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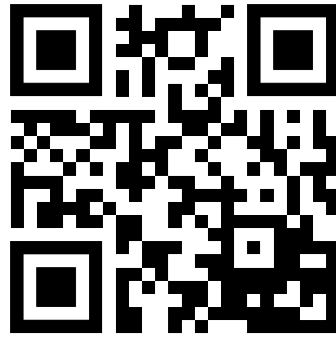
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# Means of Harmony Through Building Principles in Maliki *Fiqh*: Prohibiting Harm Among Neighbors and the Right of Pre-emption as an Example

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**Abstract**— In the belief of Muslims, Islamic religion is not just a system of faith and belief, but it is also a law that organizes daily behaviors of the people. From the emergence of Islam, Islamic law has taken a concern of architecture. The Medina of Prophet is cited as an example of Islamic city that was established based on the Islamic instructions and guidelines. During the Prophet's time, architectural buildings were built under certain Islamic guidelines. This article will track and discuss some of these Islamic principles and behavioral guidelines that should be respected among the planning buildings. It will concentrate more on two issues which are related to harm such as pre-emption and how it can be solved in the light of the Maliki jurisprudence.

**Index Terms**— Pre-emption, Islamic Principles, Harm, Planning Buildings, Neighbors, and Islamic Law.

## 1 INTRODUCTION

IN the Islamic texts, there are many Quranic verses and Hadiths that organize the general life of people. Moreover, they provide actual specific guide for the aspects of people life such as how they should behave in their locality. Moreover, those verses and traditions pay particular attention to the architecture and constructions of houses and mosques. Prophet Mohamed forbids anyone to raise his wall more than neighbors' because it obscures fresh air from their houses. He says, when he mentions the rights of neighbor "do not raise the building more than him and to obscure him from air unless he permits that" (Tabarani). In this Hadith, Islam does not restrict construction, but it provides a certain condition that should be considered in the buildings; it is not to harm neighbors.

Ibnou Rami and Hakim are two Islamic scholars who analyzed Islamic principles and behaviors which deem important rules for organizing the life of people in cities and villages. Aissa Tatili is another scholar who died in 386 H (Hijri calendar). His book "القضاء بالمرفق في المباني ونفي الضرر", which was published by the ISESCO in 1999, is also a reliable source in the Islamic art and architecture. He deals specifically with the issues of "harm" that is caused by various ways. Even we count on all of them in writing our research, we will concentrate more on Hakim's book "Arabic-Islamic Cities: Building and Planning Principles" where he discussed Islamic principles and behavioral guidelines that should be respected among neighborhood. This article is going to discuss two issues from his book which are related to harm and how it can be solved; they are:

### 1-Harm

### 2-Pre-emption

Even these two topics are selected spontaneously, there is a strong relation between them from Islamic perspectives. One purpose of Islamic law is to stop any harm that pesters people, the pre-emption is legitimated, as an exception, to expel the potential harm away that can be occurred by a new partner. In This condition, Islamic law gives the right to the seller's partner to preempt his partner's portion in business due to potential harm that can be produced by the new partner. Therefore, we will highlight this in two sections. While in the first part we discuss only harm that can be prevented by force of law or can be compromised, in the next part we will talk about another method of preventing harm which is pre-emption.

## 2. THE CONCEPT OF HARM (الضرر)

### 2.1 The Definition of Harm (DARAR)

The concept of harm is an aboard term which can be applied to all negative behaviors and actions that hurt someone or something. Before discussing harm's effects, it is initially needed to define what harm is. Harm synonyms are "injury, damage, or problems caused by something that you do" ("Harm", def.1) [1]. As noticed, there are three main terms that can be used interchangeably in this paper to translate the concept of harm into English, and all of them express the notion of disadvantage.

In Islamic law, harm, according to Ahmed Maouafi, "is the opposite of utility... what hurts your friend and benefit or not benefit you." [2] In one sense, it is obvious that harm is ruled by Islamic guidelines and actions which are related to the *fiqh* of urbanism and planning. So, it is suitable to cite here Hakim Besim who clarifies that saying "the essence is that one should exercise one's full rights in what is rightfully his providing the decision/ action will not generate harm to other. Likewise, others should exercise their full rights in what is rightfully theirs providing their decision/action will not harm others." [3] To some extent, this definition is informative; people can practice their rights freely unless they hurt others. But it is broad in

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which it includes many types of damage. Activities that are intended to harm others are considered as 'bad actions.' "Bad deed" is sin that God punishes its committers.[4]

## 2.2 The Prohibition of Harm in Islamic Law

The Islamic law prohibits all kinds of harm that make humans suffer. When Islamic scholars deal with the jurisprudence of architecture, they rely on specific verses of Quran and Hadiths. In the Maliki jurisprudence, as in the rest of jurisprudence, harm is unacceptable based on the Hadith of Prophet Mohammed (See Appendix of Hadith, 1). It is clear from this Hadith that harm must be averted whenever it existed. In addition, this Hadith becomes a jurisprudential rule which is applied to other cases of damage. Quran also forbids harm (See Appendix of Quran, 1). The last part of verse demonstrates an explicit prohibition of harm. Based on these religious texts, scholars understand that harm is forbidden by God and his Prophet. So, that they deducted many issues pertaining to damage, and they concluded to one jurisprudential rule which is harm must be removed. However, there are some kinds of harm are not prevented because they can be accommodated, or their disturbance is less than their benefits.

## 2.3 The Categories of Harm

As the concept of harm is abroad, it should be divided into categories to narrow it into the issues related to architectures and behaviors. To measure what is the nature of harm, it should be initially perceived by a scholar who gives Fatwa and by a judge who resolves the problem. In Maliki Fiqh, harm has two sorts:

**The old harm** is unsafe activities that exist in region before planning neighbors. If the neighborhood complains about the damage, Islamic scholars agreed that "harm should not remove because it existed before them".[5] (Ouaziri, Para.4). The rule here "is probably based on the legal axiom, 'the old should be left as it is' (Al-Qadimy Utraku' Ala Qidmihi), as implied in Ibn al-Qatt.n's argument".[6] So, in this case, the above-mentioned rule of harm is not applied because the residents implicitly accept to live in the harmful area which is established before them. In modern time, this issue is similar to the case of those who reside in the industrial zones of some Moroccan cities although they know there is harm. Their complains are dismissed by a court due to the 'oldness' of activities.

**The new harm** is harmful activities that exist after the establishment of neighborhood. In this instance, some forms of harms "were allowed, and others disallowed, according to the nature and the duration of the harm to be caused".[7] If the harm was a little such as the harm of kitchen's smoke, it can be endurable.[8] As far as we are concern, some public utilities, like bakeries, are necessary in the neighborhood. Although they cause harm, their benefit overcomes their harm.

## 2.4 The Causes of Harm

As scholars had been part of decision-makers, they were religiously contributing to urban planning so that they examined the behaviors and the ways that cause inconvenience for inhabitants. They concluded that there are three causes of harm which are smoke, offensive odor, and disturbing sounds.[9]-[10] To analysis these causes, we rely on Hakim and Ibnou Rami

who are cited here as scholars who pays a key attention to these issues of harm.

### 2.4.1 Harm of Smoke

In the Islamic cities and villages, smoke disturbs the residents; some kinds of smoke can be prevented, and some others cannot. As far as smoke is considered as harm, it is forbidden by God in Quran (See Appendix of Quran, 2). The jurists infer from these verses that smoke makes a kind of agony and pain.[11] In addition, we think that Islam gives high priority to the existence of societies; so, God enacts many Islamic laws to secure them from any potential danger.

On the other hand, there are cases of smoke; each case is examined separately by scholars who issues specific Fatwa on that. According to Ibnou Rami, "there are two sorts of smoke: One sort must be prevented like smoke that emits from bakeries, bathhouse,"[12] "or houses used to fry barely and other similar uses"[13] because, in most time, it poses a threat to the environment and human health. However, the owners of public baths and bakeries can practice their commercial activities if they get consent from neighbors, as Ibnou Habib narrated from Moutaraf, Ibn Al-Majashoun, and Assbagh.[14] Another sort of smoke should be allowed owing to its importance. For instance, such smoke comes "from within houses such as baking pits (Tannur), kitchens and other similar uses".[15] Sahnoun asked Ibn Kassim about the Imam Malik's Fatwa in baking pits, Ibn Kassim answered that "I do not hear anything from Malik about baking pits, and I think it 'light' harm"[16] which can be endurable due to its necessity for people in the neighborhood.

### 2.4.2 Harm of Offensive Odor

Offensive odors deem a kind of harm that annoys people in neighborhoods and regions. Eradicating odors is an obligatory task according to Hadith (See Appendix of Hadith, 2. Also See Appendix of Validation, 1). In this Hadith, there is explicit indicator that bad smell must be removed because it annoys people and angels. However, Hakim concludes that Hadith is "an indirect reference to support this principle...which is "to remove garbage, effluence, and sources of offensive smells." [17] The Hadith does not forbids eating onions, garlic, and leeks as sorts of vegetables, but it inhibits people to come to mosque or to engage in discussion while their mouth has smile of those vegetables. As a solution, they can brush their mouth before doing that.

Ibn Habib asked Muattaraf, Ibnou Al-Mjashoun, and Assbagh if there was someone who uses his house as a tannery and has bad smell annoys his neighbors; do they have a right to complain against him for removing tannery's harm? They answered yes; tannery's harm must be removed; it is similar to smoking harm of bakeries and public baths.[18]-[19] Hakim, moreover, stated another condition of offensive smell that is disallowed. It is when "a person constructs a toilet or an uncovered sewer adjacent to his neighbor and when either of these conditions creates an odour offensive to that neighbor. The solution to the latter would be to cover it. The former condition is usually solved by ordering the removal of the facility." [20]

On the other hand, there is an Islamic Fatwa was issued by Ibn al-Zawi who "allowed tanners to move back to the city of Qayrawan after they had been forced to its outskirts for thirty

years." [21] It seems that there is contradiction between two Fatwas: one allows tannery, and another does not. But if we reconsider the reason behind issuing Fatwa, we can realize that Fatwa follows the customs of region. All in all, as long as there is no harm or no complain from neighbors, the tanneries can be practiced in neighborhood.

## 2.5 Harm of Acoustical Use

Noise is another cause of harm that is disallowed. Even there is no explicit evidence from Quran and Hadith that prohibits acoustical uses, jurists deduce that olfactory is considered as harm. What is more, jurists infer that from general Hadith that was narrated by Abi Horayrah from Prophet Mohamed (See Appendix of Hadith, 3. Also See Appendix of Validation, 2). It is clear that God strongly oppose any action which annoys neighbors, and He enacted heavy punishment for those who disturb their neighbors, the deprivation from Paradise.

To discuss acoustical harm, both Hakim and Ibnou Rami relied on Maliki Fatwas that had been issued according to the need of people for knowing the rule of God in issue (Hokmo Allah Fi Almassaallah). So, they put some Fatwas issued in vibrator matters under the type of acoustical harm. The offensive olfactory includes "garment beating and wheat grinding (either hand or by animal)." [22] Furthermore, the subject of mill is one of the classically jurisprudential topics related to the acoustical harm. Sahnoun narrated from Ibn Kassim that Imam Malik said "if someone owns land along with neighbors' houses, and he built a mill there, he must be prevented from that" [23] because it constitutes a potential threat for the neighbors' houses. In modern time, the establishments of factories, which constitute a latent danger for residents, are prevented by government.

Another issue is the establishment of stables that disturb inhabitants. Kahera and Benmira clarified that "It appears that an individual had built a stable (al-riwd') for his small beast, claiming that it was his only form of income. Over his neighbor's objection, the individual was ordered to remove the animal and destroy the stable." [24] It can be concluding that the vibration, which causes damage to wall, is prevented according to Averroes.[25] Finally, the noisy and acoustical uses can be either "directly or indirectly and the general approach is not to allow or remove the source of noise." [26]

In the following, we will talk about another method of preventing harm which is pre-emption.

## 3 THE CONCEPT OF PRE-EMPTION

### 3.1 The Definition of Pre-emption

The pre-emption is a very broad concept because it is related to Islamic Jurisprudence and to what is called "Real Rights in Civil Law." The legal definition of preemption is derived from Islamic reference although most Islamic states secularized their civil laws. In Morocco, preemption is originated from Maliki doctrine. It is called Shuf'a in Fiqh. In the Maliki principle, Shuf'a, as Ibn Elhajib states,

"Is the retrieving [or taking] of the buyer's share forcedly and giving it back to it the partner of seller via the way of sale. He said 'the partner' does not include the neighbor; he does not

have the preemptive right in Malikyait, and mentioned 'forcibly' to elude option sale (Bayae alkhayar) because this kind of sale is an optional license, and it legislates to ward off harm partner." [27]

This definition may seem ambiguous because it was shaped by classic scholars in the past. So, it is important to provide Hakim's modern definition of preemption which "is the right of a neighbor or partner to purchase an adjacent property of structure when offered for sale by another neighbor or partner." [28] As it is noticed from these definitions, it can be said that preemption is an exceptional right that is used by only a partner to recoup the portion of seller. Preemption is permitted "only in real estates and what it is related to it." [29] It is a right that can be given to partner in all objects that they do not divided yet such as a land, a house, or a wall. Its purpose is, as an exceptional technique, to fend off damage. There is one difference between Hakim's definition and Ibn Elhajib's one. While Hakim gives the right of preemption to the neighbor, Ibn Elhajib does not. This difference between them returns to their understanding of Hadith (See Appendix of Hadith, 4). Even this hadith encourages Muslims to take care of neighbors; Malik does not apply it to preemption. Maybe he received this Hadith from unreliable source, so he left it. Jurisprudentially speaking, if the Hadith does not have the credibility of Mohadithin, it cannot be relied on to enact a rule Hokm.

### 3.2 The Application of Pre-emption

Preemption is an exception way to prevent harm of a potential partner or neighbor so that it is required in three types of property:

- 1- Real estate like shops and orchards.
- 2- Possessions belong to real estates, and they are immovable and unchangeable such as the well and stallion sieving.
- 3- It likens the second type; they are stuffs and contracts which can harm when they become shareable for instance agricultural production, rental land for planting, and so on.[30]-[31]

Preemption is not restricted only in these types, but it can be achieved in other types if its pillars are lawfully existed. In addition, Al-Qadi Abdou Wahab just restricted preemption in three above-mentioned types to facilitate Fiqh which was very complex. In my view, the preemption can be done even in cars, electronic machines, firms and so on because its purpose is to protect a partner from harm. As long as the preemption is done under legal conditions, there is no objection from Islamic perspectives. Moreover, the determination of preemptive right is to help the neighbors standing in peace. The Islamic law gives the priority to the partner, or partners, to avoid the intervention of any foreigner among them. In this case, according to Twijiri, the concept of 'partner' includes Muslim and non-Muslim [32] in which both have the right of preemption, and they are equal in front of Islamic law.

### 3.3 The legislation of Pre-emption

Preemption is enacted, by the consensus of Islamic scholars, to prevent harm. According to Averroes Ibn Rushd, its legitimacy is stated in Hadith [33] which is narrated by Bukhari; Jabir bin 'Abdullah (See Appendix of Hadith, 5). This Hadith is evidence

that proves a right of preemption. In addition, there are many Hadiths, which are narrated in the reliable sources of hadith such as Bukhari and Tarmidi, encourage inhabitants to behave positively towards neighbors and partners. Abdallah Ibnou Abbas narrated a hadith from Prophet Mohammed (See Appendix of Hadith, 6) who explains which possessions are preempted and what time preemption is executed. Based on these Hadiths, preemption is recognized by all Islamic schools of Fiqh. However, there is variance between them whether a neighbor has the rights of preemption or not. Unlike Malik, Abou Hanifa endorsed the preemptive right for a neighbor because the above-mentioned Hadith accredits this principle.

### 3.4 Pillars of Pre-emption

Preemption is done under certain pillars which are examined in Islamic Jurisprudence. These pillars are required to execute preemption. If one of its pillars misses, it will not be religiously achieved in the right way. To discuss these pillars, we will quote Averroes Ibn Rushd who said the pillars of preemption are four:

The first pillar is the demander of preemption Shafi'e: s/he is the one who has the right of preemption. In Maliki and Shafiai doctrines, a partner is the only one who has a preemptive right. On the other hand, the ancient Islamic scholars of Iraq said "preemption has ranks; the first one is the partner who does not divide business yet. The second one is the partner who can divide joint business. Then, the close neighbor." [34] Scholars of Medina, including Imam Malik, said the last two categories do not have the right of preemption because the prophet Mohamed granted preemption only for the partner who does not divide yet as it is indicated in afore-mentioned Hadith of Jabir Ibn Abdullah. [35]

The second pillar is the subject of pre-emption Almashfou'a fih. There is consensus between scholars that preemption is performed in houses, real estates, and lands [36]. In Maliki principle, it is done in all three types of property which are above-mentioned.

The third pillar is Mashfou'a Minho; the new partner of share or property whose new possessions will be grabbed from him by the law for the sake of Shafi'e. [37] Legally speaking, Mashfou'a Minho is everyone who gets new real estates via the method of purchase. There is disagreement between scholars if the new partner gets real estates via method of gift, endowment, dowry, and so on. According to Ibn Rushd, the famous advisory of opinion of Imam Malik is that preemption can be achieved in both methods of transferring property. Inheritance is preempted by the consensus of Maliki scholars.[38]

The fourth pillar is the method of retrieving real estates. I mean by how much can Shafi'e return business back? And when can he/she retrieve a portion from a new partner? According to Ibn Rush, the Maliki scholars agree that shafi'e retrieves the ration back by the same price of the seller. [39] The time of preemption is when Shafi'e knows that. According to Alazhari, "there is no preemption for the one who is present after one year. If the Shafi'e is absent, the right of preemption is remained standing till s/he comes back" [40] "If the Shafi'e died, his/her heirs have the right of preemption." [41] When Shafi'e uses the preemptive right, s/he will take the portion in partnership based

on his/her percentage of share. [42] As discussed previously, the partner must preempt before the division of joint business, if it is divided, there is no preemption.

### 3.5 The Conditions of Pre-emption

Preemption is not applicable in all joint businesses; it is only valid in real estate so that it is much related to Islamic architecture as we will discuss below when we quote Ibn Rami. Preemption is a right that is done under certain conditions. These conditions are classified by scholars in the basis of Quran, Hadith, and the advisory opinions of the jurists. Ibn Ljawzi, who is a Maliki scholar, clarifies them as below:

It must be in real estate such as houses, lands, orchards, and wells. However, jurists disagree on the preemption in the possessions that do not divide yet such as the house bathes and the like.[43]

It must be in joint properties. If the property is divided, there is no preemption.

Shafi'e, who demands preemption, must be a partner in property because, as in Maliki principle, a neighbor does not have the preemptive right contrary to Abu Hanifa.[44]

Shafi'e must demand the preemptive right immediately when s/he knows; otherwise, the preemptive right is dismissed. [45] Precisely, Ibn Ljawzi stated that "there are some scholars said that preemption drops after three days." [46] In the preemption, Shafi'e should retrieve the portion of property by the same price of sale.[47]

The last condition is that Shafi'e must take the whole transaction back by its full price.[48]

These conditions indicate and define the properties and possessions that can be preempted. To be practical, Ibnou Rami will be cited here as example of scholar who dealt with the issues of Islamic buildings and its pertaining to Fiqh. His study is related to the so-called jurisprudence of calamities (Fiqh Nawaazil) because it deals with special issues that occur in medieval cities like fez.

The walls in Islamic cities were problems for inhabitants because they were sharing them. Ibnou Rami wondered whether the wall can be preempted or not? Ibn Lmajashou and Mutaraf said that "the wall cannot be divided [for preemptive purpose] between two partners except if they feel both convenient". [49] If the wall is between two men [partners] and one of them sells his portion, his partner has a right to preempt the portion from a buyer." [50] Ibnou Rami worked precisely on the issue of architecture. Despite the fact that Ibnou Rami's advisory opinions are not supported by Islamic texts, but they are inferred from Islamic rule which "the harm must be removed." [51] So, the preemption is legislated as an exception to discontinue the harm that can hurt one of the partners. According to Hakim, "the prophet prescribed the application of preemption on primarily physically individual items. The intent is to protect the neighbor or partner from potential harm or inconvenience of a stranger becoming a joint owner of an indivisible property such as a party wall or garden" [52]

## 4 CONCLUSION

In conclusion, we would like to express a short summary about

what has been discussed in this essay. Harm is generally prohibited by Qur'an and Prophetic tradition. However, it is not always that who complains about harm in the neighborhood, his demand will be accepted, and harm will be removed. There is the right of priority in which harm cannot be eliminated if it exists before complainer. Even the Islamic text generalized any harm, scholars, jurists, and judges look at each case individually; based on jurisprudential criteria, and then, they issued Fatwas which few of them still work for some matters nowadays. On the other hand, in the Islamic law, there are many ways that were approved to prevent harm.

One of the ways to stop harm is via preemption. It was enacted by Hadiths that are above-mentioned. In Islamic law, if the deal is done, no one of the traders has a right to return back his deal. As an exception, the preemption is authorized to remove harm. If one of the partners feels afraid from potential harm, he can preempt his partner's portion even after the contract is executed. Another point that we conclude from this research that Ibnou Rami, hakim and Aissa Ben Moussa Tatili just collected the Fatwas from classical books of Maliki Jurisprudence. Ibnou Habib's book 'Almuoudaiha is one of their main sources. The features of the classical Maliki books of Fatwas are that Imams and judge when the deliver Fatwas, they did not support them with evidence from Qur'an, Hadith, consensus of Scholars, and religious analogy. Do Islamic Law, jurisprudence, and Fatwas need innovation to follow the new problem Islamic societies? Who has the ability to start this initiative?

## APPENDICES

### 1 Appendix of Quran

[1] "O you who have believed, do not consume one another's wealth unjustly but only [in lawful] business by mutual consent. And do not kill yourselves [or one another]. Indeed, Allah is to you ever Merciful" (Surat An-Nisā' 4:30).

يا أيها الذين آمنوا لا تأكلوا أموالكم بينكم بالباطل إلا أن تكون تجارة عن تراض منكم ولا تقتلوا أنفسكم إن الله كان بكم رحيماً. (النساء: 29 - 30)

[2] "Then watch for the Day when the sky will bring a visible smoke, covering the people; this is a painful torment", (Sura Dhukan, 44: 10 - 11).

فارتقب يوم تأتي السماء بدخان مبين. يغشى الناس هذا عذاب أليم" (الدخان 10:44-11).

### 2 Appendix of Hadith

[1] "There must be no harm and no harming" (Malik, Book 39, Hadith N° 2358).

أن رسول الله صلى الله عليه وسلم قال : ( لا ضرر ولا ضرار ) رواه مالك في الموطأ مرسلًا .

[2] "whoever eats onions, garlic, and leeks, let him not approach our mosque, [because] the angels are offended from what the sons of Adam [human being] are offended" (Muslim, Book of Prayer, Hadith N° (564)-72).

" من أكل البصل و الثوم و الكرات فلا يقربن مسجدنا، فان الملائكة تتأذى مما يتأذى منه بنو آدم". رواه مسلم.

[3] "He whose neighbor is not safe from his harm and dishonesty, will not enter Paradise" (Muslim, Book of Faith, Hadith N° (46)-73. Trans. Hakim).

أن النبي صلى الله عليه وآله وسلم قال : " لا يدخل الجنة من لا يأمن جاره بوائقه ". رواه مسلم.

[4] "The neighbor has right of proximity" (Bukhari, Hadith N° 2139).

قال رسول الله صلى الله عليه وسلم "الجار أحق بسقته" رواه البخاري

[5] "The Prophet established the right of Shu'fa (i.e. pre-emption) in joint properties; but when the land is divided and the ways are demarcated, then there is no pre-emption." (Bukhari, Hadith N° 2138).

عن جابر بن عبد الله رضي الله عنهما قال: قال رسول الله صلى الله عليه وسلم بالشفعة في كل ما لم يقسم، فإذا وقعت الحدود، وصرفت الطرق، فلا شفع". رواه البخاري.

[6] "A partner has preemption rights in everything in which he is a partner" (Tarmidi, N° 1371).

أن النبي صلى الله عليه وسلم قال: "الشريك شفيع والشفعة في كل شيء". رواه الترمذي.

## 3 Appendix of Validation

[1] This *Hadith* is narrated in many sources of *Hadith* including *Sahih Muslim*, *Musnad Ibnou Hanbal*, *Sahih Ibnou Khouzayma*, *Sunan Abi Daouad*, and other. Although all of them narrated the above-mentioned *Hadith* from Jabir Ben Abdullah, a companion of Prophet Mohammed, they transcribed it with different words and meaning. In addition, it is very hard to cite *Hadith* by its numbers because one book of *Hadith* has various versions and numbers. So, I tried to be specific in some cases when I quote *Hadith*.

[2] Hakim claims that the above-cited *Hadith* is narrated by Anas in *Sahih Muslim*. However, When I checked the *Hadith* in *Sahih Muslim*, I find it was literally narrated Abi Horayrah, just as it is cited above. Moreover, Most *Hadiths*, which discussed the prohibition of disturbing neighbors, are narrated by Abi Hurayrah. I think Hakim cites just part from another *Hadith* that was narrated by Anas in *Sahih Muslim*.

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