspired, taking the form of *Qiyās* (Analogical deduction), a tool of the secondary source of *Fiqh*, *Ijtihād* (personal independent reasoning) applied to the variant corpus of texts of the Qur'an and Sunnah but is in itself not definitive and absolute as it is not the *Sarīh al-Nusus* (expressed texts) and *Ijmā'* (consensus of opinion). Though today, it is common for scholars to claim *Ijmā'* on most juristic matters, according to Imām Ibn Qayyim al-Jawziyyah, the four Imams upheld that there was *Ijmā'* on only few matters. The juristic corpus of *Fiqh* is, in fact an embodiment of *al-Ra'y* that does not violate authoritative tradition and its acceptance is determined by its proximity to the letters and spirit of the Qur'an, Sunnah and *ijmā'* of the companions of the Prophet, which is very rare as in most cases the evidence is open to different meanings. Hence, Imām al-Shāfi'ī explains that the lack of knowledge about *Ikhilāf* (diversity of opinions) on a juristic matter is not an indication of *Ijmā'*. Imam Ahmad, following al-Shāfi'ī's view never regarded as *Ijmā'* the views of companions of the Prophet on which he could not find *Ikhilāf* but merely concluded that he could not find a contrary view on the matter.¹⁰

Al-Ra'y is therefore not pronounced on matters expressly regulated by the Qur'an and Sunnah or matters that are factual and rational enough to be deciphered without deep deliberation and pondering on the texts. It is also not pronounced on matters pertaining to the realm of the unseen on which there are no signs and indications whatsoever that guide what he or she says. Thus, the *Sharī'ah* tolerates *al-Ra'y* because it has a role to play in the development of ideas and the quest for knowledge and truth. Often a sound opinion is invoked and stimulated by a provocative or

¹⁰ Imām Shams al-Dīn Muḥammad ibn Abibakr Ibn Qayyim al-Jawziyyah, *I'lām al-Muwaqqi'īn An Rabb al-ālamīn* First edition 'Abd al-Rahmān Fahmī al-Zawāwī (ed.) 2 vols. 4 parts (Egypt: Dār al-Ghadd al-Jadīd, 1437 AH/2016), vol. 3, 26-35.

misguided one.¹¹ The sound *al-Ra'y* through the process of *Ijtihād* places a major role in the development of Islamic *Fiqh*. This view is predicated on the statement of the beloved Prophet Muhammad (SAW) who proclaimed that the mere effort of a competent *Mujtahid* (expert on *Ijtihād*) at attaining the truth would attract reward from the almighty Allah, whether or not the opinion reached is actually right or wrong. If it succeeds in attaining the truth, the *Mujtahid* it gets two rewards. Otherwise, the reward would be just one. This Hadith is further supported by the tradition of Mu'ādh ibn Jabal when he was appointed by the Prophet as the governor of Yemen and he supported Mu'ādh for considering the use of *al-Ra'y* in juridical matters.¹²

For this reason, *al-Ra'y* flows from *Ijtihād*, one of the secondary sources of the *Sharī'ah* and “bears a stronger affinity with” *Fiqh*, which according to Kamali is mainly the product of ‘*Aql* (human reason). To him, *Fiqh* is “the knowledge of the practical rules of the *Sharī'ah*, which are derived from the Qur'an and the Sunnah. The rules of *Fiqh* are thus concerned with the manifest aspects of individual conduct” which is “evaluated on a scale of five values: obligatory, recommended, permissible, reprehensible, and forbidden.” Kamali views *Fiqh* as “the deduction of” rules from the Qur'an and the Sunnah” through a process of “direct contact with the source evidence and” which “necessarily involves a certain measure of independent reasoning and intellectual exertion (*Ijtihād*).¹³

The above view is similar to that of al-Alwanī who argues that *Ijtihād* is a tool of *Fiqh* to renew the application of the *Sharī'ah* in the light contemporary changing circumstances.¹⁴ Using *Ijtihād* according to al-Qaradāwī makes it possible to apply *Thawābit* (permanent aspects of the *Sharī'ah*) to new contemporary issues in an ever changing world. Thus, one of the remarkable characteristics of the *Sharī'ah* is that while its universal, fundamental and eternal principles are rigid, its application is dynamic

¹¹ Kamali, “The Approved and Disapproved Varieties of Ra'y, 39-63.

¹² Ibn Qayyim al-Jawziyyah, *I'lām al-Muwaqqi'in* vol. 1, 55.

¹³ Mohammad Hashim Kamali, “Law and Society: The Interplay of Revelation and Reason in the Shariah,” in *Oxford History of Islam* John L. Esposito (ed.) (Oxford: Oxford University Press, 2000), see the entire introduction.

¹⁴ Taha Jabir al-'Alwani, “Taqlid and Ijtihad” *The American Journal of Islamic Social sciences* (1991) 8 (1): 129-142.

and flexible, making it timelessly relevant and thus confirming its universality and eternity. This dynamism and adaptability of the *Sharī'ah* is reflected in its gradual approach to revelation and the imposition of religious obligations and prohibitions as well as its outright abrogation or at least suspension of obligations and prohibitions due to special circumstances such as necessity, human weakness, forgetfulness and mistake.¹⁵ During the early development of Islamic juristic thought, when the opponents of *al-Ra'y* objected to its application the proponents cited the above prophetic traditions and other express texts in its support and this negative perspective of *al-Ra'y*, underwent a gradual change. While it was mainly employed by scholars of the Ḥanafī school of Islamic law, who maintained that Islam never discouraged recourse to reason and personal opinion, provided that the use of *al-Ra'y* did not violate any of the *Sharī'ah* principles and objectives, all the schools of Islamic *Fiqh* eventually came to endorse *al-Ra'y*. For instance, according to Ibn Qayyim al-Jawziyyah, *Qiyās* was resorted to by all the Imams once they failed to find even weak *Sarīh al-Nusus* such as weak traditions of the Prophet that are not *Munkar* or *Bātil* (Detested and void traditions).¹⁶ Thus *Ikhtilāf* is clearly permitted in the Islamic Law long as it is within the realm of Islamic ethics. In my view, it is in order to guide this use of *al-Ra'y* that the Prophetic command on *al-Bid'ah* was promulgated. This brings up the definition of this concept.

Literally, *al-Bid'ah* means new development, innovation, manufacturing, fabrication and creation that is unprecedented and new in the tradition, norm and established practice of a people or society. Technically in the *Sharī'ah*, according to the Andalusian Mālikī jurist, Imām Abū Ishāq al-Shātibī, *al-Bid'ah* is defined as “an innovated path in the religion resembling the *Sharī'ah* in

¹⁵ Yūsuf al-Qaradāwī, *Islamic Law in the Modern World* Al-Hadi Ahmad Kahalifah (transl.) (Riyadh: World Assembly of Muslim Youth, 2000), 40-124.

¹⁶ Ibn Qayyim al-Jawziyyah, *I'lām al-Muwaqqi'īn*, vol. 3, 36-40.

that which fulfills the objectives of what the *Sharī'ah* has approved.”¹⁷ He explains that two key features of *al-Bid'ah* is that it has no evidence whatsoever in the *Sharī'ah* though it seeks to fulfill the objectives of the *Sharī'ah* and thereby distorting the *Sharī'ah* injunctions by upholding the *al-Zawāhir* (manifest or apparent meanings of the Qur'an) and employing the *Mutashābihāt* (ambiguous) verses or injunctions of the Qur'an without looking into the *Muḥkamāt* (definitive) verses.¹⁸ Islamic jurists, therefore, use the term *al-Bid'ah* generically in the words of Kamali “in contradistinction with the term ‘Sunnah,’ making *al-bid'ah* to signify “a deviation from, or superimposition on, the Sunnah of the Prophet.” A good example is the distinction between *Talāq al-Sunnah* and *Talāq al-Bid'ah* respectively. According to Kamali, while

the former signifies the type of divorce which conform with the law and established precedent, the latter is labeled as *Talāq al-Bid'ah* primarily because of its departure from the legal norm which requires that the maximum of three pronouncements of *Talāq* are each uttered within a clean period (*Tuhr*), that is the period between two menstruations. *Talāq al-Bid'ah* ignores this and combines the three pronouncements of *Talāq* uttered all at once.¹⁹

Al-Bid'ah as explained by the above Islamic jurists should therefore be understood as an injunction to curb any attempt that may take *al-Ra'y* beyond its limits through a complete distortion of the principles of Islam or misinterpreting them out of good intention and by giving free reign to the human desire to explore. This is simply because the scope and subject matter of *al-Ra'y* is wide, hence the scholars of Islamic law have nevertheless attempted to divide it into four types, namely valid or praiseworthy opinion, void opinion, blameworthy or objectionable opinion, opinion whose validity is in doubt. Al-Shātībī also records that the early scholars divided *al-Bid'ah* into two types: *al-Bid'ah al-Ḥaqiqiyyah* and *al-Bid'ah al-Idafiyyah*. The former refers to the real or absolute *al-Bid'ah* for which no support could be found in the Qur'an, Sunnah, or any precedent or opinion of the companions, their followers and learned scholars of

¹⁷ Abū Ishāq Ibrāhīm al-Shātībī, *al-I'tisām* vol. 1 (Cairo: Matba'ah al-Manār, 1332/1914), 29.

¹⁸ Al-Shātībī, *al-I'tisām*, vol. 1, 30-35.

¹⁹Kamali, “The Approved and Disapproved Varieties of Ra'y,” 50.

Islam, neither completely nor partially. The latter refers to the secondary and partial *al-Bid'ah*, which is identical with the absolute *al-Bid'ah* on the one hand, in that it is an unprecedented act. On the other hand, it differs from the absolute *al-Bid'ah* because support for it can be found in the Qur'an, Sunnah, or established norms. He then gives as an example of the second the practice of monasticism or celibacy which in the words of Allah "they innovated it. We did not decree it upon them" (Q57:27).²⁰

Thus *al-Bid'ah* is not a monolithic concept. It is rather an ambivalent deviation from the norm, which can be accepted or rejected out rightly as part of the authoritative Sunnah, depending on whether both the intentions and means of the *Mubtadi'* (innovator/deviator) in achieving a scheme of *Masāliḥ* (benefits) are in accordance with the *Sharī'ah*. Two other kinds of *al-Bid'ah* are good and reprehensible.²¹ Whereas some scholars such as Taqīyyu d-Dīn Abū 'l-'Abbās Ahmad Ibn Taymiyyah (661–728/1263–1328) reject the division of *al-Bid'ah* into good and reprehensible others such as 'Izz al-Dīn Abdul al-Salām as quoted by al-Shātibī maintain that there are numerous kinds of *al-Bid'ah*, including praiseworthy and blameworthy.²²

Ibn Taymiyah refutes this quoting some Aḥādīth such as "All innovation is misguided," and "the worst of things are the innovations." To the view that some *al-Bid'ah* is good based on the precedent of 'Umar, who is on record to have welcomed night prayers in Ramadan and referred to them as (what a good *al-Bid'ah*), Ibn Taymiyah responds that the night prayer was not an innovation at all; since it originated in the Sunnah of the Prophet and the Companions but that the Prophet abandoned it after a while for fear of it would be made obligatory. In addition, according to him, 'Umar was one of the orthodox caliphs whose actions had been declared by the Prophet as part of the Sunnah. Hence what a good *al-Bid'ah* as said by 'Umar cannot at all

²⁰ Al- Shātibī, *al-I'tisām*, vol. 1, 213-215.

²¹ Kamali, "The Approved and Disapproved Varieties of Ra'y," 50.

²² Al- Shātibī, *al-I'tisām*, II, p. 50.

contradict the tradition that “all *al-Bid‘ah* is misguided.” ‘Ibn Taymiyah, concludes therefore that ‘Umar must have used the word *al-Bid‘ah* in its linguistic sense of welcoming something that was forgotten; that he did not use the wording in the sense of *al-Bid‘ah al-Shar‘iyah*.²³ What this implies however is that, *al-Bid‘ah* in the precedent of Companions is not monolithic but it is instructive that the companions themselves differed on what constitutes *al-Bid‘ah*.

While some of the companions viewed *al-Bid‘ah* as absolutely forbidden because to them Islam was already complete before the demise of the prophet, others affirmed that there was still juristic matters on which it was still possible to opionate. It is on record that Ibn Mas‘ūd for instance objected to the standardization of the Qur’an at the time of the third caliph, ‘Uthmān ibn ‘Affān and refused to burn the copies of the Qur’an in Iraq because he could not find any text from the prophet in support of that Regarding this, al-Shātibī while supporting the majority of the companions on the standardization just like the compilation of the Qur’an prefers that whatever innovation is in line with both the *Sharī‘ah* aims and means should be considered as *Masāliḥ* on account of the already existing provisions for public interest and benefits and not as good *Bid‘ah* because according to him, “there is no disputer against the fact that the Prophet did not die until after he had explained all that would be needed in both this world and the hereafter.” He then supports his opinion with the popular quote from Imām Mālik that “whosoever introduces in Islam an innovation that he opines as good has though that Prophet Muhammad (SAW) has betrayed the message because Allah has said ‘today I have completed for you your religion...’ (Q5: 3).²⁴

Thus in order to safeguard the unity of the Muslim Ummah, the Islamic Law is expressive of the limits within which freedom of speech and *Ikhtilāf* must operate. One such limit is that *al-Ra’y* must differ from mere conjecture that is condemned by Allah and must not be at variance with

²³ Taqīyyu d-Dīn Abū ‘l-‘Abbās Aḥmad Ibn Taymiyyah *Iqtidā‘ al-Sirāt al-Mustaqīm li-Mukhalafah Ashāb al-Jahīm* Vol. I Nāsir Ibn ‘Abdul al-Karīm al- ‘Aql, ed. (Riyādh: N.D., 1404 A.H.) p. 55.

²⁴ Al- Shātibī, *al-I‘tisām*, II, p. 354-356, 34-42 and 149.

the clear and explicit texts of the *Sharī'ah*. Though it is not definitive and absolute yet, it must be a form of *Qiyās* arrived at through the process of *Ijtihād*). It is within this limitation that transgression (*Baghy*) and self-seeking capricious desire (*Hawā*) are located.²⁵ This would appear to reveal that *Hawā* has been likened to *Baghy* because of the propensities of human caprices to divide the Muslim *Ummah* when it is given a free reign. *Al-Ra'y* must therefore not be predicated on mere caprices or be capable of precipitating rebellion in the *Ummah*.

Conclusion

The paper shows that it is allowed to hold differences of opinions on matters on which the Qur'an and Sunnah are not categorical and that the regulations on *al-Bid'ah* rather than outlawing innovations, only put them in check. Therefore to lay claim to exclusive right to the right opinions on such matters is in itself a deviation from the precedent of Companions and the leading scholars of different Islamic schools of Law. *Istibdād bi al-Ra'y* (imposing one opinion over others) without clear authority, is condemnable *Bid'ah* as this could only lead to hostility and division of the Muslim *Ummah*. Due to the obligation of Muslim unity, any innovation and idea for which there either direct or indirect evidence in the sources should be accommodated or at worst discouraged only through persuasive measures. The first implication of the above is that *al-Bid'ah* or innovation that deviates from the Sunnah of the Prophet just like *al-Ra'y* that expresses apostasy or even unbelief is not punishable as long as it remains in the realm of religious conviction born out of the intellectual understanding of the *Mubtadi'*, then it can only be engaged intellectually, hence the Prophetic declaration “strive against the polytheists with your wealth and persons and tongues.”²⁶ It is only when *al-Bid'ah* leaves the realm of intellectual

²⁵ Kamali, “The Approved and Disapproved Varieties of Ra'y,” 49-50.

²⁶ Al- Hafidh Ibn Hajar al-Asqalānī, *Fath al-Bārī* 1st Ed. Vol. 12 (Riyād: Dār al-Salām), 2000), p. 341.

disagreement, becoming *Baghy* or *al-Ḥirābah* that it becomes punishable.²⁷ Another implication also is that while the intention of the *Mubtadi‘* maybe in accordance with the intentions of the *Sharī‘ah* in achieving the *Masālih*, the means employed in achieving these benefits must also however fall in the realm of what is forbidden and this is precisely why the good intentions behind *al-Bid‘ah* are of no account, as Imām al-Shātībī explains, because the *Mubtadi‘* then arrogates to him/herself the authority of the Allah to frustrate the means the *Sharī‘ah* has approved in achieving any set of its objectives.²⁸ For instance, while a Muslim may be right in a set of goals such as the application the *Sharī‘ah*, the Muslim, according to the *Sharī‘ah*, he/she may be wrong in the activities and acts designed as methods, means and ways for achieving the goals. This would then be regarded as reprehensible *al-Bid‘ah* as explained clearly by Al-Imām al-Ḥāfidh Zayn al-Dīn ‘Abdul Raḥman Ibn Aḥmad popularly known as Ibn Rajab Al-Ḥanbalī regarding these two narrations of Ḥadīth five in its collection: From the mother of the Faithful, Umm ‘Abdullah (May Allah be pleased with her) who said: The Messenger of Allah (SAW) said: Whosoever innovates something in this matter of ours that is not of it will have it rejected (reported by al-Bukhārī and Muslim). According to the narration of Muslim, “Whosoever does an act that is not of our command will have it rejected.” According to Ibn Rajab Al-Ḥanbalī,

This Ḥadīth is a great fundamental out of the fundamentals of Islam. Just as the Ḥadīth “Actions shall be judged according to intentions” is the scale for measuring actions in their esoteric dimensions; this Ḥadīth is the scale for measuring actions in their exoteric dimensions. In the same vein, just as every action not intended to seek the pleasure of Allah will not earn the doer a reward, so also every action that is not supported by the command of Allah and His Messenger is rejected... This Ḥadīth in questions points to the fact that every action that is not sanctioned by the *Sharī‘ah* is rejected and that every action that is supported by his command is not rejected. The meaning of his command in this context is his religion and

²⁷ Uthman, “9/11 versus 11/9: the American Dream, *Boko Ḥarām*, Global terrorism,” pp. 155-172.

²⁸ Al-Shātībī, *al-I‘tisām*, p. 50.

Sharī'ah. This is like the meaning of his saying in the other narration: Whosoever innovates something in this matter of ours that is not of it will have it rejected.” Thus the meaning is that the person whose action is outside the *Sharī'ah* it is rejected. And his saying “that is not of our command will have it rejected” is an indication that it is obligatory that every action of workers be based on the rulings of the *Sharī'ah* such that it is guided by these rulings both its commands and prohibitions. Anybody whose action is in line these rulings, the action is accepted but whosoever goes outside that, the action is rejected. And actions are divided into two: worship and human transactions. As for devotions, whatever is generally outside the ruling of Allah and his Messenger is rejected from the doer and the doer falls under the statement of Allah, the Great: What! Have they partners (in godhead), who have established for them some religion without the permission of Allah? (Qur'an 42: 21). So whosoever draws close to Allah with an action that Allah and His Messenger have not made a means of drawing close to Him, the action is void and rejected from the person.⁹²²⁹

For this reason, as long as it is within the realm of investigative matters, where both the Qur'an and Sunnah are non-specific a person may express an opinion as long as he/she does not violate the Islamic ethics, thus putting the *al-Bid'ah* in the realm of *Baghy* because of *Hawā*.

²⁹ Zayn al-Dīn Abīl Faraj Abdul Raḥman Ibn Shihāb al-Dīn Ibn Aḥmad Ibn Rajab al-Ḥanbalī al-Baghdādī, *Jāmi' al-Ulūm Wa al-Ḥikam Fī Sharḥ Khamsīn Ḥadīthān min Jawāmi' al-Kalim* revised 1st edition edited by Yūsuf Shaykh Muḥammad and Aḥmad 'Awad Abū al-Shabāb (Beirut: al-Maktabah al-'Asriyyah, 2001/1422 A.H.), 60-61.