Chapter 3

Can Non-Muslims Become Experts in Islamic Law? Two Sections from the *Kawāshif al-ḥujub ʿan mushkilāt al-kutub* of al-Māzandarānī (d. 1285/1868)

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Introduction

Not much is known of Muḥammad Ṣāliḥ al-Māzandarānī's life (hereon Māzandarānī). His name suggests that he descended from the Mazandaran region in the north of Iran. His date of birth is unknown; in light of a report that at the time of his death in 1285/1868 he was around eighty-years old, he was likely born at the beginning of the thirteenth century AH, which coincides with the first decades of the Qajar dynasty (1789–1925).[1] In addition to receiving seminary training in Isfahan, he studied in Karbala and Najaf with some of the prominent scholars of the time, including Muḥammad Sharīf al-Māzandarānī (d. 1245/1829), Mūsā Kāshif al-Ghiṭāʾ (d. 1242/1826) and his brother ʿAlī Kāshif al-Ghiṭāʾ (d. 1253/1837). After reaching the level of juristic expertise (*ijtihād*) he returned to Isfahan where he had a distinguished career.[2]

Māzandarānī has received scant attention in biographical dictionaries and none of his writings are available in print. Besides a few brief treatises on legal topics and a work comprised of his notes (*taqrīrāt*) taken from the lectures of his teacher Sharīf al-ʿUlamāʾ (d. 1245/1829),[3] Māzandarānī wrote two books on jurisprudence. The first, titled *Uṣūl al-fiqh* ('On Jurisprudence'), was written early in his career; it encompasses only two chapters, one on linguistic postulates and theories of scriptural interpretation (*alfāẓ*), and the other on rational proofs (*adilla ʿaqliyya*). The book's unorganised presentation, a lack of uniform style, and the fact that it was left unfinished has led some to suspect that it was written as a preliminary to his more elaborate work on jurisprudence, *Kawāshif al-ḥujub ʿan mushkilāt al-kutub* ('Removing the Veils from Obscurities of Books').[4] Māzandarānī does not mention when he completed this work, although in a biographical work 1247/1832 is reported as a completion date.[5]

As Māzandarānī remarks in the preface, compared to other texts of jurisprudence, *Kawāshif al-ḥujub* is a book of medium length. It is organised in 150 sections, each dedicated to a particular topic; the sections vary in length, some only a few lines, others running for pages. Each section consists of a 'veil' (*ḥijāb*) followed by Māzandarānī's corresponding 'removal' (*kashf*) of it. Each veil constitutes a confusion about some matter of jurisprudence, which Māzandarānī attempts to remove, thereby unveiling the truth of the matter. Occasionally he characterises the questions as spurious or sophistic arguments. Although *Kawāshif* addresses major topics often discussed in the texts of jurisprudence, the arrangement of the sections does not follow the usual order. For instance, in contrast with the *Maʿālim al-dīn* – a widely-read book that Māzandarānī was familiar with – *Kawāshif al-ḥujub* does not begin with a discourse on knowledge followed by chapters dedicated to topics such as linguistic postulates and theories of scriptural interpretation, commands and prohibitions, consensus, prophetic reports, abrogation, legal analogy, and the

obligation of non-expert believers to follow the legal opinions of qualified jurists.[6] Rather, Māzandarānī's chosen approach in *Kawāshif al-ḥujub* is to address various topics, often with the aim of refuting the opposing views, and without necessarily seeking to compose a comprehensive and cohesive work of jurisprudence. Indeed, as the book's title indicates, Māzandarānī explicitly seeks to address and remove the veils from the various difficulties he has encountered in other jurisprudential books.

Māzandarānī's approach to the issues he discusses in *Kawāshif al-ḥujub* is representative of the Uṣūlī jurisprudence.[7] The Uṣūlī jurisprudential paradigm had faced a serious challenge at the beginning of the seventeenth century. Muḥammad Amīn al-Astarābādī (d. *c.* 1033/1623), acknowledged as the founder of the Akhbārī movement, had undermined the central juristic principles of his contemporaries.[8] This was met with a concerted effort to counter the Akhbārī current, which had become increasingly popular. By the time Māzandarānī undertook his training in Isfahan, the Uṣūlī framework, as exemplified by Muḥammad Bāqir al-Bihbahānī (d. 1205/1791), had established itself as the dominant force in Iranian seminaries.[9] One of the most contentious disagreements between Uṣūlīs and Akhbārīs pertained to the probative force of the Qurʾan's *prima facie* sense. Māzandarānī has a section on this topic in his treatise which is included in the present study and is an illustration of his adherence to the Uṣūlī framework.

The fact that *Kawāshif al-ḥujub* still remains in manuscript form and a critical edition is yet to be published indicates its lack of widespread readership or impact.[10] Māzandarānī may have been overshadowed by his influential contemporaries like Murtaḍā al-Anṣārī (d. 1281/1864), who is considered one of the most prominent Shiʿi jurists in history.[11] Despite its unenthusiastic reception thus far, *Kawāshif al-ḥujub* remains an appealing text. For our part, we have chosen two of its sections. Following Māzandarānī's preface to the book, Section 39 examines whether non-believers can become experts in Islamic law; Section 12 is on the probative force of the *prima facie* sense (*ẓawāhir*) of the Qurʾan.[12] It is hoped that the passages presented here will kindle the interest of a reader to pursue the entire text.

In keeping with the volume's overarching aim, we have avoided a word-for-word translation of the Arabic text; instead, the following is a close paraphrase, accompanied with commentary whenever necessary. The following edition is based on the MS #1443 of Kāshif al-Ghiṭāʿ Library in Najaf.

المرجوح عندنا معارض باجمال ترجيحه الراجح عندنا ينبغي الرجحان الذاتي الثالث سليما عن المعارض
فيجب ان يقطع وان قلت ان هذا انما يسلم حيث لم يكن فيه تخصيص العلم وامامع التمكن منه فلا
قلت ان العقلاء لا يفرقون بين الصورتين كما لا يخفى فتدبر حجاب ربما يتوهم ان ظواهر الكتاب
لا حجية فيها كما يكشف ما ذكر ان كان من باب فقد الموضوع بمعنى ان الكتاب جميع ما فيه من المتشابهات
ففيه انه انكار باللسان ومكابرة مع الوجدان وليت شعري انه كيف يمكن ان يجعل الفرق بين
الكتاب والسنة بالقول بان الالفاظ المخصوصة اذا كانت واردة في الكتاب يكون من قبيل
المتشابه وفي السنة من المحكم والحال ان الفرق بحكم والكتاب ناطق بان منه المحكم فضلا عن
المتشابه فتامل وان كان من باب انكار الحكم بمعنى انه من ظواهر الكتاب غير حجة وان لم يكن
ظواهر غير ذلك ففيه انه مدفوع بالاجماع فان قلت ان على امتنا الاخباريين قد ارتنوا
فيه ولا معنى لدعوى الاجماع في موضع النزاع قلت مضافا الى ان الاجماع عبارة عن الاتفاق
الكاشف وهو قد يحصل من الاشخاص وان خلا من الحاله وانه لا عبرة بخلاف الاخباريه كالا عبرة
بوفاقهم ان الدليل لا ينحصر فيه بل هناك امور ظنية يحصل من تراكمها القطع بالحجة الاول
الاجماع المنقول على لسان غير واحد من الاصحاب فان الفاضل التوني مع كونه من الاخباريه
قال في الوافيه الاول الكتاب ووجوب اتباعه والعمل به متواتر ويجب عليه وفي شرح هذا
الكلام للسيد المحقق الكاظمي وهذا اعتراف منه بدلالة الاخبار المتواترة وانعقاد الاجماع
على جواز الاخذ بكتاب الله جل اسمه حسب ما حررنا في هذا الفصل وفي موضع اخر منه وبالجملة
فجواز الاخذ بكتاب الله او بظاهره مما لا ينبغي ان يقدم على انكاره ذو مسكة الثالثة الشهرة العظيمة
المبالغة المحدثة لا يبعد معها دعوى شذوذ المخالف في المسئلة الثالث احتجاج اصحابنا الائمة وغيرهم

Figure 3.1 MS Kāshif al-Ghiṭā', Najaf (#1443), p. 24

من العلماء من لدن البعثة الى زماننا هذا فلو لم تكن الحجية المزبورة من الامور المقررة المعلومة
لديهم لما امسكوا عن النكير لان العادة قاضية بذلك في مقام التشاجر والتنازع لكن اللازم باطل
فكذلك الملزوم الرابع التقرير فانهم عليهم السلام مع اطلاعهم على الاحتجاج لم ينهوا ومن البين
ان تقريرهم عليهم السلام كفعلهم وقولهم حجة الخامس الاخبار الامرة فيها بالعرض على الكتاب
فان الكتاب لو لم يدل من اقوى الادلة لما معنى للامر بعرض الدليل عليه السادس الامر بالتدبر والذم
في تركه لان التدبر في الاطائل فيه ولا يفهم فيه المعنى بنحو وجيه جدًا السابع الاولوية فان حجية
السنة لما تستلزم حجية ظواهر الكتاب بالطريق الاولى الثامن قصة ابن زبعرى المشهورة حيث
قال صلى الله عليه وآله ما احملك بلسان قومك اما تعلم ان ما لا يعقل التاسع التقرير بتقرير
آخر وهو ان اصحاب الائمة عليهم السلام كثيرا ما يعترضون عليهم بالعمل بان الحكم الفلاني مخالف
لظاهر الكتاب ولم ير من احدهم القدح فيه بانكم لا تفهمون الكتاب او انه ليس حجة عليكم
بل يجيبون على وجه يظهر منه الوجه للمخالفة وهذا تقرير منهم عليهم السلام وقد مر ان تقريرهم
كفعلهم وقولهم حجة العاشر النبوي المشهور اني تارك فيكم الثقلين ما ان تمسكتم بهما لن تضلوا
ابدا كتاب الله وعترتي فان الظاهر استقلال كل من الامرين في مرحلة الاعتبار والحجية كما لا
يخفى جواب ربما يتوهم ان الحسنات يذهبن السيئات وكذلك العكس كشف الخ عدم احباط
احباط الطاعات بالمعصية وعدم تكفير المعاصي بالطاعة لكن لا لدعوى الاستقلالة العقلية بل
للاصل العقلي كالعمومات كتابا وسنة فان مقتضاها اداء جزاء كل منهما فيقتصر في احباط كل
طاعة بمعصية طارية وتكفير كل طاعة لمعصية سابقة على مورد الاسباب المنصوصة في الشريعة
للزوم تخصيص العمومات بعد ورود الخاص وكلامنا من الله بعد اخباره بان شرب الخمر مثلا محبط

كواشف الحجب
محمد صالح المازندراني م 1285هـ

الرسالة المسمّاة بكواشف الحجب
بسم الله الرحمن الرحيم و به ثقتي

الحمد لله الذي كشف الحجاب عن بصائرنا بمصابيح اليقين، وهدانا إلى مسالك النجاة بالتمسك بالعروة الوثقى والحبل المتين، وبيّن لنا منهاج المعارف بأحسن البيان والتبيين، وعرّفنا معالم الحق بالقواعد الوافية ومحكمات القوانين، وجعل الشرائع والملل تبصرة وذكرى للعالمين حتى يصل متابعوها بروضة من رياض أعلى عليين، والصلوة والسلام على من بُعث لتهذيب مناهج الدين، وتبليغ ما أُنزل إليه إلى الخلق أجمعين ﴿لِّيَهْلِكَ مَنْ هَلَكَ عَن بَيِّنَةٍ وَيَحْيَىٰ مَنْ حَيَّ﴾[1] بشيئ مبين، محمد خاتم النبيين وسيد المرسلين، وعلى وصيه وابن عمه علي الذي ينتهي به مراد المريدين وإرشاد المرشدين، ويوضَح به أحكام مشكلات الإسلام والمسلمين، وعلى عترته مطالع الأنوار وخلاصة الأطهار كما نطق به القرآن المبين.

وبعد يقول العبد الآبق الجاني ابن محمد محسن محمد صالح المازندراني -أصلح الله أمر آخرته ودنياه بلَّغه أقصى ما يطلبه ويتمناه- أن هذه فوائد لطيفة وقواعد[2] شريفة كنت دهراً من الزمان متشوقاً إلى جمعها، وتأليفها، ونظمها، وترصيفها، ليكون لي وللطالبين منهاجاً إلى مسالك التدقيق ومعراجاً إلى مدارك التحقيق وكان يمنعني عن ذلك قلة البضاعة وفقدان الفرصة والاستطاعة لشيوع البلايا والفتن وعموم المصائب والمحن، واستيلاء أهل البغي والعدوان، واستيصال أهل العلم والعرفان، إلى أن رأيت أن إنجاح الأمور على وفق المأمول يُعدّ من المحال.

و هر چه آمد سال نو گفتم[3] دريغ از پارسال

فقلت لنفسي أن الاشتغال بهذا الأمر الخطير أولى، واستعمال الأوقات في إبراز ما هو المكنون في الضمير أنسب وأحرى، فإنه موجب للأجر في النشأة الأخرى ولَأجر الآخرة خير وأبقى.

فشرعت فيما أردته متوسّطاً بين التقصير والتطويل راجياً من الله تعالى الثواب الجزيل مستعيناً به فإنه حسبي ونِعم الوكيل. ولما فرغت من ترقيمه ووُفّقت لتتميمه،[4] سمّيته بكواشف الحجب عن مشكلات الكتب. ولعمري إن الاسم مطابِق للمسمّى سيّما بعد ملاحظة أن الأسماء تُنزَل من السماء، ولكنه لما لم يكن مرتّباً كسائر الكتب المشهورة ولامبوّباً على نحو الزُبُر المعروفة، وكان يعسر بذلك الاطّلاع[5] على ما فيه من المسائل، فأجبت أن أجعل له فهرستاً ليسهل الاطلاع على ما فيه. فأقول إن كتابي هذا مشتمل على مائة وخمسين حجاباً ومائة وخمسين كشفاً.

1 Qurʾan 8:42.
2 MS: قوائد
3 MS: كفتم
4 MS: لتميميه
5 MS: الإطلاق

Commentary

Māzandarānī commences *Kawāshif* with a brief preface. As it is customary, it begins by offering praises to God and salutations upon the Prophet and the Imams. This is followed by a brief remark concerning the book's purpose and structure. He notes that throughout his life, he has been eager to compose such a book to serve as a path to inquiry and reflection for him and others. He adds that due to various factors he has been prevented to undertake this task; these include his own frailties, lack of opportunity, prevalence of tribulations and trials, and the domination of the adherents of oppression and the subjugation of the adherents of knowledge. Nevertheless, realising that waiting for ideal circumstances is bound to be futile and that the passing of years brings more despair than hope for the future, he decided to write the book despite the difficulties involved. Māzandarānī informs the readers that in this endeavour he has chosen a middle path between writing a comprehensive or a compressed book. He has arranged the book into 150 sections each containing a veil (i.e. misgiving) and its corresponding removal (i.e. resolution), hence the title of his book: *Kawāshif al-ḥujub* ('Removing the Veils'). Māzandarānī mentions that considering his book is not arranged like other well-known books of jurisprudence, readers might feel disoriented; hence, he is providing a supplementary list of its contents, facilitating the book's navigation. The rest of the preface contains the title for each of the 150 sections of the book.

Passage One: On Whether or Not Becoming a Legal Expert Depends on Having Faith

One of the topics often discussed in the texts of jurisprudence concerns the requirements a person must fulfil in order to be considered a legal expert (*mujtahid*). Some of these requirements include fluency in Arabic, familiarity with the legal verses of the Qurʾan and their interpretive traditions, and mastery of the hadith literature. Others pertain to beliefs and personal characteristics, such as religious affiliation (or lack thereof) and personal integrity. Various questions have been raised regarding the second set of requirements. Can, for instance, a Christian or an unbeliever, become an expert in Islamic law even though, according to Muslims, a Christian has but partial knowledge of theological truths and an unbeliever none? In the following section Māzandarānī addresses this issue by examining whether the discipline of jurisprudence is dependent on the discipline of theology. The passage begins with a line of arguments, posed to Māzandarānī by his hypothetical interlocutor, concerning why being a believer is a condition on being a legal expert.

فهلّا إذا[6] أذكر الكواشف ليُعلم الحجب بالمقايسة وأقول...

[1.1] حجاب: ربما يُتوهم توقف الاجتهاد على علم الكلام معلّلاً بأن المجتهد يبحث عن كيفية التكليف، وهو متوقف على العلم بنفسه المتوقف على العلم بالمكلّف المتوقف على العلم بحدوث العالم وافتقاره إلى صانع جامع للصفات الكمالية، مقدّس عن الصفات السلبية، باعث للأنبياء، مصدّق إياهم بالمعجزات، مخلف عليهم الأئمة المعصومين عن الخطأ والكذب في بيان الأحكام مما يُعرف اجتهاداً من الأدلة المفصّلة في الكلام.

[1.2] كشف: هذا الاعتقاد شرط الإيمان لعامة المكلفين لا للفقاهة والاجتهاد، ولذا قد يصير المجتهد مخالفاً وصوفياً كافراً والكافر المطلق مجتهداً مطلقاً ذا ملكة وقوة لاستنباط الفروع من أصولنا بأدلتنا التفصيلية بحيث لا يصح سلب اسم الفقاهة والاجتهاد عنه. نعم، الإيمان شرط لجواز الرجوع إليه لا بمعنى إحداث الفقاهة، وهذا واضح ويشهد به ما قالوه من أنه يُشترط في المفتي مضافاً إلى الاجتهاد الإيمانُ والعدالة. فلو كان الإيمان مأخوذاً في معناه لما [كان] معنى لما ذكروه، وأيضاً يوصفون الفقهاء بالاثنى عشرية وهذا أيضاً من الشواهد على ما قلناه حذراً من التأكيد المخالف للأصل والقاعدة.

6 MS: فهلّا فإذا

[1.1] Veil: Māzandarānī's interlocutor remarks that jurisprudence depends on theology. He bases this statement on eight closely linked premises: (1) jurists investigate what one's legal responsibility is, and (2) knowledge of this depends on knowing the legal responsibility, (3) which depends on knowing the One who sets the legal responsibility, (4) which depends on knowing that the world came into being, (5) which depends on the fact that it needed some creator, (6) that this creator has all the attributes of perfection and is entirely free of negative attributes, (7) sends prophets, supporting them with miracles, and (8) appointing after them the Imams, who are protected from error and falsehood in explicating the law. Māzandarānī's interlocutor concludes that all these matters are known in jurisprudence as a result of the extensive proofs given in theology. According to this position, in order to become an expert in Islamic law, one must know that there is a God; knowledge of God's existence dependents on knowing God's attributes, among which is that he is the creator of the world and through his providence sends inerrant prophets and imams to guide humans. Proofs for each of these propositions regarding God and his attributes are discussed in the discipline of theology. Hence, Māzandarānī's interlocutor concludes, becoming an expert in Islamic law is dependent upon first acquiring theological knowledge.

[1.2] Unveiling: Māzandarānī finds this argument unpersuasive. He responds that such theological beliefs are a condition on having faith for believers in general – not on being a jurist. Hence, he asserts, a person can become an expert in Islamic law even if he is a non-believer (*mukhālif*) or an infidel Sufi. An infidel *par excellence*, Māzandarānī continues, could very well be a jurist *par excellence*, and fully capable of deriving particular rulings from the principles of Islamic law using its legal sources,[13] such that it would be incorrect to deny legal expertise of him. In Māzandarānī's view, law is a discipline like any other. To become an expert in any discipline, one needs to master the requirements specific to it. In the case of Islamic law, one of the requirements is to acquire knowledge of Arabic, since the foundational sources of the law were revealed in that language. This knowledge, he remarks, can be obtained regardless of one's religious beliefs. After making this argument, Māzandarānī draws a distinction between whether a non-Muslim can become a legal expert and whether the same person can serve as a source of legal authority for Muslims. In the latter role, the legal expert is also required to be a Muslim of good character. That a jurist be also a believer, he notes, is a condition for seeking legal advice from him, but it is not a condition on his being a legal expert. In Māzandarānī's view, this position is corroborated by what is said about how, in order to be a jurist-consult (*muftī*), one must have not only legal expertise (*ijtihād*) but also faith (*imān*) and integrity (*ʿadāla*). That, however, would be senseless to say, were faith constitutive of the term's (i.e. *ijtihād*) meaning. Moreover, he takes the fact that jurists are qualified by their sectarian affiliations or juristic orientations, as another piece of evidence for his position, insofar as that qualification is meant to eschew emphasis that would contravene the rule. In Māzandarānī's view, the fact that legal experts identify themselves or other legal experts as "Twelver Shiʿi" legal experts, for example, is another indication that the semantics of the word *mujtahid* does not require any specific religious affiliation.

[1.3] هذا، ولقد أصرّ أستاذنا الشريف -دامت شرافته- في توقف الاجتهاد على علم الكلام إصراراً غريباً، وعلّل ذلك بأن «الاجتهاد عبارة عن ملكة يقتدر بها على تحصيل الاعتقاد بالأحكام الإلهية، ومن العيان الغني عن البيان أن الفاقد للشرط المذكور غير واجد للملكة المذكورة إذ لا يُعقل أن يقال أن غير المعتقد بالله معتقد بأحكامه. أفتظنّ أن تعتقد بكون الشخص الفلاني غلاماً لزيد مع اعتقادك بعدم وجود شخص زيد في الخارج قطّ؟ حاشا وكلّا». وفيه أنه لا ضير في أن يحصل لمن لا يعتقد بالإله ملكة تحصيل الاعتقاد بأحكام من هو إله باعتقاد الناس. وهذا واضح لا سترة فيه اللهمّ إلا أن يقال أن الإله عبارة عمّن هو مستحق للعبودية فيكون الاجتهاد عبارة عن الملكة التي يُقتدر بها على تحصيل الاعتقاد بأحكام من هو مستحق للعبودية. ومن العيان أن الظاهر من هذا الكلام أن استحقاقه العبودية يكون عند المستنبط، فبناء عليه من لا يعتقد بالمستحق للعبودية ليس بمجتهد لعدم صدق مفهومه [عليه]. وفيه أن الاشتراط على الفرض مسلم إلا أن نمنع كون الاجتهاد عبارةً عما ذُكر لما تقدم من عدم صحة سلب لفظه عمن تحقق له الملكة المزبورة مع عدم اعتقاده بالمستحق للعبودية كما لا يخفى.

[1.4] هذا، وربما يقال أن لزوم الأخذ بالحكم المستفاد من ظاهر اللفظ، إذ لا قرينة على الخلاف تنزيهاً للحكيم عن القبيح ومقتضى نحو قاعدة اللطف ونفي التكليف بما لا يُطاق يُعرف من الكلام فيكون من الموقوف عليه.

[1.3] Māzandarānī is aware that besides his interlocutor, other prominent scholars have also made faith a requirement for becoming a legal expert. He cites his teacher, Sharīf al-ʿUlamāʾ, as an adherent of this position.[14] He writes that his teacher has, strange to say, insisted that jurisprudence depends on theology. Sharīf al-ʿUlamāʾ had reportedly justified this position by arguing that, "Legal expertise is a matter of having developed a capability (*malaka*) by which one can acquire belief in the divine rulings. It is unreasonable to say that someone who does not believe in God can believe in his rulings. Could you believe that so-and-so is Zayd's servant while you nonetheless believe that Zayd has no external existence whatsoever? Heavens no! Certainly not". Māzandarānī disagrees with this view and explains his position in the following manner: it is no problem for someone who does not believe in a god to acquire the capability of believing in the rulings of what is, in the minds of others, a god. Māzandarānī then entertains a possible counter-argument against his position: it could be objected that a god is something that deserves to be worshipped, and therefore legal expertise would be the capability by which one can acquire belief in the rulings of that which deserves worship. He remarks that according to this view, a jurist must recognise that something deserves worship, and hence, someone who recognises nothing worthy of worship could not be a jurist, since the concept of jurist, so defined, would not apply to him. Māzandarānī responds to this objection by reiterating his earlier remark concerning the semantics of the word 'legal expert' (*mujtahid*). He grants the stipulated emendation, but objects to that being the meaning of legal expertise. Māzandarānī's objection stems from his earlier argument about how it would be improper to deny the term "legal expertise" to anyone who had the relevant capability, even if this person did not believe that there was anything worthy of worship.

[1.4] As the exchange so far illustrates, for Māzandarānī, Islamic law is a scholarly discipline which can be studied by anyone who has acquired a set of skills essential to it; a person's religious convictions or moral qualities have no bearing on his mastery of these legal skills. This he thinks, is even expressed in the *prima facie* sense of the word 'legal expert'. Māzandarānī's interlocutor, however, remains unconvinced and raises the following objection: "It is necessary to accept the *prima facie* sense of the term 'legal expertise', when there is nothing else to indicate otherwise, because it would be reprehensible for the Wise God to give a term a sense contrary to the obvious one without providing some indicator. Moreover, the 'Principle of Divine Grace' (*qāʿidat al-lutf*)[15] and the principle that 'God would not assign a duty greater than people's capability' are obtained from the discipline of theology; hence, 'legal expertise' (*ijtihād*) is dependent on the discipline of theology. Hence, it must have the obvious sense, and this is to be relied upon".[16] As we can see, Māzandarānī's interlocutor disagrees with him regarding the *prima facie* sense of 'legal expertise'. Whereas for Māzandarānī it indicates only a person who is expert in the law, for his interlocutor the term indicates a legal expert who also believes in God and is committed to certain theological doctrines, and these doctrines have consequences on one's thinking about the law. The argument, hence, is that imbedded in the *prima facie* sense of the term 'legal expert' is a 'believing' legal expert. Māzandarānī is further told that to hold otherwise would undermine the doctrine of God's grace, according to which God does not act contrary to people's welfare. In this context, Māzandarānī's interlocutor holds, if the phrase 'legal expertise' (*ijtihād*) had a meaning not expressed in its *prima facie* sense, it would have been incumbent on God to inform people of its precise meaning; otherwise they would not fully understand its meaning and hence would go astray. This argument assumes that the *prima facie* sense of 'legal expertise' clearly includes in its semantics the expert's belief in God and that Māzandarānī's argument that it

[1.5] وفيه أن نحو هذه القواعد مستفادة من الكليات التي ذكرها الأصوليون في كتبهم الأصولية، ففيها الغنية والكفاية. ومن هنا ينقدح أنه لو قلنا بمقالة الأولين لا نقول بلابُدية الرجوع إلى ما دوّنوه في علم الكلام وصرف العمر في انفهام ما ذكروه من الأدلة وردّ شبهاتهم السوفسطائية بل القدر الضروري إنما هو التعرّف وتصحيح الاعتقاد المأمور به عامةُ المكلفين لا على وجه مخصوص بل على أي نحو كان – كيف وإن المراجعة إلى الكتب الكلامية كما هو واضح ليس إلا من باب المقدمة لتحصيل الاعتقاد، وعلى تقدير حصوله ولو من قول المعلم أو الأبوين لما [كان] معنى للأمر بالمراجعة إليها إذ لا معنى للأمر بالمقدمة بعد حصول ذيها.

[1.6] هذا مضافاً إلى أن المأمور به لو كان هو تحصيل الاعتقاد على النحو الخاص والمنهج المخصوص للزم أن يكون أكثر الناس من العوام، بل غير المحدود من الحكماء والمتكلمين، مقصّرين في تحصيل الاعتقاد المأمور به على الوجه الذي أُمر به، ولازم ذلك الحكمُ بكفر الجميع ومنه يلزم مفاسد عظيمة لا يخرج عن عهدتها الأوحدي من المتدينين فضلاً عن العامة.

[1.7] هذا كله مع الإغماض عن أن التكليف بتحصيل الاعتقاد على النحو المخصوص يكون بالنسبة إلى العامة ملزوماً للتكليف بما فوق الطاقة. نعم، لو فُرض عدم حصول الاعتقاد المأمور به إلا بالمراجعة إلى الكتب الكلامية وانحصار المقدمة فيها فلا محيص من القول بلابُديتها، ولكنه مجرد الفرض. فإياك وإياك وصرف الهمة في شطر من الزمان فضلاً عن طول العمر في انفهام ما ذكروه من المقالات وردّ ما أوردوه من الشبهات. فإنك إن لم يحصل لك الزلّة -على فرض المحال حيث إن من هؤلاء قلّ من لم يحصل له الزلة بل الزلات- فما حصلت إلا الفضيلة، وإلا فما حصلت في الدنيا والآخرة إلا الحسرة والندامة. فإن المخطئ في العقائد هالكٌ بلا شبهة كما عن قاطبة الخاصة وجمهور العامة.

[2.1] حجاب: ربما يُتوهم أن ظواهر الكتاب لا حجية فيها.

does not goes against this *prima facie* sense. Had Māzandarānī been correct, it is concluded, it would be incumbent on God to make departure from the *prima facie* sense of the phrase clear to people; the fact that he has not establishes that Māzandarānī's departure from the *prima facie* sense of the phrase 'legal expertise' is unjustified.

[1.5] To the above argument Māzandarānī provides the following response. Were we even to grant the view that the word *mujtahid* includes in its semantics the meaning of a 'believing' legal expert, we would not be committed to holding that one must study what has been written in the discipline of theology and spend one's entire life trying to understand the proofs and refutations of sophistical misgivings. Instead, the required degree of acquaintance with theology would merely be that needed to acquire correct beliefs about those matters that believers in general have been commanded to acquire – and not in any particular way either; the beliefs can be acquired in any way. Hence, according to Māzandarānī, even if one were to concede, for the sake of argument, that legal expertise does require a minimum theological knowledge, it would not necessarily mean that such knowledge must be attained by reading the books of theology. Rather, such knowledge could be gained by a variety of means besides theological inquiry. The critical matter, Māzandarānī remarks, is to have correct beliefs and not that the beliefs be specifically acquired through the discipline of theology. In his view, reading books on theology is merely a preliminary to acquiring correct beliefs; if those beliefs have already been acquired, whether from a teacher or parents, there would be no point to command a person to read those books and to undertake a preliminary study yet again.

[1.6] Moreover, Māzandarānī continues, were it the case that correct beliefs were commanded to be acquired in a specific way, it would follow that most people – lay persons and countless numbers of philosophers and theologians – would all be negligent in acquiring the commanded beliefs in the specified way, and so they would have to be deemed infidels. He cautions that other false consequences would result as well from which not even pious individuals would be exempt, let alone common believers. This is all to ignore the fact that requiring common believers to acquire their beliefs in this specific way would be to assign them a duty greater than their capability. This last remark is connected with the view expressed in the Qurʾan according to which God does not place responsibilities on anyone that would exceed their ability to fulfil them.

[1.7] Māzandarānī ends his exposition with a general warning, worded polemically, against spending one's life in theological pursuits. He states, were we to suppose that one could acquire the commanded beliefs only by reading books of theology, then there would be no escape from agreeing that it is required. However, this is a mere supposition. So beware! Beware spending any time at all on understanding the doctrines theologians have elaborated or on the refutations of misgivings they have adumbrated, let alone spending your whole life on it. If – assuming the impossible – you did not go astray – and few indeed are those theologians who do not – the only thing you would get from theology would be worldly honour. Otherwise, nothing results from it in this world or the next besides regret: those who have incorrect beliefs will, without a doubt, perish in the hereafter, as all Shiʿis and many Sunnis have agreed.

Passage Two: On the *Prima Facie* Sense of the Qurʾan

[2.1] Veil: Māzandarānī's interlocutor remarks that the *prima facie* sense of the Qurʾan is non-probative.

[2.2] كشف: ما ذُكر إن كان من باب فقد الموضوع بمعنى أن الكتاب جميع ما فيه من المتشابهات، ففيه أنه إنكار باللسان ومكابرة مع الوجدان. وليت شعري أنه كيف يمكن أن يُعقل الفرق بين الكتاب والسنة بالقول بأن الألفاظ المخصوصة إذا كانت واردة في الكتاب يكون من قبيل المتشابه وفي السنة من المحكم، والحال أن الفرق تحكُّم، والكتاب ناطق بأن منه المحكم فضلاً عن المتشابه، فتأمل.

[2.3] وإن كان من باب إنكار الحكم بمعنى أن ظواهر الكتاب غير حجة وإن لم يكن ظواهر غيره كذلك، ففيه أنه مدفوع بالإجماع. فإن قلتَ إن علمائنا الأخباريين قد نازعوا فيه ولا معنى لدعوى الإجماع في موضع النزاع، قلتُ -مضافاً إلى أن الإجماع عبارة عن الاتّفاق الكاشف وهو قد يحصل من الاثنين وإن خلا من المائة، وأنه لا عبرة بخلاف الأخبارية كما لا عبرة بوفاقهم-: إن الدليل لا ينحصر فيه بل هناك أمور ظنية يحصل من تراكُمها القطع بالحجية:

[2.4.1] الأول: الإجماع المنقول على لسان غير واحد من الأصحاب فإن الفاضل التوني مع كونه من الأخبارية قال في الوافية: «الأول: الكتاب ووجوب اتباعه والعمل به متواتر ومُجمَع عليه».[7] وفي شرح هذا الكلام للسيد المحقق الكاظمي: «وهذا اعتراف منه بدلالة الأخبار المتواترة وانعقاد الإجماع على جواز الأخذ بكتاب الله -جل اسمه- حسب ما حررنا في هذا الفصل[8] وفي موضع آخر منه».[9] وبالجملة فجواز الأخذ بكتاب الله أو بظاهره مما لا ينبغي أن يُقدِم على إنكاره ذو مِسكة.

[2.4.2] الثاني: الشهرة العظيمة البالغة إلى حد لا يبعد معها دعوى شذوذ المخالف في المسألة.

7 الوافية في أصول الفقه، ص 147

8 MS: الفضل

9 This commentary remains unpublished.

[2.2] Unveiling: Māzandarānī begins his response by stating, if what is meant by the above assertion is that the Qurʾan has no *prima facie* sense and the entirety of it is ambiguous (*mutashābih*), then the following objections apply. He first comments that this view is so obviously false that holding it could be nothing more than a denial in word, a mere stubborn insistence despite the realisation that it is indeed false. He next argues that were this position correct, how could one make any sense of drawing a distinction between the Qurʾan on the one hand and the verbal *sunna* on the other.[17] He asks rhetorically, the same specific words occurring in the Qurʾan would be ambiguous, yet when they appeared in the *sunna*, they would become clear (*muḥkam*)!? In his view, any such distinction would be arbitrary. Furthermore, Māzandarānī argues, the Qurʾan itself mentions that it contains "clear" verses in addition to "ambiguous" ones.[18]

[2.3] After providing the above arguments, Māzandarānī presents and then refutes another interpretation of his interlocutor's statement. He writes that if, on the other hand, what is meant by the above statement is that the *prima facie* sense of the Qurʾan is indeed not probative, even though the *prima facie* sense of other texts (e.g., hadith) may be so, then the following objections apply. His first argument relies on consensus. According to Māzandarānī, there is a consensus among scholars that his interlocutor's position – 'the *prima facie* sense of the Qurʾan is non-probative' – is false. He preempts a possible rejoinder to his claim for consensus on this matter: "But our Akhbārī scholars deny that their position is false; hence, it is nonsense to claim that there is consensus on a matter on which there are disagreeing views".[19] To this objection Māzandarānī replies that consensus, first of all, simply means an agreement that reveals the correct position regarding a given issue,[20] and this could occur with only two people party to the agreement, though a hundred others disagree. Moreover, he holds, the fact that Akhbārīs disagree is of no consequence, just as it would be of no consequence were they to agree. Furthermore, there are other proofs besides consensus, which, though each on its own yields only conjecture (*ẓann*), when taken in aggregate yield certainty (*qaṭʿ*). Hence, Māzandarānī maintains, regardless of whether or not his interlocutor agrees with his take on consensus in general and his views on Akhbārīs in particular, his interlocutor's position is false since there are ten other arguments besides consensus that affirm the probative force of the *prima facie* sense of the Qurʾan. He proceeds to outline each.

[2.4.1] First. The consensus reported from more than one scholar of prior generations: despite his prior dismissive remark concerning some Akhbārī scholars' divergence from his claimed consensus on this topic, Māzandarānī finds it difficult to let go of his argument from consensus. He reiterates it again here, this time accompanying it with evidence that, contrary to his interlocutor's assertion, even prominent Akhbārī scholars did not advocate rejecting the *prima facie* sense of the Qurʾan. He points to al-Fāḍil al-Tūnī as an example and writes that although al-Tūnī was an Akhbārī,[21] he wrote the following in his book *al-Wāfiya*: "The Qurʾan itself, and the fact that it is obligatory to follow it and act on it, is *mutawātir*[22] and is also a matter of consensus".[23] Māzandarānī further remarks that al-Sayyid al-Muḥaqqiq al-Kāẓimī in his commentary on *al-Wāfiya*, has taken the above sentence as a concession by al-Tūnī that *mutawātir* reports and consensus both indicate it is permissible to use the Qurʾan to derive law.[24] In sum, Māzandarānī concludes, it is permissible to use the Qurʾan – in its *prima facie* sense – to derive law, which he believes, no one in their right mind would even consider denying.

[2.4.2] Second. The overwhelming popularity of this opinion: he claims that the position he advocates is prevalent among scholars to such an extent that it is plausible to say that someone who opposes it is a rarity.

[2.4.3] الثالث: احتجاج أصحاب الأئمة وغيرهم من العلماء من لدن البعثة إلى زماننا هذا فلو لم تكن الحجية المزبورة من الأمور المقرَّرة المعلومة لديهم لما أمسكوا عن النكير لأن العادة قاضية بذلك في مقام التشاجُر والتنازُع، لكن اللازم باطل فكذلك الملزوم.

[2.4.4] الرابع: التقرير فإنهم عليهم السلام مع اطّلاعهم على الاحتجاج لم يمنعوه، ومن البيّن أن تقريرهم عليهم السلام كفعلهم وقولهم حجة.

[2.4.5] الخامس: الأخبار الآمرة فيها بالعرض على الكتاب فإن الكتاب لو لم يك من أقوى الأدلة لما [كان] معنى للأمر بعرض الدليل عليه.

[2.4.6] السادس: الأمر بالتدبر والذم في تركه لأن التدبّر فيما لا طائل فيه ولا يُفهم فيه المعنى غير وجيه جداً.

[2.4.7] السابع: الأولوية فإن حجية ظواهر السنة يستلزم حجية ظواهر الكتاب بالطريق الأولى.

[2.4.8] الثامن: قصة ابن الزِبَعرى المشهورة حيث قال صلى الله عليه وآله «ما أجهلك بلسان قومك، أما تعلم أن 'ما' لما لم يعقِل؟»[10]

[2.4.9] التاسع: التقرير بتقرير آخر هو أن أصحاب الأئمة عليهم السلام كثيراً ما يعترضون عليهم بالقول بأن الحكم الفلاني مخالف لظاهر الكتاب ولم ير من أحدهم القدحَ فيه بأنكم لا تفهمون الكتاب أو أنه ليس بحجة عليكم بل يجيبون على وجهٍ يظهر منه الوجه للمخالفة. وهذا تقرير منهم عليهم السلام. وقد مرّ أن تقريرهم كفعلهم وقولهم حجة.

[2.4.10] العاشر: النبوي المشهور: «إني تارك فيكم الثقلين ما إن تمسّكتم بهما لن تضلوا أبداً: كتاب الله وعترتي».[11] فإن الظاهر استقلال كل من الأمرين في مرحلة الاعتبار والحجية كما لا يخفى.

[2.4.3] Third. The fact that the Imams' companions and other scholars besides – from the time of the Prophet until today – have adduced the Qurʾan's *prima facie* sense as evidence: according to Māzandarānī, were the Qurʾan's *prima facie* sense instead non-probative and not a well-established matter among the Imams' companions and other scholars, they would have objected to its use as supporting evidence for a given position. He adds that such is the prevailing practice in cases of disputation and debate. But since the consequent – namely, that they objected to using the *prima facie* sense of the Qurʾan as proof – is false, so too must be the antecedent – namely, that they denied that the Qurʾan's *prima facie* sense could be used as proof.

10 الإحكام في أصول الأحكام، ج 3 ص 47

11 كمال الدين وتمام النعمة، صص 231–238

[2.4.4] Fourth. The Imams' tacit approval: according to Māzandarānī, although the Imams were aware that the Qurʾan's *prima facie* sense was being used as evidence, they did not try to stop it. He adds that it has been well-established that the Imams' tacit approval is just as probative as their deed or word.

[2.4.5] Fifth. Those hadith (*akhbār*) commanding that every hadith be compared with the Qurʾan:[25] he argues that were the *prima facie* sense of the Qurʾan not one of the strongest forms of proof, there would be no meaning to commanding that hadith be measured against it in order to establish their veracity.

[2.4.6] Sixth. The command to contemplate and the censure for failing to do so as found in the Qurʾan and hadith:[26] he notes that to command someone to contemplate the Qurʾan when it is futile, and the meaning cannot be understood, would be preposterous indeed.

[2.4.7] Seventh. An *a fortiori argument*: granting that the *prima facie* sense of the *sunna* is probative, Māzandarānī holds, *a fortiori* so too must be the *prima facie* sense of the Qurʾan.

[2.4.8] Eighth. The story featuring Ibn Zibaʿrā:[27] Ibn Zibaʿrā was a renowned poet belonging to the Prophet's tribe, the Quraysh. According to some accounts, he was at first a fierce opponent of the Prophet but later became a Muslim. It is reported that in one incident, when Ibn Zibaʿrā misunderstood a verse of the Qurʾan, the Prophet said to him, "How ignorant you are of your tribe's language. Don't you know that …". In this passage, Māzandarānī invokes Ibn Zibaʿrā to indicate that mastery of the language has a direct relation to understanding the Qurʾan and its *prima facie* sense; had it been otherwise, the Prophet would not find Ibn Zibaʿrā's failure to understand the Qurʾan despite his renowned literary abilities something worth pointing out.

[2.4.9] Ninth. Another tacit approval: Māzandarānī points out that the Imams' companions would often object to their pronouncement on some matter, saying that it contradicts the *prima facie* sense of the Qurʾan, and yet none of the Imams saw it fit to criticise this on the grounds that "you do not understand the Qurʾan" or that "the Qurʾan is not to be taken by you as proof". Instead, they would answer the objections in such a way as to explain the apparent contradiction. He concludes, this is a form of tacit approval, and – as already noted – the Imams' tacit approval is as probative as their deed or word.

[2.4.10] Tenth. The famous hadith of *al-thaqalayn*: Māzandarānī bases his last argument on a well-known hadith attributed to the Prophet: "I leave among you the two weighty things (*al-thaqalayn*), and if you cling to them, you will never go astray: the book of God and my progeny".[28] According to both Shiʿi and Sunni sources, the Prophet addressed these words to the believers during the sermon he delivered on his last pilgrimage to Mecca. Māzandarānī uses this hadith to argue that the *prima facie* sense of the hadith is that each of the two weighty matters, namely the Qurʾan and his progeny, is independent of the other in terms of serving as proof. In Māzandarānī's view, had the *prima facie* sense of the Qurʾan lacked probative force, the Prophet would not include it as one of the two means of guidance.

Māzandarānī believes that the arguments he has outlined, taken as a whole, establish with certainty that the Qurʾan contains clear and ambiguous passages and that the *prima facie* sense of the clear passages can be understood and, hence, is probative.

Endnotes

1 Mahdawī, *Bayān al-mafākhir* (Isfahan, 1368Sh/1989), v. 2, p. 185. For a brief overview of Qajar Iran see Ettehadieh Nezam-Mafi, "Qajar Iran (1795–1921)," in *The Oxford Handbook of Iranian History* (Oxford, 2012), pp. 319–345; for a more detailed examination see Amanat, *Iran: A Modern History* (New Haven, 2017), pp. 177–385; for Qajar religious history see Gleave (ed.), *Religion and society in Qajar Iran* (Oxford, 2005). It is to be noted that as of now only a limited number of studies on the Qajar period are available in English.

2 Mahdawī, *Aʿlām-e Iṣfahān* (Isfahan, 1386Sh/2007), v. 3, p. 500.

3 Muḥammad Sharīf al-Māzandarānī, known as Sharīf al-ʿUlamāʾ, was a prominent teacher in Karbala; he left no writings behind. On him see al-ʿĀmilī, *Aʿyān al-shīʿa* (Beirut, 1403/1983), v. 9, p. 364.

4 Āghā Buzurg al-Ṭihrānī, *al-Dharīʿa ilā taṣānīf al-shīʿa* (Beirut, 1403/1983), v. 2, p. 205; v. 18, p. 177. It is to be noted that *Kawāshif* is also not a particularly well-organised treatise.

5 Mahdawī, *Aʿlām-e Iṣfahān*, v. 3, p. 501.

6 See *Maʿālim*'s Table of Contents in al-ʿĀmilī, *Maʿālim al-uṣūl* (Qum, 1374Sh/1995), pp. 353–354.

7 For an overview of various historical developments in Shiʿi legal thought, including the Uṣūlī school of Twelver jurisprudence, see Gleave, "Imami Shiʿi Legal Theory: From its Origins to the Early-Twentieth Century," in *The Oxford Handbook of Islamic Law* (Oxford: Oxford University Press, 2018).

8 On the Akhbārī movement see Gleave, "Akhbāriyya and Uṣūliyya," in *EI3*; Gleave, *Scripturalist Islam* (Leiden, 2007); Gleave, *Inevitable Doubt: Two Theories of Shīʿī Jurisprudence* (Leiden, 2000); Stewart, *Islamic Legal Orthodoxy: Twelver Shiite Responses to the Sunni Legal System* (Salt Lake City, 1998), pp. 175–208; Stewart, "The Genesis of the Akhbārī Revival," in *Safavid Iran and Her Neighbors* (Salt Lake City, 2003), pp. 169–193 (see note 2 for a list of studies on the Akhbārīs); Kohlberg, "Aspects of Akhbārī Thought in the Seventeenth and Eighteenth Centuries," *In Praise of the Few: Studied in Shiʿi Thought and History* (Leiden, 2020), pp. 522–546.

9 On al-Bihbahānī see Gleave, "Muḥammad Bāqir al-Bihbihānī (d. 1205/1791)," in *Islamic Legal Thought: A Compendium of Muslim Jurists* (Leiden, 2013), pp. 415–432. For a study of his legal thought see Gleave, *Inevitable Doubt: Two Theories of Shīʿī Jurisprudence* (Leiden, 2000).

10 According to some reports, copies of some of Māzandarānī's books like *Uṣūl al-fiqh* were circulating among several leading scholars, including Sayyid Muḥammad Kāẓim Ṭabāṭabāʾī Yazdī (d. 1337/1919). See Āghā Buzurg al-Ṭihrānī, *al-Dharīʿa*, v. 2, p. 205.

11 For a brief outline of Anṣārī's life and thought see Hairi, "Anṣārī," *EI2*.

12 The section on the *prima facie* sense of the Qurʾan and the semantic discussions concerning the term '*mujtahid*' in the previous section on whether a non-Muslim can become an expert in Islamic law are related. Hence, we have placed the latter before the former in the chapter, although they are reversed in the Arabic.

13 The four sources of the law are the Qurʾan, the *sunna*, consensus, and reason.

14 Sharīf al-ʿUlamāʾ, though an active teacher, was not a prolific author; reportedly he only authored one treatise. His view on the topic examined here, beside Māzandarānī's presentation, can also be consulted in the extant lecture notes of his students. See, for example, Sayyid Ibrāhīm al-Qazwīnī, *Ḍawābiṭ al-uṣūl*, p. 453.

15 Other renditions of *lutf* include "divine assistance" and "divine favour". On this principle see Shihadeh, "Favour, Divine (*Lutf*)," in *EI3*. For a Shiʿi treatment of this principle see al-ʿAllāma al-Ḥillī's brief exposition as translated in Watt, *Islamic Creeds: A Selection* (Edinburgh, 1994), pp. 101–102.

16 A reference to the verse, "God does not charge a soul with more than it can bear" (Qurʾan 2:286).

17 *Sunna* refers to the prophetic tradition as preserved in the hadith literature.

18 Māzandarānī is referring here to a well-known verse from the Qurʾan: "There is no God but Him, the Mighty, the Wise. It is He who has sent down to you [Prophet] the Book. Some of its verses are clear in meaning [*muḥkam*]–these are the cornerstone of the Book–and others are ambiguous [*mutashābih*]"

(Qurʾan 3:7, trans. by Abdel Haleem with minor revisions).

19 For al-Astarābādī's view on the probative force of the Qurʾan's *prima facie* sense see, for example, al-Astarābādī, *al-Fawāʾid al-madaniyya* (Qum, 1426), pp. 178–179. Gleave has translated and contextualised this passage from *al-Fawāʾid* in his *Scripturalist Islam*, pp. 72–74. Also see al-Astarābādī, *al-Fawāʾid al-madaniyya*, pp. 269–271. For a study of the disagreements between Akhbārīs and Uṣūlīs on various issues including on the probative force of the Qurʾan's *prima facie* sense see Newman, "The Nature of the Akhbārī/Uṣūlī Dispute in Late-Safawid Iran. Part One: ʿAbdallāh al-Samāhijī's '*Munyat al-Mumārisīn*'," and "Part 2: The Conflict Reassessed," *BSOAS* 15 (1992), pp. 22–51, 250–261.

20 Unlike their Sunni counterparts, Twelver scholars do not regard consensus (*ijmāʿ*) as the agreement of all or most experts on some matter guaranteeing the correctness of their view on it. Rather, they regard consensus as the agreement on some matter between any number of people – at least one of whom is unknown – indicating that the hidden Imam also agrees, which would guarantee the correctness of the position, since the Imam is considered inerrant in his views. For brief studies on the Shiʿi conception of consensus see Stewart, "Ejmāʿ," *EIR*; Pakatchi, "Ejmāʿ," *Dāʾirat al-maʿāref-e bozorg-e eslāmī* (Tehran, 1374Sh/1995), v. 6, pp. 615–632. For discussions of consensus in Sunni thought see Zysow, *The Economy of Certainty* (Atlanta, 2013), pp. 113–158; Weiss, *The Search for God's Law* (Salt Lake City, 1992), pp. 181–258; Hallaq, "On the Authoritativeness of Sunnī Consensus," *IJMES* 18/4 (1996), pp. 427–454; Stewart, "Consensus, Authority, and the Interpretive Community in the Thought of Muḥammad b. Jarīr al-Ṭabarī", *JQS* 18/2 (2016), pp. 130–179 (esp. pp. 133–141).

21 al-Fāḍil al-Tūnī (d. 1071/1660) was an active figure in Safavid intellectual scene. As Gleave has pointed out, his stance on the Akhbārī-Uṣūlī disputes is nuanced and both sides have claimed him as their own. See Gleave, *Scripturalist Islam*, pp. 238–239, 262–263.

22 A report or text is considered *mutawātir* when the recipient attains certainty that it was faithfully transmitted by first-hand independent narrators in such a number and in each successive generation that it would be inconceivable for them all to have colluded in forging it. According to most Muslim theologians and jurists, *mutawātir* reports engender necessary knowledge in their recipients.

23 al-Fāḍil al-Tūnī, *al-Wāfiya fī uṣūl al-fiqh* (Qum, 1424/1992), p. 147. For al-Tūnī's discussion of the *prima facie* sense of the Qurʾan see his *al-Wāfiya*, pp. 136–140, 257–260.

24 *al-Wāfī fī sharḥ al-Wāfiya*, al-Sayyid Muḥsin al-Aʿrajī al-Kāẓimī's (d. 1227/1812) commentary on al-Tūnī's *al-Wāfiya* remains in manuscript (for further details see Chapter 2 of this volume).

25 In one version of this hadith, the Prophet is reported to have stated that if a saying of his reaches his followers, they should compare it to the Qurʾan. If the saying agrees with it, they should accept it; if it disagrees with it, they should put it aside. See, for example, al-Kulaynī, *al-Kāfī* (Qom, 1429), v. 1, pp. 171–174.

26 Māzandarānī is likely alluding to the following verse: "Will they not contemplate the Qurʾan? Do they have locks on their hearts?" (Qurʾan 47:24, trans. by Abdel Haleem).

27 For a study of Ibn Zibaʿrā's life, poetry, and relationship to the Prophet see Coster, *The Good, the Bad, and the Ugly: Allegiance and Authority in the Poetical Discourse of Muḥammad's Lifetime* (PhD diss., Groningen, 2019), pp. 176–262. This reported interaction between Ibn Zibaʿrā and the Prophet, and its possible implications in legal hermeneutics, appears in several major texts of the classical period. See, for instance, al-Āmidī, *al-Iḥkām fī uṣūl al-aḥkām* (Riyad, 1424/2003), v. 3, pp. 46–48.

28 On this statement, known as *ḥadīth al-thaqalayn*, and its various versions see Bar-Asher, *Scripture and Exegesis in Early Imāmī Shiism* (Leiden, 1999), pp. 93–98.

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