

**SHĀFĪ'Ī UŞŪL THOUGHT IN LATE THIRD-CENTURY AH:  
EDITION, TRANSLATION, AND INTERPRETATION OF  
CHAPTERS ON UŞŪL AL-FIQH IN AL-WADĀ'İ'  
BY IBN SURAYJ (D. 306/918)**

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**Abstract**

Ibn Surayj, a prominent figure in the formative period of the Shāfi'ī law school, has played an important role in both the transformation of Shāfi'ī substantive law and the development of early Islamic legal theory. Ibn Surayj reportedly wrote approximately four hundred works, few of which are extant today. Thanks to his contribution to the school, he is known as “the second al-Shāfi'ī (*al-Shāfi'ī al-ṣaghīr*);” indeed, according to some modern scholars, Ibn Surayj is the true founder of the Shāfi'ī school and Islamic legal theory. Although Ibn Surayj's works on Islamic law are no longer available, the later chapters of *al-Wadā'ī' li-manṣūṣ al-sbarā'ī'*, one of his two extant works, bear the following titles: abrogation (*naskh*), prophetic traditions (*sunan*), single-transmitter report (*khabar al-wāḥid*), consensus (*ijmā'*), analogy (*qiyās*), and knowledge (*ilm*). This study presents the edition and translation of relevant titles in *al-Wadā'ī'* to provide Ibn Surayj's views on *uṣūl*. In addition, this paper discusses Ibn Surayj's place in the evolution of Islamic legal theory, and how Ibn Surayj interprets al-Shāfi'ī's understanding of *uṣūl*.

*Key Words:* Islamic legal theory, Shāfi'ī law school, Ibn Surayj, *al-Wadā'ī'*

## 1. Introduction: Notes on the Evolution of Shāfi'ī Uşûl Thought from al-Shāfi'ī to Ibn Surayj

According to anecdotes in classical hagiographical books and many modern academic papers, al-Shāfi'ī (d. 204/820) is the founder of Islamic legal theory. In the eyes of Fakhr al-Dīn al-Rāzī (d. 606/1210), the role of al-Shāfi'ī in *uşûl* is similar to that of Aristotle in logic and al-Khalīl ibn Aḥmad in Arabic prosody (‘*arūḍ*).<sup>1</sup> Unlike his predecessors, al-Shāfi'ī wrote a work exclusively on *uşûl*, and, after that, he gained a significant position in the fields of Islamic law and *uşûl*. According to the Shāfi'īs, the birth of the science of *uşûl* was enabled through this work by their eponym, conferring clear superiority over other schools of law and *fiqh* circles. Indeed, Ḥanafī and Mālīkī *fiqh* circles engaged in significant thought on *uşûl* prior to the Shāfi'ī school and played an important part in the formation of Shāfi'ī legal thought. Nevertheless, *al-Risālah* is considered the first work to exclusively address *uşûl al-fiqh* because neither *mujtabid* scholars (considered as eponyms in both circles) nor their pupils left behind any work on *uşûl*.<sup>2</sup>

A more profound analysis of the third century AH is required to comprehend the evolution of legal theory after al-Shāfi'ī, along with Islamic thought in general and science of jurisprudence in particular. Third-century AH is a period when the science of jurisprudence had almost attained its classical form and content, and the transformation of the earliest *fiqh* circles into madhhabs was almost accomplished. The era equally stands out as a time of development not only for Islamic sciences but also for Islamic thought in general and the Islamic schools

<sup>1</sup> Abū ‘Abd Allāh Muḥammad ibn ‘Umar Fakhr al-Dīn al-Rāzī (d. 606/1210), *Manāqib al-Imām al-Shāfi'ī*, ed. Aḥmad Ḥijāzī al-Saqqā (Cairo: Maktabat al-Kulliyāt al-Azhariyyah, 1986), 156.

<sup>2</sup> Ḥanafī jurists Abū Yūsuf and Muḥammad ibn Ḥasan al-Shaybānī also reportedly wrote several works on *uşûl*; nevertheless, these works are actually about substantive law. See George Makdisi, “The Juridical Theology of Shāfi'ī: Origins and Significance of *Uşûl al-Fiqh*,” *Studia Islamica* 59 (1984): 6-7, <https://doi.org/10.2307/1595294>. Several recent studies have unearthed important findings about *uşûl* thought prior to al-Shāfi'ī. For some of those studies, see Ahmad Y. Hasan, *The Early Development of Islamic Jurisprudence* (Islamabad: Islamic Research Institute, 1970); Yasin Dutton, *The Origins of Islamic Law: The Qur'an, The Muwaḥḥa' and Madinan 'Amal* (Surrey: Curzon Press, 1999); Şükrü Özen, “İslâm Hukukunda Aklileşme Süreci: Başlangıçtan Hicri IV. Asrın Ortalarına Kadar” (PhD diss., Marmara University, 1995); Metin Yiğit, *İlk Dönem Hanefî Kaynaklarına Göre Ebû Hanîfe'nin Uşûl Anlayışında Sünnet* (Istanbul: İz Yayıncılık, 2009).

that formed this thought in particular. More specifically, regarding *uṣūl al-fiqh*, the followers of al-Shāfi'ī, jurists from other *fiqh* circles, and independent *mujtabids* and legal experts widely contributed to the development and enrichment of the discipline via their texts on *uṣūl*.

Al-Shāfi'ī's influence on *uṣūl al-fiqh* thought and literature is traceable from various lines. First, we can review texts written by his followers, who were known as pupils (*aṣṣāb*). Certain texts by Abū Ya'qūb al-Buwayṭī (d. 231/846) and Abū Ibrāhīm al-Muzanī (d. 264/878) are firsthand sources in which the thoughts of al-Shāfi'ī on *uṣūl* are both narrated and improved. In the later chapters of his *al-Mukhtaṣar*, al-Buwayṭī summarizes and narrates the content of *al-Risālah* and some other *uṣūl*-related texts by al-Shāfi'ī. The chapter titled *Bāb<sup>un</sup> fī l-Risālah*, which covers approximately 4 folios, summarized *al-Risālah* in a manner that highlights al-Shāfi'ī's prominent views.<sup>3</sup> Next come the chapters called *Ṣifāt naby al-Nabī*, *Min ikhtilāf al-ḥadīth* and *al-Waḍ'c 'alā Mālik*, which are not directly associated with the problem of substantive law.<sup>4</sup> Nevertheless, these chapters are also abstracts based on texts by al-Shāfi'ī on *fiqh* and the science of ḥadīth. In the treatise titled *Kitāb al-amr wa-l-naby 'alā ma'nanā l-Shāfi'ī min mas'ā'il al-Muzanī*, al-Muzanī presents a schematic summary of al-Shāfi'ī's views on command and prohibition (*amr* and *naby*).<sup>5</sup> Although al-Muzanī's work is apparently grounded on al-Shāfi'ī's expressions and opinions, he does not necessarily adhere to his master and attempts to create a more comprehensive classification. Prominent ideas outlined in his classification address the literal meaning, the generality of *nuṣūṣ* (Qur'ānic verses and ḥadīths) and the determination of the relations between generality and particularity, which are also intensely treated by al-Shāfi'ī. Alongside these works, it should be noted that the views on *uṣūl* quoted from both the first generation of Shāfi'ī jurists in classical works on *uṣūl al-fiqh* and other sources from the Shāfi'ī school were valuable in

<sup>3</sup> Abū Ya'qūb Yūsuf ibn Yaḥyá al-Miṣrī al-Buwayṭī, *al-Mukhtaṣar* (Istanbul: Murat Molla Library, Murad Molla, MS 1189), fols. 169r-173r.

<sup>4</sup> *Ibid.*, fols. 173r-185v.

<sup>5</sup> See *Kitāb al-amr wa-l-naby 'alā ma'nanā l-Imām al-Shāfi'ī min mas'ā'il al-Muzanī*, ed. Robert Brunschvig, "Le livre de l'ordre et de la défense d'al-Muzanī," *Bulletin d'études orientales* 11 (1945): 145-196.

developing early Shāfiʿī *uṣūl* thought.<sup>6</sup>

The second line that one should observe to unveil Shāfiʿī influence on *uṣūl* includes works by authors who are not actually Shāfiʿī jurists, despite their contact with Shāfiʿī *fiqh* circles. These authors include Abū Jaʿfar al-Ṭabarī (d. 310/923), Ibn Khuzaymah (d. 311/924) and Muḥammad ibn Naṣr al-Marwazī (d. 294/906), all of whom were disciples of al-Shāfiʿī's pupils in Baghdad and Egypt and who attained the Shāfiʿī legal acquis. All three have outstanding expertise on ḥadīth and substantially adopt al-Shāfiʿī's views on *uṣūl* in *al-Risālah*, acknowledging his concepts and ideas in their texts. The exegesis *Jāmiʿ al-bayān* by al-Ṭabarī, *al-Ṣaḥīḥ* by Ibn Khuzaymah and *al-Sunnab* by al-Marwazī are notable books that reveal not only how al-Shāfiʿī's views on *uṣūl* are circulated and perceived but also how he influenced Ahl al-ḥadīth circles during 3<sup>rd</sup>-century AH.<sup>7</sup>

A third line from which al-Shāfiʿī's impact can be traced includes the texts written by the members of opposing *fiqh* circles. Al-Shāfiʿī had severely criticized Ḥanafī and Mālikī schools, the two dominant *fiqh* circles in Muslim lands formed prior to his time. Jurists from both schools drafted texts to respond his criticisms. Some of these texts directly targeted al-Shāfiʿī, bearing his name in the title, whereas others can be considered as critical reviews of *al-Risālah* that addressed relevant criticisms and arguments. In this respect, we mention one name from each school: *Kitāb al-radd ʿalā Bisr al-Marīsī wa-l-Shāfiʿī fī l-akbbār* by ʿĪsā ibn Abān from Ḥanafī school<sup>8</sup> and *Kitāb al-radd ʿalā l-Shāfiʿī* by Ibn al-Labbād (d. 333/944) from the Mālikī school.<sup>9</sup>

<sup>6</sup> For the role of first-generation jurists in the development of Shāfiʿī *uṣūl* thought, see Nail Okuyucu, *Şāfiî Mezhebinin Teşekkül Süreci* (Istanbul: Marmara Üniversitesi İlahiyat Fakültesi Vakfı Yayınları, 2015), 275-310.

<sup>7</sup> For interpretation of Shāfiʿī *uṣūl* thought during the second generation of the Shāfiʿī school in the transition period, see Okuyucu, *ibid.*, 348-364.

<sup>8</sup> See Abū Bakr Aḥmad ibn ʿAlī al-Jaṣṣāṣ al-Rāzī (d. 370/981), *al-Fuṣūl fī l-uṣūl*, ed. ʿUjayl Jāsim al-Nashamī (Kuwait: Wizārat al-Awqāf wa-l-Shuʿūn al-Islāmiyyah, 1985), I, 103; Şükrü Özen, “ʿĪsā b. Ebān,” in *Türkiye Diyanet Vakfı İslām Ansiklopedisi (DİA)*, XXII, 481. For criticisms by ʿĪsā ibn Abān on al-Shāfiʿī, see Murteza Bedir, “An Early Response to Shāfiʿī: ʿĪsā b. Abān on the Prophetic Report (*Kbābā*),” *Islamic Law and Society* 9, no. 3 (2002): 285-311, <https://doi.org/10.1163/156851902320901170>

<sup>9</sup> Edited by ʿAbd al-Majīd ibn Ḥamdah (Tunis: Dār al-ʿArab li-l-Ṭibāʿah, 1986). For notable evaluations of the treatise, see Sherman A. Jackson, “Setting the Record

All of these texts, which belong to pupils of al-Shāfi'ī, Ahl al-ḥadīth *mujtabids* affected by al-Shāfi'ī or even opposing groups, clearly demonstrate that the legal theory improved by al-Shāfi'ī was considered by various circles throughout third-century AH. The text, which will be edited and translated below, includes chapters about *uşûl al-fiqh* from *al-Wadā'i' li-manşūş al-sbarā'i'* by Ibn Surayj, the most distinguished figure among third-generation Shāfi'īs.<sup>10</sup> Works by Ibn Surayj on substantive law intend to provide the madhhab with a consistent and complete structure; moreover, his efforts concerning *uşûl* reflect a discipline that had yet to become independent from substantive law, pursuant to dominant characteristics of the late third and early fourth century AH. Like many other contemporaneous works on *uşûl*, treatises by Ibn Surayj were either a part of his works on substantive law or addressed certain issues related to *uşûl*. Indeed, *Kitāb al-bayān 'an uşûl al-aḥkām*, al-Ṭabarī's contemporaneous work, was actually an introduction to *al-Laṭīf*, his own work on

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Straight: Ibn Labbād's Refutation of al-Shāfi'ī," *Journal of Islamic Studies* 9, no. 2 (2000): 121-146, <https://doi.org/10.1093/jis/11.2.121>

<sup>10</sup> Ibn Surayj was one of the most important figures in the formative period of the Shāfi'ī school. Throughout the school's first and second generations, the Shāfi'ī fiqh circle refrained from forming a conventional madhhab structure; nevertheless, thanks to Ibn Surayj's efforts, the formation process gained acceleration and along with his pupils, he transformed the Shāfi'ī school into a classical fiqh madhhab. Because al-Shāfi'ī rejected *taqlīd* and insisted on action through authentic ḥadīth, his pupils and related jurists opted for a more liberal contemplation of jurisprudence. Accordingly, a concept of madhhab centred on the views of a single jurist was not established in the early days. The process of creating such an establishment became even longer as almost extreme adversary views and criticisms by al-Muzanī were accompanied by the reluctance of Ahl al-ḥadīth circles to gather around the authority of a single jurist. Ibn Surayj subjected the jurisprudential knowledge in this environment to a retrospective assessment and attempted to determine the limits of *ijtihād* and *taqlīd*. Thus, he provided a theoretical framework for affiliation (*intisāb*) with a school in which the views of a given jurist were considered essential and central. Moreover, he wrote hundreds of works on fiqh and trained dozens of students, not only becoming one of the most critical figures in early days of Shāfi'ī school but also being dubbed as its true founder. For the role of Ibn Surayj in the Shāfi'ī school's formative period, see Okuyucu, *Şāfiî Mezbebinin Teşekkül Süreci*, 407-506; Christopher Melchert, *The Formation of Sunni Schools of Law (9th-10th Centuries C.E.)* (Leiden: Brill, 1997), 87-115.

substantive law.<sup>11</sup> The text, the edition and translation of which will be presented below, consists of several titles on *uṣūl* in the later chapters of *al-Wadā'i li-manṣūṣ al-sbarā'i*, the treatise written by Ibn Surayj on substantive law in light of al-Shāfi'i's views.

## 2. Edition and Translation

### 2.1. Problem of Attribution of the Work to Ibn Surayj

According to classical Shāfi'i sources and biographies, although the index of Ibn Surayj's works contains four hundred titles, very few of those titles are given distinct names. It is noted that Ibn Surayj wrote a *mukhtaṣar* on substantive law. However, one will not encounter *al-Wadā'i li-manṣūṣ al-sbarā'i* as a book title in earlier sources. The name of the book appears for the first time in works by al-Nawawī (d. 676/1277).<sup>12</sup> Apart from texts on Shāfi'i substantive law, which are grounded on works by al-Nawawī, Ibn Surayj's views on legal theory are often quoted through *al-Wadā'i* in *al-Baḥr al-muḥīṭ* by al-Zarkashī (d. 794/1392). A comparison of these citations and *al-Wadā'i* reveals that the sections, narrated literally, contain exactly the same expressions, whereas those which are narrated only regarding sense also include similar expressions.<sup>13</sup> As far as we can determine, al-Isnawī (d. 772/1370) was the first biographer to ascribe *al-Wadā'i* to

<sup>11</sup> This observation extends to al-Jaṣṣāṣ and Ibn al-Qaṣṣār (d. 397/1007). *al-Fuṣūl*, the renowned work by al-Jaṣṣāṣ, was actually an introduction to *Aḥkām al-Qur'ān*, whereas *al-Muqaddimab* by Ibn al-Qaṣṣār was a preface for the *kbilāf* book called *Uyūn al-adillab fī mas'āl al-kbilāf bayna fuqabā' al-amṣār*. See Şükrü Özen, "İbnü'l-Kassār," in *Türkiye Diyanet Vakfı İslām Ansiklopedisi (DİA)*, XXI, 104. For characteristics of *uṣūl* works from third-century AH, see Aḥmad ibn 'Abd Allāh ibn Muḥammad al-Duwayḥī, *Ilm uṣūl al-fiqḥ min al-tadwīn ilā nihāyat al-qarn al-rābi' al-bijrī: Dirāsab tāriḫbiyyab istiqrā'iyyab taḥlīliyyab* (Riyadh: Jāmi'at al-Imām Muḥammad ibn Su'ūd al-Islāmiyyah, 2006), I, 519-524.

<sup>12</sup> See Abū Zakariyyā Muḥyī al-Dīn Yahyā ibn Sharaf ibn Mūrī al-Nawawī, *al-Majmū' sbarḥ al-Mubadḥbab* (Beirut: Dār al-Fikr, n.d.), I, 289; al-Nawawī, *Tabḍīb al-asmā' wa-l-luḡbāt*, ed. 'Abduḥ 'Alī Kushk (Damascus: Dār al-Fayḥā' & Dār al-Manhal Nāshirūn, n.d.), III, 439.

<sup>13</sup> See Abū 'Abd Allāh Badr al-Dīn Muḥammad ibn Bahadur ibn 'Abd Allāh al-Zarkashī, *al-Baḥr al-muḥīṭ fī uṣūl al-fiqḥ*, ed. 'Abd al-Qādir 'Abd Allāh al-'Ānī, 2<sup>nd</sup> ed. (Kuwait: Wizārat al-Awqāf wa-l-Shu'ūn al-Islāmiyyah, 1992), I, 204; II, 256, 312; IV, 110, 201, 516; V, 23. Also see al-Zarkashī, *al-Manḥūr fī l-qawā'id*, ed. Taysir Fā'iḳ Aḥmad Maḥmūd, 2<sup>nd</sup> ed. (Kuwait: Wizārat al-Awqāf wa-l-Shu'ūn al-Islāmiyyah, 1985), II, 228.

Ibn Surayj with this title.<sup>14</sup> Later authors such as Ibn Hidāyat Allāh al-Ḥusaynī (d. 1014/1605),<sup>15</sup> Kātib Chalabī (d. 1067/1657),<sup>16</sup> Riyāḏizāda (d. 1087),<sup>17</sup> and modern bibliographers have attributed the work under the same name to Ibn Surayj.<sup>18</sup>

According to current records, there are two copies of *al-Wadā‘i‘*. The complete copy at Süleymaniye Library (Ayasofya, MS 1502) comprises 126 folios and bears a colophon dated to 21 Jumādā l-ākhir 591 (2 June 1195).<sup>19</sup> The copy includes, albeit only occasionally, footnotes and correction records. The other copy, which is at the beginning of corpus no. 250 in the Kattānī section of al-Khizānah al-‘Āmmah, Rabat, lacks serious parts and consists of 66 tablets. Despite many deficiencies, the colophon of this copy reads as collated with the original copy; nevertheless, the date of copying is not given.<sup>20</sup> The Süleymaniye manuscript will be denoted by “أ,” and the Rabat manuscript by “ب.” In our edition, we focused on the Süleymaniye manuscript and demonstrated the differences in the Rabat manuscript in footnotes through reference to the publication by Şālih ibn ‘Abd Allāh. While preparing the text for this edition, textual variants between copies were identified; we relied on the preferences of Şālih ibn ‘Abd Allāh with respect to orthographic differences, but made our own decisions with respect to the paragraphing process.

<sup>14</sup> Abū Muḥammad Jamāl al-Dīn ‘Abd al-Raḥīm ibn al-Ḥasan al-Isnawī, *Ṭabaqāt al-Šbāfi‘iyyah*, ed. Kamāl Yūsuf al-Ḥūt (Beirut: Dār al-Kutub al-‘Ilmiyyah, 2002), I, 316.

<sup>15</sup> Abū Bakr al-Ḥusaynī Ibn Hidāyat Allāh, *Ṭabaqāt al-Šbāfi‘iyyah*, ed. ‘Adil Nuwayhid, 3<sup>rd</sup> ed. (Beirut: Dār al-Āfāq al-Jadidah, 1982), 245.

<sup>16</sup> Ḥājī Khalifāh Muştafā ibn ‘Abd Allāh Kātib Chalabī, *Kashf al-ẓunūn ‘an asāmi l-kutub wa-l-funūn*, eds. M. Şerefettin Yalkaya and Kilisli Rifat Bilge (Ankara: Maārif Vekāleti, 1941), II, 2005.

<sup>17</sup> ‘Abd al-Laṭif ibn Muḥammad Riyāḏizāda, *Asmā‘ al-kutub al-mutammim li-Kashf al-ẓunūn*, ed. Muḥammad Altūnjī (Cairo: Maktabat al-Khānjī, n.d.), 339.

<sup>18</sup> See Bağdatlı İsmail Paşa İsmā‘il Pāshā al-Baghdādī, *Hadīyyat al-‘arīfīn asmā‘ al-mu‘allifīn wa-āthār al-muşannifīn*, eds. Kilisli Rifat Bilge, İbnülemin Mahmud Kemal İnal, and Avni Aktuç (Ankara: Milli Eğitim Bakanlığı, 1951), I, 57; ‘Umar Riḏā Kaḥḥālāh, *Mu‘jam al-mu‘allifīn: Tarājim muşannifī l-kutub al-‘Arabiyyah* (Beirut: Maktabat al-Muthannā, n.d.), II, 31; Khayr al-Dīn al-Ziriklī, *al-‘Ālām: qāmūs tarājim li-asbḥar al-rijāl wa-l-nisā‘ min al-‘Arab wa-l-musta‘ribīn wa-l-mustasbriqīn*, 15<sup>th</sup> ed. (Beirut: Dār al-‘Ilm li-l-Malāyīn, 2002), I, 185.

<sup>19</sup> See *al-Wadā‘i‘ li-mansūş al-sbarā‘i‘*, fol. 126r.

<sup>20</sup> See Şālih ibn ‘Abd Allāh ibn Ibrāhīm al-Dawīsh, introduction to *al-Wadā‘i‘ li-mansūş al-sbarā‘i‘* by Abū l-‘Abbās Aḥmad ibn ‘Umar Ibn Surayj, ed. Şālih ibn ‘Abd Allāh ibn Ibrāhīm al-Dawīsh (Riyadh: n.p., 1990), I, 70-71.

## 2.2. Edition and Translation:

### الودائع لمنصوص الشرائع

(من الورقة برقم 124-أ الى الورقة برقم 126-ب)

#### باب ذكر النسخ

إذا قيل لك النسخ على كم ضرب فقل على ضروب ثلاثة؛ نسخ للحكم وتبقيّة للخطّ، ونسخ للخطّ وتبقيّة للحكم، ونسخ للخطّ والحكم جميعاً. والحجة في ذلك ما روي عن عائشة رضي الله عنها أنها قالت: "كنا نقرأ على عهد رسول الله صلى الله عليه وسلّم<sup>21</sup> الرضاع عشر رضعات معلومات يُحرّم من فنسخن بخميس". فهذا ما نسخ حكمه وخطّه. وأما ما نسخ خطّه وثبت حكمه فالحجة فيه ما روي عن عمر رضي الله عنه أنه قال: "كنا نقرأ على عهد رسول الله صلى الله عليه وسلّم<sup>22</sup> الشيخ والشيخة إذا زنيا فارجموهما البتة". فهذا ممّا نسخ خطّه وثبت حكمه وهو الرجم. وأما ما نسخ حكمه وثبت خطّه فمثل قول الله تعالى "يَأَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ حَقَّ تُقَاتِهِ" (آل عمران، 102) ومثل قوله "إِنَّكُمْ وَمَا تَعْبُدُونَ مِنْ دُونِ اللَّهِ حَصَبُ جَهَنَّمَ أَنْتُمْ لَهَا وَارِدُونَ" (الأنبياء، 98). فهذا ممّا نسخ حكمه وثبت خطّه.

ولا ينسخ القرآن بالسنة لأن القرآن لا ينسخ إلا بقرآن. والحجة ما قال الله تعالى "مَا نُنسخ مِنْ آيَةٍ أَوْ نُنسِهَا نَأْتِ بِخَيْرٍ مِنْهَا أَوْ مِثْلَهَا" (البقرة، 106). فالخير هو الصلاح لنا أو المنفعة لأن القرآن لا يفضل بعضه على بعض.

<sup>21</sup> "وسلّم" زائد في التحقيق.

<sup>22</sup> "وسلّم" زائد في التحقيق.

### باب ذكر السنن

إذا قيل لك السنن على كم ضرب فقل على ضروب ثلاثة: فمنها ما يؤخذ من الأمر؛ والأمر أمران: أمر فرض وأمر ندب فالأوامر إذا وردت فهي على الإيجاب حتى تقوم دلالة الندب. وضرب ثانٍ وهو ما أخذ عن الفعل. والأفعال على ضربين: فعل عام وفعل خاص. فأفعاله عليه السلام العموم حتى تقوم دلالة الخصوص وعمومها داخل في ضربي الأمر من الفرض والندب. والضرب الثالث ما أخذ عن العمل بحضرته عليه السلام فلم يوجد منه نهي عنه وهذا فضرِب واحد وهو على الندب دون الفرض. فهذه طرق السنن.

والسنن ففيها مُجْمَل ومَقَسَّر والمذهب في ذلك القضاء بمفسرها على مجملها. وفيها ناسخ ومنسوخ فيحكم ناسخها على منسوخها. وفيها مَقَدَّم ومَوْخَّر فيستعمل حكم ذلك على ما يوجه فيها. وفيها خاصّ وعمامّ والعموم أولى بنا من الخصوص حتى تقوم الدلالة على الخصوص فيما مخرجه مخرج<sup>23</sup> العموم وكذلك إذا كانت خاصة فهي على خصوصها حتى تقوم دلالة العموم.

### باب ذكر أخبار الأحاد

إذا قيل لك ما الأصل في قبول خبر الواحد فقل كتاب الله وسنة نبيّه وما انفقت عليه الأمة. فالحجة من الكتاب ما قاله تعالى: "يَا أَيُّهَا الَّذِينَ آمَنُوا إِن جَاءَكُمْ فَاسِقٌ بِنَبَأٍ فَتَبَيَّنُوا أَنْ تُصِيبُوا قَوْمًا بِجَهَالَةٍ" الآية (الحجرات، 6). فأمر الله تعالى بالتوقّف عند خبر الفاسق وفي ذلك دلالة على قبول خبر العدل وترك التوقّف عند خبره. وقال تعالى: "وَيَقُولُونَ هُوَ أَدْنَىٰ قُلٍّ أَدْنَىٰ خَيْرٍ لَّكُمْ" (التوبة، 61)، وفي هذا دلالة أنّه كان عليه السلام يسمع من كل قائل واحدا

<sup>23</sup> مخرج زائد في ب-

كان أو إثنين. وفيما روي عنه عليه السلام من قبول خبر الأعرابي على رؤية الهلال في أول الشهر دلالة على ما وجب بالآية وفي توجيهه لمعاذ وعلي وابن مسعود رضوان الله عليهم إلى اليمن دلالة على إثبات خبر الواحد. وما اتفقت عليه الأمة من الخبر إذا ورد فلم يوجد له معارض أنه مقبول فثبت بإجماعهم إثبات خبر الواحد.

### باب ذكر كيفية الإجماع

إذا قيل لك ما الأصل في وجوب حكم الإجماع فقل كتاب الله وسنة نبيه. فالحجة من كتاب الله قوله تعالى: "وَكَذَلِكَ جَعَلْنَاكُمْ أُمَّةً وَسَطًا لِتَكُونُوا شُهَدَاءَ عَلَى النَّاسِ" (البقرة، 143) فالوسط العدل والشهادة هي القول بالحق ألا تراه تعالى يقول: "وَيَكُونَنَّ الرَّسُولُ عَلَيْكُمْ شَهِيدًا" (البقرة، 143) أي ناطقا بالحق. والحجة من السنة ما روي عنه عليه السلام أنه قال: "لا تجتمع أمتي على ضلالة" وما قاله عليه السلم: "فما رآه المسلمون حسنا فهو عند الله حسن وما رأوه قبيحا فهو عند الله قبيح". فأثبت الله الحجة بما هذه صفته. فقد علم بهذا النص أن المراد به الخواص من الناس لا العوام وهم أهل العلم والقائلون بالحق. فحقيقة الإجماع هو القول بالحق فإذا حصل القول بالحق من واحد فهو إجماع، وإن حصل من إثنين أو ثلاثة فهو إجماع، وما حصل من ثلاثة إلى جملة لا تحصى فهو إجماع. فالحجة على أن الواحد إجماع ما اتفق عليه الناس في أبي بكر الصديق رضی الله عنه لما منعت بنو حنيفة الزكاة فكانت مطالبة أبي بكر رضی الله عنه لها بالزكاة حقا عند الكل وما انفرد بمطالبتها غيره وكلهم مجمعون على أن مطالبته حق. فإذا ثبت أن واحدا إجماع كان الإثنان فصاعدا بمعناه.

## باب ذكر إثبات القياس

إذا قيل لك ما الأصل في إثبات القياس فقل كتاب الله وسنة نبيه. فالحجة من الكتاب قوله تعالى: "وَلَوْ رَدُّوهُ إِلَى الرَّسُولِ وَإِلَى أُولِي الْأَمْرِ مِنْهُمْ لَعَلِمَهُ الَّذِينَ يَسْتَنْبِطُونَهُ مِنْهُمْ" (النساء، 83). فالقياس استنباط بحمل فرع على أصل لاشتباه بينهما في الأصل. وقوله عز وجل "إِنَّ اللَّهَ لَا يَسْتَحْيِي أَنْ يَضْرِبَ مَثَلًا مَّا بَعُوضَةً فَمَا فَوْقَهَا فَأَمَّا الَّذِينَ آمَنُوا فَيَعْلَمُونَ أَنَّهُ الْحَقُّ مِنْ رَبِّهِمْ" (البقرة، 26). فثبت حكم القياس لأن القياس هو تمثيل الشيء بالشيء وتشبيه الشيء بالشيء. فإذا جاز ذلك من فعل من لا تخفى عليه خافية ليريكم وجه ما تعلمون<sup>24</sup> فهو ممن لا يخلو من النقص والجهالة أجوز. وما قاله تعالى: "مَنْ أَوْسَطَ مَا تَطَّعُمُونَ أَهْلِيكُمْ أَوْ كِسْوَتُهُمْ" (المائدة، 89) وهذا لا سبيل إلى معرفة الحكم فيه إلا من وجه التحري والاحتياط وهذا لا يمكن فعله إلا بتقدير العقول. وما قاله تعالى: "فَجَزَاءٌ مِّثْلُ مَا قَتَلَ مِنَ النَّعَمِ" (المائدة، 95) فالمثل هو القياس لأنه حمل الشيء على نظيره لاشتراك بينهما.

والحجة من السنة ما روي عن النبي صلى الله عليه وسلم<sup>25</sup> أنه قال للخنثمية "أرأيت لو كان على أبيك دين ما كنت فاعلة، قالت كنت أقضيه، فقال لها النبي صلى الله عليه وسلم<sup>26</sup> فدين الله أحق أن يقضى". فقد ثبت القياس بالكتاب والسنة.

فكل حادثة أو نازلة فهي مذكورة في الأصل بالمعنى والفرق بينها وبين أصلها أن الأصل مذكور بالاسم والمعنى والفرع مذكور بالمعنى.<sup>27</sup> فإذا تفرق الأصل بالمعنى والفرع بالاسم فقد أمر الله تعالى عند ذلك برد الفروع

<sup>24</sup> في -أ- تعملون والصحيح ما أثبتناه.

<sup>25</sup> "وسلم" زائد في التحقيق.

<sup>26</sup> "وسلم" زائد في التحقيق.

<sup>27</sup> في -أ- و -ب- "بالاسم" ولكن الصحيح ما أثبتناه باعتبار المعنى.

الى الأصول ألا تراه تعالى يقول: "فَإِنْ تَنَازَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللَّهِ وَالرَّسُولِ" الآية (النساء، 59). والمنازع فيه الحادثة والمردود اليه الأمر من الله عزّ وجلّ في كتابه وسنة نبيه صلى الله عليه وسلّم.<sup>28</sup>

### باب طلب العلم

إذا قيل لك ما الأصل في طلب العلم تقول كتاب الله وسنة نبيه صلى الله عليه وسلّم<sup>29</sup> وما اتفقت عليه الأمة. فالحجة من الكتاب قوله تعالى: "فَلَوْلَا نَفَرَ مِنْ كُلِّ فِرْقَةٍ مِنْهُمْ طَائِفَةٌ لِيَتَفَقَّهُوا فِي الدِّينِ" الآية (التوبة، 122). فأفادنا بذلك حكم طلب العلم. وما قاله عليه السلام "اطلبوا العلم ولو بالصين فإنّ طلب العلم فريضة على كلّ مسلم". وقد أجمعت الأمة على أنّ علم ما لا يسع جهله فرض على الإنسان أن يعلمه فإذا علمه كان طلب<sup>30</sup> ما سوى ذلك فضلا لا فرضا. فعلى كلّ من علم أنّ الله قد فرض عليه فرائض وتواعده على تركها أن يعلمها ويعلمها وأن يسارع الى موافقة الله تعالى فيها رغبة في ثوابه وخوفا من عقابه وطلبا لمرضاته. والله نسأل التوفيق بمنّه وهو حسبنا ونعم الوكيل.

تمّ الكتاب بعون الله وهو الودائع لمنصوص الشرائع، ووافق الفراغ من نقله يوم الجمعة الحادي والعشرين من جمادى الآخر سنة إحدى وتسعين وخمسمائة.

وحسبنا الله ونعم الوكيل

<sup>28</sup> صلى الله عليه وسلّم " زائد في التحقيق.

<sup>29</sup> صلى الله عليه وسلّم " زائد في التحقيق.

<sup>30</sup> طلب " زائد في ب-

***Al-Wadā'i' li-manṣūṣ al-sbarā'i'* (fols. 124v-126r)****Abrogation**

If you are asked “How many types of abrogation are there?,” the answer is as follows: There are three types of abrogation: (a) abrogation of ruling while preserving the wording; (b) abrogation of wording while preserving the ruling; and (c) abrogation of both wording and ruling. Evidence for the preceding is the following saying by ‘Ā’ishah (R.A.): “In the time of Raṣūl Allāh (pbuh), we used to recite [a verse], namely, ‘Ten definite breastfeedings lead to a ruling of ḥarām.’ Later on, ten definite breastfeedings were abrogated and replaced with five definite breastfeedings.” This is [a verse] in which both ruling and wording are abrogated. An example of a verse with abrogated wording and preserved ruling is the following saying narrated from ‘Umar (RA): “In the days of Raṣūl Allāh (SAW), we read the verse ‘in the case of fornication between a married man and a married woman, stone (*rajm*) both’.” For this [verse], the wording is abrogated. Nevertheless, the ruling, which means stoning penalty, remains the same. An example of a verse in which the ruling is abrogated, and the wording is preserved can be found in the following words by Allah: “O you who have believed! Fear Allah as He should be feared.” (Q 3:102) and “Indeed, you and what you worship other than Allah are the firewood of Hell. You will be coming to it.” (Q 21:98). These verses are abrogated regarding the ruling, but remain intact regarding the wording.

The Qur’ān cannot be abrogated through Sunnah because the Qur’ān can only be abrogated through itself. Evidence for this is found in the following phrase by Allah: “We do not abrogate a verse or cause it to be forgotten except that We bring forth one better than it or similar to it.” (Q 2:106). The better example is one that includes well-being or interest for us. Otherwise, no part of the Qur’ān can be considered superior to the other.

**Sunnahs**

If you are asked “How many types of Sunnah are there?,” answer as follows: There are three types of Sunnah. The first type consists of those obtained via commands. Commands are divided in two, indicating either obligation or recommendation. In case there is no evidence on recommending nature of commands, they express sense binding (*ijāb*). The second type consists of those obtained via acts.

Actions are divided in two, namely, general (*‘āmm*) and particular (*khāṣṣ*). Prophetic actions are general unless there is evidence of particularity. The generality of actions applies for both obligatory and recommending types of order. The third type consists of those obtained via acts committed in the presence of the Prophet (pbuh) and that are not prohibited by him. Such Sunnah has a single piece of evidence and expresses recommendation, not an obligation. These are the ways in which Sunnahs are obtained.

Some Sunnahs are ambiguous (*mujmal*), whereas others are elaborated (*mufassar*). Our view of this issue is that the elaborated is superior to the ambiguous. Among Sunnahs, some are abrogating (*nāsikh*), whereas others are abrogated (*mansūkh*). Those abrogating are superior to the abrogated. Among Sunnahs, some are antecedent, whereas others are subsequent. Actions are committed as necessary within their context. Among sunnahs, some are particular, whereas others are general. For us, the general are superior to the particular. Nevertheless, in the case of any evidence of particularity [of a present Sunnah] about a general issue, the ruling obeys this fact. Likewise, in the case of any evidence on the generality of a particular Sunnah, the ruling respects this fact.

### **Single-Transmitter Report (*Khabar al-wāḥid*)**

If you are asked about the “basis for the acceptance of a single-transmitter report,” answer as follows: The Book of Allah, Sunnah of His Prophet, and the view on which the community agrees. Evidence from the Book is found in the following verse: “O you who have believed! If there comes you to you a grave sinner one with information, investigate, lest you harm a people out of ignorance” (Q 49:6). Allah orders investigation in the face of information by the grave sinner (*fāsiq*). Thus, the verse comprises evidence of acceptance of report through the fair one and not an investigation of his report. Moreover, Allah indicates, “And among them are those who abuse the Prophet and say, ‘He is an ear.’ Say, ‘It is an ear of goodness for you ...’” (Q 9:61). Thus, the verse reveals that the Prophet lent an ear to anyone saying something regardless of whether there are one or two such persons. With respect to the evidence of Sunnah, the tradition that indicates that the Prophet accepted a report by Bedouin about how the latter saw a crescent at the beginning of Ramaḍān also includes evidence for the issue necessary pursuant to verse. The Prophet’s sending of Mu‘ādh, ‘Alī,

and Ibn Mas'ūd to Yemen also bears evidence to prove the authoritativeness of a single-transmitter report. The community has a consensus on the following: Once a report is narrated, it is accepted unless there is any other contradicting report. Thus, the authoritativeness of single-transmitter report is proved through consensus.

### **The State of Consensus**

If you are asked about “the ground for the obligatory nature of consensus ruling,” answer as follows: The Book of Allah and Sunnah of His Prophet. Evidence from the Book of Allah is the following: “And thus we have made you a just community that you will be witnesses over the people” (Q 2:143). Just means fair, whereas witnessing means telling the truth. Accordingly, Allah adds, “that ... the Messenger will be a witness over you.” The witnessing of the Messenger means his telling the truth. Evidence through Sunnah is the following ḥadīths narrated from the Prophet: “My community does not agree on perversion. Whatever is beautiful in the eyes of Muslims is beautiful in the presence of Allah, whatever is ugly in their eyes is ugly in His presence as well.” Allah notes things that bear this attribute as authoritative. Thanks to these reports, it is known that the expression “Muslims” signifies *khawāṣṣ* and not *‘awāmm*. *Khawāṣṣ* means people who are well-informed and tell the truth. The basis of consensus is also to tell the truth. Consensus occurs when the truth is told, whether by one or either two or three persons. Whatever comes from a group of three to a countless number of people is also considered consensus. Example for consensus through a single person can be the incident in which people agreed on a deed by Abū Bakr. Once Ḥanafīs did not want to give obligatory alms (*zakāb*), Abū Bakr said it was necessary to collect them, and his opinion was approved by all, even though nobody else expressed such a view. Everybody agreed that Abū Bakr’s argument for the necessity of collecting obligatory alms was right. Thus, as is shown for a single person, consensus can occur through two or more persons.

### **Evidence of the Authoritativeness of Analogy**

If you are asked about “the basis for the evidence [of authoritativeness] of analogy,” answer as follows: The Book of Allah and Sunnah of His Prophet. The following verse is the proof from the Qur’ān: “But if they had referred it back to the Messenger or to those of authority among them, then the ones who can draw correct

conclusions from it would have known about it” (Q 4:83). The analogy is an *istinbāṭ* (unveiling of a meaning through *ijtibād*) that is drawn by ascribing the new problem (*farʿ*) to the precedent (*aṣl*) pursuant to the similarity between them regarding precedence. Another example from Allah’s (the Mighty and Sublime) verses is given below: “Indeed, Allah is not timid to present an example – that of a mosquito or what is smaller than it, and those who have believed know that it is the truth from their Lord.” (Q 2:26). Thus, analogy is conclusively ruled as a legitimate method. Indeed, the analogy is the representation of one thing with another and to resemble one thing to another. If it is permissible that One, to whom nothing is secret, can make an analogy to unveil to you the source of your knowledge, this is easily permissible for those who are not devoid from deficiency and ignorance. The ruling in verse “... average of that which you feed your own families or clothing them...” (Q 5:89) can be attained in no way other than search (*taḥarrī*) and discretion (*iḥtiyāṭ*). This, in turn, is only possible through an appreciation of reasons. The “equivalent” (*mīthl*) in “... the penalty is an equivalent from sacrificial animals to what he killed” (Q 5:95) is also an analogy because the analogy is the ascription of one thing to another because of common characteristics between them.

One example from Sunnah is the narrated conversation between Muḥammad (pbuh) and a woman from Khath‘am tribe. The Prophet asks the woman, “What do you say (*a-ra’ayti*); if your father had a debt, wouldn’t you pay it?” “I would pay it,” responds the woman; then, the Prophet says, “Then, what is of top priority is to pay your debt to Allah.” Thus, the authoritativeness of analogy is approved through the Qur’ān and Sunnah.

Each incident (*ḥādīthab*) or new experience (*nāzilab*) is expressed in the sense of precedence. The difference between them and the precedent is that whereas the precedent is expressed both nominally and semantically, the new one is only uttered in a sense. When the precedent differentiates regarding sense and the new differentiates regarding name, Allah orders the new to be sent back to the precedent. Accordingly, He (may His glory be glorified) speaks as follows: “And if you disagree over anything, refer it to Allah and the Messenger.” (Q 4:59). Incident is the object of disagreement, whereas the order in Book of Allah or Sunnah of the Prophet is the point of reference.

### Demand for Knowledge

If you are asked about “the basis of demand for knowledge,” answer as follows: The Book of Allah, Sunnah of His Prophet and the consensus of the community. An example from the Qurʾān is provided in the following verse: “For there should separate from every division (*firqah*) of them a group remaining to obtain understanding (*tafaqqub*) in the religion.” (Q 9:122). The verse provides a ruling on the demand for knowledge. The ḥadīth, “Seek knowledge even unto China. Indeed, the demand for knowledge is an obligation (*farīḍah*) for all Muslims.” can serve as evidence through Sunnah. The community agrees that it is obligatory for a man to learn things for which ignorance will be wrong. Once the necessary knowledge is obtained, the rest will be no more obligation but virtue (*fadl*). Anyone who is aware that Allah has laid certain obligations upon human being and that He threatens in the case that such obligation is abandoned should learn and teach them. And he/she should expect their reward and fear the punishment and should act as soon as possible to according to this order by asking His assent.

We beg Allah for the ability to achieve. Sufficient for us is Allah, and He is the best Disposer of affairs.

Thus, the book, called *al-Wadāʿi li-manṣūṣ al-sbarāʿi*, has been completed.

Its narration (copying) is dated to Friday, 21 Jumādā l-ākhir 591 [2 June 1195]. Sufficient for us is Allah, and He is the best Disposer of affairs.

### 3. An Analysis of the Views and Approach of Ibn Surayj

Some of Ibn Surayj’s four hundred works are reportedly about legal theory; nevertheless, it is unknown whether he wrote a text on *uṣūl* in the classical sense.<sup>31</sup> Some of Ibn Surayj’s writings about legal

<sup>31</sup> Among the works of Ibn Surayj, which are definitely named, the following address *uṣūl al-fiqh*: *Risālat al-bayān ʿan uṣūl al-aḥkām*, *Itbāt al-qiyās*, *al-Radd ʿalā Dāwūd fī inkārib* l-qiyās, *al-Radd ʿalā Ibn Dāwūd fī l-qiyās*. The first one is a 15-page treatise, written upon a letter from jurists living around Tashkent to summarize the approaches of al-Shāfiʿī, al-Mālik, Sufyān al-Thawrī, Abū Ḥanīfah, his pupils and Dāwūd ibn ʿAlī on legal theory. See Tāj al-Dīn ʿAbd al-Wahhāb ibn Taqī al-Dīn al-Subkī, *Ṭabaqāt al-Shāfiʿiyyah al-kubrā*, ed. Maḥmūd al-Ṭanāhī and ʿAbd al-Fattāh al-

theory intend to prove the authoritativeness of analogy, a controversial topic at the time. Ibn Surayj was engaged in a tough struggle against the *Zāhiri* school, which refused analogy; accordingly, he wrote refutations of almost all of the *Zāhiri*s with whom he lived in Baghdad during his lifetime.<sup>32</sup> Apparently, most of Ibn Surayj's writings focus on analogy. Nevertheless, as is shown in the preceding chapter along with the views attributed to him in works on legal theory, he addressed almost all of the fields related to the essential problems of *uṣūl*.

Problems, as treated by Ibn Surayj, do matter in terms of the development of a source mentality in the *Shāfi'i* fiqh circle. Indeed, titles in chapters that Ibn Surayj collected at the end of *al-Wadā'i*<sup>34</sup> address the Qur'ān, Sunnah, consensus, and analogy, the four sources of Islamic law (*al-adillah al-arba'ah*). Ibn Surayj does not allocate a separate title for the Qur'ān. Instead, he treats the problem of abrogation, which he deems one of the most important issues about this source. This first chapter, titled *Bāb dhikr al-naskh*, classifies abrogation primarily in terms of the manner of occurrence, before touching upon the relation of abrogation between the Qur'ān and Sunnah. The triple division by Ibn Surayj – i.e., abrogation of ruling while preserving the wording, abrogation of wording while preserving the ruling, and collective abrogation of wording and ruling – cannot be observed in the texts by al-*Shāfi'i* or his pupils. The classification, which is a contribution to *Shāfi'i* legal theory by Ibn Surayj, would be improved later by Abū Ishāq al-Marwazī (d. 340/951), who divides abrogation into six categories in terms of manner of occurrence.<sup>33</sup>

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Ḥulw, 2<sup>nd</sup> ed. (Cairo: Hajr li-l-Ṭibā'ah wa-l-Nashr, 1993), III, 456-457. *al-I'dbār wa-l-indbār*, mentioned among al-Zarkashī's references, also seems to be about *uṣūl* (*al-Baḥr al-muḥīṭ*, I, 7). Most likely, refutations by Ibn Surayj against Muḥammad ibn Ḥasan al-Shaybānī, 'Īsā ibn Abān, and al-Qāsānī were also about *uṣūl*. For the list of works, see Okuyucu, *Ṣāfi'i Mezhebinin Teşekkül Süreci*, 412-414.

<sup>32</sup> The texts, committed to paper during discussions about the authoritativeness of analogy between Ibn Surayj and al-Qāsānī are considered to reach one thousand pages. See al-Jaṣṣā, *al-Fuṣūl fi l-uṣūl*, IV, 32.

<sup>33</sup> Abū Ishāq al-Marwazī's classification is as follows: (1) abrogation where the ruling of the abrogated is abolished and its wording (*rasm*) remains intact; (2) abrogation where the ruling and wording of the abrogated are abolished and the ruling and wording of the abrogative remain unchanged; (3) abrogation where the ruling of the abrogated is abolished, whereas the wording of the abrogative is abolished and its

Ibn Surayj's views on the relation of abrogation between the Qur'ān and Sunnah possess historical significance because they differ slightly from al-Shāfi'ī's approach and pave the way for an adversarial approach that would spread in the course of time and would be accepted (to some extent) among the school. One of the most important elements in al-Shāfi'ī's legislative statement (*bayān*) theory and abrogation approach is that the Qur'ān and Sunnah do not abrogate one another. According to al-Shāfi'ī, verses and ḥadīths constitute two separate sets in terms of abrogation; therefore, Sunnah cannot abrogate the Qur'ān and vice versa.<sup>34</sup> In the chapter about abrogation in *al-Wadā'i*, Ibn Surayj treats the problem with regard to the abrogation of the Qur'ān via Sunnah; moreover, in the chapter about Sunnah, he touches upon both abrogating and abrogated Sunnahs. Apparently, Ibn Surayj seems to maintain al-Shāfi'ī's opinion. Nevertheless, quotations from him in works on legal theory reveal certain significant differentiations in his approach. Almost all sources agree that Ibn Surayj was the first Shāfi'ī *muṭtabid* to propose a different approach compared to the eponym of the Shāfi'ī school in terms of the abrogation problem.<sup>35</sup> For Ibn Surayj, the Qur'ān may abrogate Sunnah, even though this never actually happened; his justification is that the Qur'ān is stronger than Sunnah.<sup>36</sup> However,

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ruling remains unchanged; (4) abrogation where the ruling and wording of the abrogated are abolished, whereas the wording of the abrogative is abolished but its ruling remains unchanged; (5) abrogation without either wording or ruling, also with an unknown abrogative; and (6) abrogation that was primarily abrogative and then abrogated, but where there is no *nuṣūṣ* recited between two rulings. This classification is repeated by al-Māwardī and Ibn al-Sam'ānī; according to the latter, last two types were the results of extreme constraint. Abū Ishāq al-Marwazī mentions another kind of abrogation, which is forgotten without being abolished by a known abrogative and is deprived of both wording and ruling in this respect. See al-Zarkashī, *al-Baḥr al-muḥīṭ*, IV, 103-107.

<sup>34</sup> Abū 'Abd Allāh Muḥammad ibn Idrīs al-Muṭṭalibī al-Qurashī al-Shāfi'ī, *al-Risālah*, ed. Aḥmad Shākīr (Egypt: Maktabat al-Ḥalabī, 1940), 106-117.

<sup>35</sup> According to Muḥammad ibn Naṣr al-Marwazī, the pupils of al-Shāfi'ī followed their eponym with regard to relation of abrogation between Qur'ān and Sunnah. See *al-Sunnab*, ed. Abū Usāmah Salīm ibn 'Īd al-Hilālī (Kuwait: Gharās li-l-Nashr, 2005), 442, 576.

<sup>36</sup> Abū l-Ḥasan 'Alī ibn Muḥammad al-Māwardī, *al-Ḥāwī l-kabīr fī fiqh madhhab al-Imām al-Shāfi'ī*, eds. 'Alī Muḥammad Mu'awwaḍ and 'Ādil Aḥmad 'Abd al-Mawjūd (Beirut: Dār al-Kutub al-'Ilmiyyah, 1994), XIII, 189; XIV, 359; al-Zarkashī, *al-Baḥr al-muḥīṭ*, IV, 118.

Ibn Surayj has a similar point of view regarding the abrogation of the Qurʾān by Sunnah, saying that although multiple successive (*mutawātir*) Sunnah may abrogate the Qurʾān, such abrogation has never occurred. For him, it is not reason but the actual situation that renders abrogation of the Qurʾān by Sunnah unacceptable.<sup>37</sup>

Consequently, Ibn Surayj maintains al-Shāfiʿī's fundamental argument that the Qurʾān and Sunnah can be abrogative or abrogated only within themselves; however, he explains this fact through the actual situation, paving the way for new interpretations within the madhhab. After Ibn Surayj, Shāfiʿī scholars of *uṣūl*, who deny abrogation of the Qurʾān via Sunnah, began to discuss whether it is reason or revelation (*sharʿ*) that prevents this from occurring. Grounding on actual state, Ibn Surayj argues that revelation is the preventive element, and he gains the support of many Shāfiʿī jurists, Abū Ishāq al-Marwazī above all. However, some Shāfiʿī scholars such as Abū Ishāq al-Isfarāʿīnī (d. 418/1027) and ʿAbd al-Qāhir al-Baghdādī (d. 429/1037) consider this impossible in terms of reason.<sup>38</sup> Abū Bakr al-Ṣayrafī (d. 330/941), another pupil of Ibn Surayj and commentator of *al-Risālah*, indicates that al-Shāfiʿī objects to the abrogation of Qurʾān via Sunnah grounding on present evidence and that he does not consider impossible the abolition of a ruling, determined by the Qurʾān, through Sunnah. Therefore, al-Ṣayrafī attributes the view that the preventive element is *sharʿ* to the eponym.<sup>39</sup> The problem of abrogation of the Qurʾān via Sunnah

<sup>37</sup> Al-Māwardī, *al-Ḥāwī l-kabīr*, XVI, 78-79, 104. According to al-Zarkashī, this view, ascribed to Ibn Surayj, is inaccurate and the latter agrees with al-Shāfiʿī about the impossibility of abrogation of Qurʾān via Sunnah. See al-Zarkashī, *al-Baḥr al-muḥīṭ*, V, 266-267. For relevant opinions attributed to Ibn Surayj, see Abū Ishāq Ibrāhīm ibn ʿAlī al-Shīrāzī, *al-Tabṣīrah fī uṣūl al-fiqh*, ed. Muḥammad Ḥasan Haytū (Damascus: Dār al-Fikr, 1403), 264; Abū l-Maʿālī Rukn al-Dīn ʿAbd al-Malik ibn ʿAbd Allāh al-Juwaynī, *al-Talkhīṣ fī uṣūl al-fiqh*, ed. ʿAbd Allāh Jawlam al-Nibālī and Shubayr Aḥmad al-ʿUmarī (Beirut: Dār al-Bashāʿir al-Islāmiyyah, 1996), II, 514-515.

<sup>38</sup> Defenders of reasonable impossibility include al-Muḥāsibī, ʿAbd Allāh ibn Saʿd, al-Qalānisi, the Zāhiriīs and, according to a report, Aḥmad ibn Ḥanbal. Conversely, Abū Ishāq al-Shīrāzī defends impossibility in terms of revelation. See al-Zarkashī, *al-Baḥr al-muḥīṭ*, IV, 111; al-Shīrāzī, *Sbarḥ al-Lumaʿ*, ed. ʿAbd al-Majīd Turkī (Beirut: Dār al-Gharb al-Islāmī, 1988), I, 501.

<sup>39</sup> Asserting that abrogation of Qurʾān via Sunnah is out of question, al-Ṣayrafī claims that no opposite example can be found. For him, when saying “abrogation of Qurʾān via Sunnah is impermissible (*lā yajūz*),” al-Shāfiʿī uses the term in the same meaning

remained controversial among Shāfi'ī scholars of *uṣūl* and in the course of time, some accepted abrogation through Sunnah. For example, Ibn Fūrak (d. 406/1015) states both that most Shāfi'īs accept abrogation of Qur'ān via multiple successive (*mutawātir*) Sunnah and that al-Ash'arī defends this view.<sup>40</sup>

Despite his explicit expressions in *al-Risālah*, Shāfi'ī scholars began to discuss abrogation of Sunnah via the Qur'ān, and two opinions were ascribed to al-Shāfi'ī in this respect. According to Abū Ishāq al-Marwazī, although al-Shāfi'ī explicitly states that he does not accept such abrogation, a second view is attributed to him later, in the wake of the interpretation of some of his expressions. In the course of time, this interpretation transforms into a report, and two different opinions are ascribed to al-Shāfi'ī about the matter.<sup>41</sup> Shāfi'ī scholars of *kalām* confirm that their eponym accepted this type of abrogation. Abū Ishāq al-Marwazī apparently defends this argument, whereas al-Ṣayrafī claims that al-Shāfi'ī's opinion was definitely in the same direction. Each of these arguments is adopted by many Shāfi'ī scholars of *uṣūl*, and the issue of which party constitutes the majority is controversial.<sup>42</sup> Al-Māwardī notes that Ibn Surayj, who did not touch upon this problem in *al-Wadā'i*, seems to dissent from al-

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as in "It is impermissible to marry with close relative (*maḥram*).” As for abrogation of rulings about will, one of the most debated issues in this respect, al-Ṣayrafī asserts that Qur'ān is abrogative, whereas Sunnah merely indicates the new ruling. Nevertheless, al-Zarkashī indicates that al-Shāfi'ī did not say such a thing and this interpretation, which highlights impossibility in terms of revelation, cannot be attributed to the eponym. See al-Zarkashī, *al-Baḥr al-muḥīṭ*, IV, 114-115.

<sup>40</sup> Al-Zarkashī, *al-Baḥr al-muḥīṭ*, IV, 109; Abū Bakr Muḥammad ibn Ḥasan Ibn Fūrak al-Anṣārī, *Mujarrad maqālāt al-Shaykh Abī l-Ḥasan al-Ash'arī*, ed. Daniel Gimaret (Beirut: Dār al-Mashriq, 1987), 199-201. According to al-Zarkashī, the Ash'arīs, Mu'tazilah and other *kalām* scholars adopt the same view. In addition, citing al-Dabūsī and al-Bājī, he notes that Ḥanafī and Mālikī jurists, respectively, are generally of the same opinion. See *ibid.*, IV, 110. Al-Āmidī also ascribes this view to Ibn Surayj. See Abū l-Ḥasan Sayf al-Dīn 'Alī ibn Muḥammad al-Āmidī, *al-Iḥkām fī uṣūl al-ahkām*, ed. Sayyid al-Jumaylī (Beirut: Dār al-Kitāb al-'Arabī, 1984), III, 165.

<sup>41</sup> Al-Zarkashī, *al-Baḥr al-muḥīṭ*, IV, 118. According to al-Zarkashī, the interpretation, which leads to the second approach, is inaccurate and no such meaning can be derived from statements by al-Shāfi'ī. See *ibid.*, IV, 120.

<sup>42</sup> See al-Zarkashī, *al-Baḥr al-muḥīṭ*, IV, 118. Ibn Barhān attributes the view of the possibility of such abrogation, adopted by *uṣūl* scholars like Qādī Abū l-Ṭayyib and al-Juwaynī, to the majority, whereas al-Rāfi'ī claims that majority of Shāfi'īs adopt the opposite view. See *ibid.*

Shāfi'ī and accepts the abrogation of Sunnah via the Qur'ān. His justification is once again the Qur'ān's superiority to Sunnah.<sup>43</sup> With regard to this problem, pupils of Ibn Surayj have attempted to propose an interpretation that will not lead to a contradiction between the legislative statement (*bayān*) theory of al-Shāfi'ī and his abrogation approach, adding that Ibn Surayj also concurs with al-Shāfi'ī in this regard.<sup>44</sup> According to Ibn Surayj, the term "better" in the verse about abrogation (Q 2:106) signifies "better" with regard to deeds of objects; his explanation is important because it touches upon a much-debated issue in discussions of the abrogation problem between the Qur'ān and Sunnah in the ensuing literature.

The problem of abrogation via analogy (*qiyās*) is another point for which Ibn Surayj comes to the forefront. *Al-Wadā'i'* includes no explicit opinion of Ibn Surayj about the question; nevertheless, two views are ascribed to him.<sup>45</sup> Al-Anmāṭī, his tutor, reflected on the authoritativeness of analogy when it was a serious topic of debate, arguing that Qur'ānic verses and ḥadīths (*nuṣūṣ*) can be particularized and abrogated using a clear analogy (*al-qiyās al-jalī*). The approach of al-Anmāṭī and – if he agreed – Ibn Surayj can be considered as a step toward expanding the scope of analogy, which is among the most important sources of *ijtihād* and jurisprudence.<sup>46</sup> According to al-Anmāṭī, the Qur'ān can be abrogated by analogy originating from the Qur'ān, and Sunnah can be abrogated via analogy originating from Sunnah. Essentially, his approach is

<sup>43</sup> Therefore, Qur'ān is superior to Sunnah and cannot be abrogated by it; nevertheless, the opposite is possible. See al-Māwardī, *al-Ḥāwī l-kabīr*, XIII, 189.

<sup>44</sup> See al-Zarkashī, *al-Baḥr al-muḥīṭ*, IV, 121-123.

<sup>45</sup> See al-Zarkashī, *ibid.*, IV, 131-132.

<sup>46</sup> Ibn Surayj considers abrogation as a kind of legislative statement (*bayān*) just like particularization; therefore, if particularization through clear analogy (*al-qiyās al-jalī*) is permissible, then abrogation should be, too. This approach, also stated by al-Sarakhsī, arises from the fact that abrogation of a Qur'ān ruling via an analogy derived from Qur'ān is indeed considered as abrogation of Qur'ān, whereas abrogation of a Sunnah ruling via an analogy derived from Sunnah is indeed considered as abrogation of Sunnah. Al-Sarakhsī indicates that such an argument is invalid because of the consensus among Companions. See Shams al-a'imma Abū Bakr Muḥammad ibn Aḥmad ibn Abī Sahl al-Sarakhsī, *Uṣūl al-Sarakhsī* (Beirut: Dār al-Ma'rīfah, n.d.), II, 66. Al-Anmāṭī's relevant views are given in Shāfi'ī sources on *uṣūl*, whereas Ibn Surayj's opinions are only treated in Ḥanafī *uṣūl* works; consequently, there are doubts about its ascription to Ibn Surayj.

consistent with the thought of al-Shāfiʿī, who considers the Qurʾān and Sunnah as separate sets in terms of abrogation.<sup>47</sup> This approach by al-Anmāṭī and Ibn Surayj provided an analogy with abrogative capacity. However, it was not adopted by Shāfiʿī jurists: even Ibn Surayj’s pupils, including al-Ṣayrafī and Abū Ishāq al-Marwazī, objected to the idea.<sup>48</sup>

Ibn Surayj includes two titles about Sunnah in *al-Wadāʿiʿ*; in the first chapter, he classifies Sunnah pursuant to various aspects; in the second, he justifies the authoritativeness of single-transmitter report. In the chapter titled *Bāb dbikr al-sunan*, Sunnah is classified according to the following aspects: (a) methods of its acquisition; (b) explicitness-implicitness; (c) abrogative-abrogated; (d) presentation-retardation; and (e) particularity-generality.

Ibn Surayj divides Sunnah into three methods of acquisition:

1. Acquired through commands (*mā yuʿkbadb* ‘*an al-amr*)

There are two types of commands:

- a. Obligatory commands
- b. Recommended commands

2. Acquired through actions (*mā ukbidba* ‘*an al-fiʿl*)

There are two types of action:

- a. General action
- b. Particular action

3. Acquired through acts committed in the presence of the Prophet and not prohibited by him (*mā ukbidba* ‘*an al-ʿamal*)

In the wake of classification, the expression “Here are the ways to acquire prophetic traditions (*fa-bādbihī turuq al-sunan*)” indicates that the distinction is founded on how rulings based on Sunnah are obtained.

The ensuing literature classified Sunnah of the Prophet for several reasons; during classification, traditions are subject to a triple division

<sup>47</sup> Al-Bāji indicates that according to al-Anmāṭī, clear analogy is identical to *mafbūm al-kbiṭāb*, therefore, it is not an analogy in a real sense and should be evaluated within the scope of *manṭūq*. See Abū l-Walid Sulaymān ibn Khalaf ibn Saʿd al-Tujībī al-Bāji, *Iḥkām al-fuṣūl fī aḥkām al-uṣūl*, ed. ʿAbd al-Majīd Turkī (Beirut: Dār al-Gharb al-Islāmī, 1986), I, 435; al-Zarkashī, *al-Baḥr al-muḥiṭ*, IV, 132-133.

<sup>48</sup> Al-Zarkashī, *al-Baḥr al-muḥiṭ*, IV, 131-132.

such as verbal, actual, and tacit approval.<sup>49</sup> Earlier ḥadīth literature employs expressions to correspond to the preceding distinction for traditions; nevertheless, the earliest works on ḥadīth methodology do not comprise a clear distinction. Indeed, the distinction was developed later by legal theory scholars and penetrated into ḥadīth methodology through discipline.<sup>50</sup> Authors of the first still-extant works on legal theory have made various classifications including more categories instead of a standard triple division.<sup>51</sup> Classification by Ibn Surayj is very important because it corresponds to the distinction among verbal, actual, and tacit approval. Consequently, command (*amr*) signifies the imperative expressions of legislative nature by the Prophet. Ibn Surayj also treats which class serves as a source of types of rulings. Albeit in a single phrase, he touches upon problems about evidence that will eventually become an essential matter of debate in works of legal theory. The rulings, which is derived from commands (namely, verbal statements by the Prophet), are principally obligatory (*wujūb*). Ḥadīths signify obligation unless there is a presumption for the recommendation. Ḥadīths, which indicate obligation or recommendation, are principally general. Ḥadīths involve generality unless there is any presumption of particularity.

At this point, we can note a notable differentiation between Ibn Surayj and al-Shāfi'ī in treating the problem. In *al-Risālah*, al-Shāfi'ī treats the matter based only on prohibition (*nahy*), without explicit mention of the indication of command. Conversely, Ibn Surayj treats the issue based on command and does not touch upon prohibition. According to al-Shāfi'ī, prohibition indicates being forbidden unless there is a contrary presumption; he does not mention an indication of command, and his attitude has paved the way for an intra-school

<sup>49</sup> Triple division is presented in a standardized manner in later sources; nevertheless, categories such as *īmā'*, *ishārah* and *kitābah* are also added in *uṣūl* sources.

<sup>50</sup> Halit Özkan, "Takrîf Sünnet ve Sahîh-i Buhârî'deki Takrîrler" (master's thesis, Marmara University, 2000), 12-13.

<sup>51</sup> Al-Jaṣṣāṣ divides expressions emerging from Muḥammad (pbuh) in categories such as *qawl*, *kitābah*, *fi'l*, *dalālah* and *tanbîh*, *ishārah*, and *iqrār*. See *al-Fuṣūl fi l-uṣūl*, II, 32-37. Classification by al-Bāqillānī is as follows: Qur'ān, Sunnah, actions, and approvals of Muḥammad that replace his sayings, consensus, and rulings derived from *manṭūq* of Qur'ān and Sunnah via *ijtibād*. See Abū Bakr Muḥammad ibn al-Ṭayyib ibn Muḥammad al-Baṣrī al-Bāqillānī, *al-Taqrīb wa-l-irshād (al-ṣagbīr)*, ed. 'Abd al-Ḥamid ibn 'Alī Abū Zunayd (Beirut: Mu'assasat al-Risālah, 1993), III, 377.

debate on his opinion about the problem. For some, al-Shāfi'ī's expressions on prohibition are also valid for commands; therefore, al-Shāfi'ī thinks that command indicates obligation unless there is an opposite presumption. Some others, however, ascribe two opinions to al-Shāfi'ī in this respect. According to the first point of view, command has a common indication between recommendation (*nadb*), permissibility (*ibāḥab*) and obligation (*wujūb*), whereas the second approach claims it only indicates obligation. Al-Zarkashī finds the evidence for the second argument more reliable; nevertheless, he indicates that the first idea, which is derived from *zābir al-madḥab* of al-Shāfi'ī, is superior. Although al-Zarkashī considers the first view superior, notable Shāfi'ī jurists of an earlier period have adopted the second approach. Apart from Ibn Surayj, Abū Sa'īd al-Iṣṭakhrī (d. 328/939) and Abū 'Alī Ḥusayn ibn Ṣāliḥ ibn Khayrān (d. 320/932) agree with the latter.<sup>52</sup> Ibn Surayj, who treats the problem on the basis of an indication of command, remarks that command is obligatory without touching upon any relevant debate.<sup>53</sup>

Another problem that is often addressed in discussions about the indication of command and is related to obligation is whether there is a modality (*ṣiḡhab*) peculiar to command. Despite al-Ash'arī and Ash'arī theologians who claim there is no particular mode of command, the public majority discusses the presence of a particular mode (*if'al - li-yaf'al*). The discussion arises from the distinction between inner speech and outer speech (*al-kalām al-naḥsī* and *al-kalām al-laḥẓī*); accordingly, the Ash'arīs, who consider *kalām* as

<sup>52</sup> See al-Zarkashī, *al-Baḥr al-muḥīṭ*, II, 365. Moreover, views about *nadb* and *tawaqquf* (abstaining) are attributed to al-Shāfi'ī. Al-Bāqillānī concludes that al-Shāfi'ī is for *tawaqquf*; nevertheless, he is accused of injustice by al-Juwaynī. For the debate, see al-Bāqillānī, *al-Taqrīb wa-l-irṣād*, II, 46-48; al-Juwaynī, *al-Talkḥiṣ fi uṣūl al-fiqh*, I, 264.

<sup>53</sup> Certain Ḥanafī *uṣūl* sources attribute the view of *tawaqquf* in this regard to Ibn Surayj; nevertheless, this attribution seems inaccurate. See *Uṣūl al-Sarakhsī*, I, 15; Ṣadr al-sharī'ah 'Ubayd Allāh ibn Mas'ūd ibn Mahmūd al-Bukhārī al-Maḥbūbī, *al-Tawḍīḥ*, ed. Zakariyyā 'Umayrāt (Beirut: Dār al-Kutub al-'Ilmiyyah, 1996), I, 287. According to al-Taftāzānī, what Ibn Surayj means with *tawaqquf* is defining of which sense is intended among imperative modes that have multiple meanings, not the meaning for which this mode is imposed. For him, this mode is imposed so as to be common in terms of wording between obligation, recommendation, permissibility and threat. See Sa'd al-Dīn Mas'ūd ibn 'Umar al-Harawī al-Taftāzānī, *al-Talwīḥ 'alā l-Tawḍīḥ* (Cairo: Maktabat Ṣabīḥ, n.d.), I, 293.

*nafsī*, assert there is no particular mode in language imposed for command.<sup>54</sup> In this respect, there are allegations that Ibn Surayj agreed with al-Ash‘arī and even that he ascribed this view to al-Shāfi‘ī. Such assertions are groundless. Indeed, pursuant to such acceptance, one should argue that *if‘al* mode does not correspond to an obligation or any other meaning whatsoever without additional evidence.<sup>55</sup> However, in *al-Wadā‘i‘*, Ibn Surayj notes that command indicates obligation unless there is a presumption in favor of the recommendation.

In *al-Wadā‘i‘*, the Prophet’s acts are classified not in terms of ruling (obligation-recommendation) but in terms of generality-particularity; nevertheless, certain sources claim that Ibn Surayj also classified actions with regard to ruling. Accordingly, in the event that acts of the Prophet are free from presumptions and clearly intend worship, they indicate obligation; no other meaning can be ascribed unless there is contrary evidence. Such deeds are committed primarily by the Prophet and are not committed either to obey an imperative or to express the indeterminate.<sup>56</sup> Ibn Surayj thus justifies this distinction through the indication of several verses and consensus among Companions;<sup>57</sup> in this respect, he differs from al-Shāfi‘ī. Thus, al-Shāfi‘ī reportedly claims that even the actions of the Prophet, which include explicit intention of worship, indicate

<sup>54</sup> Ali İhsan Pala, *İslâm Hukuk Metodolojisiinde Emir ve Yasakların Yorumu* (Ankara: Fecr Yayınları, 2009), 85-86.

<sup>55</sup> See al-Zarkashī, *al-Baḥr al-muḥīṭ*, II, 352-353; Abū l-Muzaffar Manṣūr ibn Muḥammad ibn ‘Abd al-Jabbār al-Ṭamīmī al-Marwazī al-Sam‘ānī, *Qawāṭi‘ al-adillah fī l-uṣūl*, ed. Muḥammad Ḥasan Ismā‘īl al-Shāfi‘ī (Beirut: Dār al-Kutub al-‘Ilmiyyah, 1999), I, 49.

<sup>56</sup> Abū ‘Alī ibn Khayrān, Ibn Abī Hurayrah, and al-İştakhrī defend the same. See Shams al-Dīn Muḥammad ibn ‘Uthmān ibn ‘Alī al-Mardīnī, *al-Anjum al-zābirāt ‘alā ḥall al-fāz al-Waraqāt fī uṣūl al-fiqh*, ed. ‘Abd al-Karīm ibn ‘Alī Muḥammad ibn al-Namlah, 3<sup>rd</sup> ed. (Riyadh: Maktabat al-Rushd, 1999), 175. If there is no intention related to worship, Ibn Surayj is reported to defend the indication of obligation once again; nevertheless, for al-Juwaynī, this attribution is wrong because Ibn Surayj cannot defend such a view. See al-Juwaynī, *al-Burbān fī uṣūl al-fiqh*, I, 185. Reportedly, long discussions of this matter took place between the al-Ash‘arī who defended *tawaqquf* and pupils of Ibn Surayj. See Ibn Fūrak, *Mujarrad maqālāt al-Shaykh Abi l-Ḥasan al-Asb‘arī*, 192.

<sup>57</sup> Ḥusayn ibn Khalaf al-Jabūrī, “al-Imām Abū l-‘Abbās ibn Surayj wa-ārā‘uhū l-uṣūliyyah,” *Majallat al-Jāmi‘ah al-Islāmiyyah bi-l-Madīnah al-Munawwarah* 81-82 (1409): 173-176.

recommendation. For al-Shāfi'ī, a verse about the Prophet's being a "beautiful model" (Q 33:21), which is also used as evidence by Ibn Surayj, cannot be interpreted as an indication of obligation, and the Prophet's deeds can comprise both recommendation and obligation.<sup>58</sup> Even though he does not address this subject in the relevant chapter of *al-Wadā'i*, Ibn Surayj is clearly aware of the dispute about the indication of actions. Indeed, he provides some explanations of consensus on the obligatory feature of certain actions despite the dispute mentioned above.<sup>59</sup>

In *al-Wadā'i*, acts of the Prophet are classified in terms of generality and particularity, with the indication that the actions are general unless there is adverse evidence. In other words, such action is the origin of a binding verdict for all Muslims and is not restricted by the personality of Muḥammad (pbuh). Then, again, actions, which are a type of Sunnah from which sharī'ah originates, indicate rulings that are valid for everyone subject to sharī'ah. Rulings derived from the action are valid for everyone regardless of their obligatory or recommendatory nature.<sup>60</sup> The third type of Sunnah, namely, tacit approvals of the Prophet, is handled in terms of the ruling that it signifies, not content. Accordingly, he argues that they merely signify recommendation.<sup>61</sup> Later works on legal theory treat the tacit approvals of Muḥammad (pbuh) with respect to two aspects in particular: some *uṣūl* scholars evaluate approvals in terms of action,

<sup>58</sup> Al-Mardīnī, *al-Anjūm al-zābirāt*, 175-178; Abū l-Ḥasan Taqī al-Dīn 'Alī ibn 'Abd al-Kāfī al-Subkī (d. 756/1355), *al-Ibbāj fī sharḥ al-Minbāj: 'alā Minbāj al-uṣūl ilā 'ilm al-uṣūl li-l-Qāḍī al-Bayḍāwī al-mutawaffā sanat 685 H.* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1995), II, 264-265; al-Āmidī, *al-Iḥkām*, I, 174; al-Juwaynī, *al-Burbān fī uṣūl al-fiqh*, ed. Abū 'Abd al-Raḥmān Ṣalāḥ ibn Muḥammad Ibn 'Uwayḍah (Beirut: Dār al-Kutub al-'Ilmiyyah, 1997), I, 183.

<sup>59</sup> Rubbing on boots (*maskh 'alā l-kbuff*) is an example for this consensus. See *al-Wadā'i*, fols. 17v-17r. For other examples of acts of Muḥammad (pbuh), see *ibid.*, fols. 41v, 44r.

<sup>60</sup> For a ruling that is derived from acts of Muḥammad (pbuh) and that signifies generality, see *al-Wadā'i*, fols. 75r. For discussions about acts of Muḥammad (pbuh), see Abū Shāmah Shihāb al-Dīn 'Abd al-Raḥmān al-Maqdisī, *al-Muḥaqqaq min 'ilm al-uṣūl fī-mā yata'allaq' bi-af'āl al-Rasūl*, ed. Aḥmad Kuwaytī (al-Zarqā': Dār al-Kutub al-Athariyyah & Riyadh: Dār al-Rāyah, 1989). For how Ibn Surayj gives evidence an act of Muḥammad for a general ruling, see *al-Wadā'i*, fols. 75r.

<sup>61</sup> See *al-Wadā'i*, fols. 124v-125r.

whereas others consider it a third, independent type of Sunnah.<sup>62</sup> Ibn Surayj assesses tacit approvals of the Prophet within the scope of recommendation; therefore, this may be interpreted as he does not consider them within the framework of the Prophet's actions. Although he does not clearly touch upon this problem, the conclusion seems reasonable because Ibn Surayj essentially incorporates evidence of actions within obligation while he deems approvals to have an advisory character.

Other classifications by Ibn Surayj in the chapter mentioned above show early traces of the eventually dominant tradition of classification among kalām-oriented *uṣūl* scholars. Fiqh-oriented *uṣūl* scholars traditionally attempt to constitute a quadruple classification, especially on wording issues; conversely, kalām-oriented *uṣūl* scholars prefer binary classifications in the company of concept pairs. Ibn Surayj opts for the concept pair of *mujmal-mufassar* instead of *mujmal-mubayyan* based on the acceptance of the notion that Sunnah incorporates indeterminate expressions. Apparently, the debate about whether ḥadīths comprised indeterminate expressions emerged upon objections by Dāwūd al-Zāhirī. According to Dāwūd al-Zāhirī, like the Qurʾān, Sunnah does not include an indeterminate expression; on the contrary, by quoting a phrase, Ibn Surayj defends the position of al-Shāfiʿī against the Zāhirī school. The problem is associated with whether *taklīf* can be determined via indeterminate addressing and about responsibility in the absence of a legislative statement (*bayān*). Dāwūd al-Zāhirī asserted that Sunnah can incorporate no indeterminate expression, probably because of the position of the Prophet.<sup>63</sup> For Ibn Surayj, deeds should be committed pursuant to the determinate that unveils the indeterminate; nevertheless, he does not address the relationship of statements between verbal, actual, and tacit approval Sunnahs.

<sup>62</sup> See Özkan, *Takrîrî Sünnet ve Sabîb-i Bubârî'deki Takrîrler*, 13-18; id., "Takrîr," in *Türkiye Diyanet Vakfı İslâm Ansiklopedisi (DİA)*, XXXIX, 469.

<sup>63</sup> Those who accept there are indeterminate expressions in Sunnah point to the evidence that Muḥammad (pbuh) assigned Muʿādh ibn Jabal to collect alms before sending him to Yemen, but the Prophet did not make any statement about the manner of collection. For them, this type of addressing is yet to put forth any statement, and the responsibility is clear. See al-Zarkashī, *al-Baḥr al-mubīṭ*, III, 455-456.

In this respect, Ibn Surayj is involved in another notable problem, namely, discussion about the retardation of legislative statements (*bayān*). This discussion has theological extensions. Although some views are attributed to al-Shāfi'ī, the issue was treated only as of al-Muzanī and not touched upon by eponym. According to basic Shāfi'ī sources on legal theory, he considers the retardation of *bayān* possible; nevertheless, during earliest debates, various opinions are ascribed to al-Muzanī.<sup>64</sup> Ibn Surayj supports the idea that a conclusive and explanatory ruling (*bayān*) required about a problem that is indicated in religious sources can lag until the moment when it is actually experienced and requires a ruling. Most Shāfi'īs, including Ibn Surayj's peers and pupils, agree with him.<sup>65</sup>

Remaining phrases in the chapter on Sunnah of *al-Wadā'i'ī* address the classification of Sunnah pursuant to various aspects. Presentation-retardation (*muqaddam-mu'akkkbar*) signifies the relation of precedence-subsequence in line with the occurrence order of ḥadīths. The relation of generality-particularity between ḥadīths is expressed as follows: some ḥadīths are particular, whereas others are general, and a ḥadīth on the general is left intact unless there is a presumption of particularity. Conversely, a particular ḥadīth is left intact unless there is a presumption on its generality. These phrases remind the relationship between general and particular, insistently treated by al-Shāfi'ī in *al-Risālah*, along with the principles that he offers for their determination. One prominent argument by Ibn Surayj

<sup>64</sup> During discussions among pupils of Ibn Surayj about this problem, al-Ṣayrafī claimed that retardation of *bayān* was possible in the eyes of al-Muzanī; thereupon, Ibn Abī Hurayrah protested and, citing *al-Manībūr* by al-Muzanī, asserted that the latter does not accept retardation of *bayān* after the moment of the requirement. See al-Zarkashī, *al-Baḥr al-muḥīṭ*, III, 497.

<sup>65</sup> See al-Shīrāzī, *al-Tabṣīrah fī uṣūl al-fiqh*, 207. Despite the foregoing statements, al-Ṣayrafī is given among those who reject the possibility of the retardation of *bayān*. See Abū Shujā' Fakhr al-Dīn Muḥammad ibn 'Alī ibn Shu'ayb Ibn al-Dahhān, *Taqwīm al-naẓar fī mas'āl khilāfiyyah dbā'i'ah wa-nubadh madhbabiyyah nāfi'ah*, ed. Ṣāliḥ ibn Nāṣir ibn Ṣāliḥ al-Khuzaym (Riyadh: Maktabat al-Rushd, 2001), II, 79. In the discussion, opposite views are attributed to al-Ṣayrafī and Abū Ishāq al-Marwazī; in later literature, the Mu'tazilah, most Ḥanafīs, some Shāfi'īs and Mālikīs are considered a party, whereas the Ash'arīs and most Shāfi'īs are considered a counterparty. Accordingly, al-Ṣayrafī has reportedly changed his mind in this matter following his discussion with al-Ash'arī. For parts of the debate, see al-Zarkashī, *al-Baḥr al-muḥīṭ*, III, 493-501.

address when and under what circumstances a deed will be committed pursuant to a general wording. According to Ibn Surayj, no deed can be performed immediately pursuant to a general expression and one will wait until it is determined whether a piece of evidence has particularized that expression. With regard to this problem, various of al-Shāfi‘ī’s ideas are interpreted in different manners, so much so that even adversarial arguments are ascribed to him; consequently, Ibn Surayj’s many pupils and peers agree with him, even though al-Şayrafī indicates it is necessary to act pursuant to the general without seeking any such prerequisite.<sup>66</sup> In light of statements by al-Juwaynī, many Shāfi‘ī *uṣūl* scholars agree with Ibn Surayj about this question.<sup>67</sup> Therefore, Ibn Surayj’s statement that a general ḥadīth will remain general unless there is a presumption of its particularity should instead be understood through the addition of the expression, “following relevant research.”<sup>68</sup>

The following chapter of *al-Wadā‘i‘* is dedicated to the authoritativeness of a single-transmitter report. Conditions for the acceptance of a single-transmitter report and the problem of authoritativeness are among the fundamental problems in *al-Risālah* by al-Shāfi‘ī, who attains a distinguished position in the face of the dominant *fiqh* traditions of his day through his unique approach and criticisms. This fact has motivated Ibn Surayj to allocate a separate chapter to the problem. Ibn Surayj, however, exclusively engages in

<sup>66</sup> See al-Zarkashī, *al-Baḥr al-muḥīṭ*, III, 36 ff. Thus, a dispute was born and created between Ibn Surayj and al-Şayrafī. According to the latter, the main point is the existence of a particularizing element, and it is necessary to act pursuant to the precedent situation if no objection is present. Ibn Surayj, however, considers the absence of a particularizing element as a condition, and relates acting in line with the general to realizing a condition. For him, the modes that connote the particular can include all individuals only after the presumptions that can signify the particular are abolished (*ibid.*, III, 51). Thereupon, Ibn Surayj was attributed with holding the view of *tawāqquf* about whether there is any mode peculiar to the general. Such attribution, however, is wrong; see *ibid.*, III, 52-53.

<sup>67</sup> Al-Juwaynī, *al-Talkhīṣ fī uṣūl al-fiqh*, II, 163-164. For al-Şayrafī’s views on the matter and falsity of expressions ascribed to him, see al-Zarkashī, *al-Baḥr al-muḥīṭ*, III, 41-46.

<sup>68</sup> The problem is debated with its various aspects; remember that there is a distinctive assessment between the moment of first encounter addressing (*kbītāb*) and the moment of due deed and that accordingly, parties’ expressions are interpreted in various manners.

grounding the authoritativeness of a single-transmitter report, refraining from discussions about conditions of action or the validity of prerequisites proposed by other *mujtabids* and *fiqh* circles. At this point, *al-Wadā'i* stands out for incorporating the Qur'ānic verses and ḥadīths, hitherto unemployed by al-Shāfi'ī for grounding the authoritativeness of this evidence, into the discussion and for making new arguments. In addition to the evidence utilized by al-Shāfi'ī, Ibn Surayj refers to verses that order rejection of a grave sinner's reports without investigation (Q 49:6) and that describe how the Prophet accepted the reports communicated to him (Q 9:61). According to Ibn Surayj, the former verse means that reports by just persons should be accepted, and no hesitation is required. As for the latter verse, the Prophet relied on the persons who reported to him, regardless of whether one or two reporters were communicating.<sup>69</sup> Additional evidence through Sunnah is that Muḥammad (pbuh) relied on the word of the Bedouin who said he saw a crescent at the beginning of the month, whereupon he sent 'Alī, Mu'ādh ibn Jabal, and Ibn Mas'ūd to Yemen. According to al-Jaṣṣāṣ, these ḥadīths were also used by 'Īsā ibn Abān to ground the authoritativeness of single-transmitter report.<sup>70</sup> In addition, the community has agreed that a report for which there is no opponent should be accepted.<sup>71</sup> Even though it is not mentioned in *al-Wadā'i*, Ibn Surayj also considers the evidence of reason while proving the authoritativeness of a single-transmitter report.<sup>72</sup>

Consensus, which is the topic of the following title, reflects the matured contemplation of sources in the phrases of Ibn Surayj. Although it is clearly stated in al-Shāfi'ī's *uṣūl* thought, there is controversy about whether al-Shāfi'ī adopted the approach of four

<sup>69</sup> In his analysis of evidence to justify the authoritativeness of a single-transmitter report, al-Jaṣṣāṣ criticizes Ibn Surayj, albeit without uttering his name. According to al-Jaṣṣāṣ, no such argument is possible pursuant to the negative implication (*mafbūm mukhbālif*) in Q 49:6, whereas reasoning related to Q 9:61 is the weakest deduction ever made on this matter. See *al-Fuṣūl fī l-uṣūl*, III, 79-81.

<sup>70</sup> *Ibid.*, 82-83.

<sup>71</sup> 'Īsā ibn Abān had also justified authoritativeness by virtue of consensus. See *ibid.*, III, 85.

<sup>72</sup> Argumentation is hereby supported by al-Ṣayrafī and al-Qaffāl among Shāfi'īs and Abū l-Ḥusayn al-Baṣrī among Mu'tazilāh. See al-Zarkashī, *al-Baḥr al-muḥīṭ*, IV, 259-260.

sources of law.<sup>73</sup> Nevertheless, we can definitely say Ibn Surayj placed consensus as the third source, following the Qurʾān and Sunnah. In various parts of *al-Wadāʿiʿ*, Ibn Surayj provides consensus with an equivalent legislative power, in terms of being a source of law, to the Qurʾān and Sunnah. He bases obligations and other rulings on this evidence (consensus), verses and ḥadīths.<sup>74</sup> The final chapter, which is dedicated to consensus, primarily addresses the authoritativeness of such evidence before touching upon who has the ability to participate in consensus and whether there is any restriction on the number of *mujtabids* who will deliver an opinion on the occurrence of consensus. The authoritativeness of consensus is justified via both the Qurʾān and Sunnah. In the verse that identifies Muslims as a just community (Q 2:143); just means fairness, whereas witnessing means ruling in truth. Indeed, the witnessing of the Prophet points to his expression of truth. Relevant grounds in Sunnah include ḥadīths such as “My community does not agree upon perversion.” and “Whatever is beautiful in the eyes of Muslims is beautiful in the presence of Allah, whatever is ugly in their eyes is ugly in His presence as well.” For Allah, the consensus among persons with such attributes is authoritative. Elsewhere, Ibn Surayj indicates that guidance arises through such consensus.<sup>75</sup>

Ibn Surayj highlights scholarly competence related to the

<sup>73</sup> Joseph E. Lowry, “Does Shāfiʿī Have a Theory of Four Sources of Law?,” in *Studies in Islamic Legal Theory*, ed. Bernard G. Weiss (Leiden: E. J. Brill, 2002), 23-50. For a relevant assessment, see Murteza Bedir, “er-Risāle,” in *Türkiye Diyanet Vakfı İslām Ansiklopedisi (DİA)*, XXXV, 118.

<sup>74</sup> Ibn Surayj says the following about legislative power of consensus: “A *farḍ* (obligation) can only be conclusive by means of Qurʾān, Sunnah or consensus. In case none of these evidences point out an obligation, the ruling in dispute becomes Sunnah. As about rubbing of ears, some claim it is obligatory to wash ears as a whole, while according to some, it is obligatory to wash the inner part or outer part. Since a *farḍ* cannot be decided via dispute, wiping ears is Sunnah.” See *al-Wadāʿiʿ*, fol. 9v. To highlight the power of consensus, the section “Ṭahārat al-māʾ,” the first title after the preface in *al-Wadāʿiʿ*, enlists the Qurʾān, Sunnah, consensus among the community and the witnessing of reason as evidence of the cleanliness of water. See *ibid.*, fol. 2v. Consensus may occasionally be the ground for a ruling together with Qurʾān and Sunnah; however, it may also serve as the basis of ruling on independent evidence, when certain rulings, not supported by verses and ḥadīths, are grounded in consensus. For relevant examples, see *ibid.*, fols. 13v, 46v, 50v, 53r, 57v.

<sup>75</sup> See *al-Wadāʿiʿ*, fols. 12v-12r.

capability to participate in consensus, which will eventually become a major point of debate. For him, the verses and ḥadīths, which prove the authoritativeness of consensus, are related to persons with certain qualities not everybody. However, such persons will be taken into account when determining a consensus that will propose a definitive ruling about any religious issue. In his words, consensus is the affair of *kbawāṣṣ*, not of *ʿawāmm*. *Khawāṣṣ* are persons who are competent in science and who express the truth. Is there any threshold on the minimum number of such persons to conclude that consensus exists? Ibn Surayj's view on this issue might be his most striking opinion in the history of Islamic legal theory. For him, the basis of consensus is the expression of truth; therefore, it can be occurred even through view of a single person. Ibn Surayj does not differentiate between emanations of the truth from one, two or three persons. He grounds the occurrence of consensus both upon Abū Bakr's opinion about starting jihad against Ḥanafites who rejected giving obligatory alms (*zakāh*) and upon how Companions adopted this view even though Abū Bakr was the first and only one to express it.<sup>76</sup> If a consensus can be formed through a single person's opinion, it can easily be formed through the view of two or more people. There is a significant difference between how Ibn Surayj contemplates the problem and the context in which it is narrated in subsequent *uṣūl* sources. Ibn Surayj's acceptance reminds us of tacit consensus on the one hand and the consensus, which occurs in a manner similar to reconciliation after dispute, on the other hand. Nevertheless, *uṣūl* scholars ascribe to him the following opinion: If there is a single mujtahid during a century, his view can be deemed authoritative at a level equivalent to consensus.<sup>77</sup>

<sup>76</sup> *Al-Wadā'i*, fols. 125v-125r. For al-Juwaynī's criticism on Ibn Surayj, see al-Zarkashī, *al-Baḥr al-muḥīṭ*, VI, 485-486.

<sup>77</sup> Abū ʿAbd Allāh Shams al-Dīn Muḥammad Ibn Amīr Ḥājī (d. 879/1474), *al-Taqrīr wa-l-taḥbīr*, 2<sup>nd</sup> ed. (Beirut: Dār al-Kutub al-ʿIlmiyyah, 1983), III, 123; Muḥammad Amīn ibn Maḥmūd al-Bukhārī Amīr Bādshāh, *Taysīr al-Taḥrīr* (Beirut: Dār al-Fikr, n.d.), III, 339-340; Abū I-Ḥasan ʿAlāʾ al-Dīn ʿAlī ibn Sulaymān ibn Aḥmad al-Mardāwī, *al-Taḥbīr sharḥ al-Taḥrīr fī uṣūl al-fiqh*, eds. ʿAbd al-Raḥmān ibn ʿAbd Allāh al-Jabrīn, ʿIwāḍ ibn Muḥammad al-Qaranī, and Aḥmad ibn Muḥammad al-Sarrāḥ (Riyadh: Maktabat al-Rushd, 2000), IV, 1602. According to Abū Ishāq al-Isfarāʾīnī, the number is irrelevant in such condition and consensus can be obtained from the view of a single interpreter. Nevertheless, according to al-Zarkashī, the majority view matters and therefore, the number is important. See al-Zarkashī, *al-Baḥr al-muḥīṭ*, IV, 516.

Ibn Surayj does not treat some controversial issues about occurrence of consensus, such as whether there is a need for consensus among all scholars or whether reconciliation among the majority can be called consensus if there is a single opposing scholar. Nevertheless, the use and manner of assertion of consensus in *al-Wadā'i*<sup>6</sup> provide us with certain clues about his relevant ideas. At this stage, his view of consensus and manner of using this evidence contrasts with certain principles that al-Shāfi'i stressed. In *al-Wadā'i*<sup>6</sup>, evidence of consensus is employed to support the views of his school and weaken adversarial arguments; therefore, it sometimes actually goes beyond the theoretical framework established by al-Shāfi'i.<sup>78</sup>

In *al-Wadā'i*<sup>6</sup>, the last chapter to directly address *uṣūl al-fiqh* is dedicated to grounding the authoritativeness of analogy. Analogy stands out as a more serious problem than other sources because of the transformation of ongoing debates on authoritativeness, along with the actual adversaries and addressees of Ibn Surayj. Because al-Shāfi'i established a strong relation between *ijtibād* and analogy and almost identified the two, his evidence and arguments for the justification of *ijtibād* and the prevailing opinion (*ghālib al-zann*) were suitable to employ in discussions about the authoritativeness of analogy in the ensuing literature. Moreover, because the examples used in al-Shāfi'i's arguments were a type of *ijtibād* of *taḥqīq al-manāt*, he had to develop new arguments against analogy deniers accepting this type of reasoning.<sup>79</sup> Ibn Surayj stands out as a figure

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According to Ibn Abī Hurayrah, the pupil of Ibn Surayj, there is a difference between whether such a person is in an administrative position or is a *mufti/mujtabid*; the view of the former cannot be considered as consensus, whereas the view of the latter can. See al-Āmidī, *al-Iḥkām*, I, 312.

<sup>78</sup> Ibn Surayj treated certain problems of substantive law with regard to contradiction between consensus and disagreement, and reinforced the rules on which madhhab views are based; for relevant examples, see *al-Wadā'i*<sup>6</sup>, fols. 3r-4v, 6r-7v, 12v-13r, 15v, 18r. Al-Shāfi'i objects to the fact that local agreements in Medinah and some other regions are adopted as consensus; for him, the entire community should agree on an issue before it can become consensus. For al-Shāfi'i's view on consensus, see Bilal Aybakan, *Fıkıh İliminin Oluşum Sürecinde İcma* (Istanbul: İz Yayıncılık, 2003), 120-131.

<sup>79</sup> Al-Shāfi'i grounds the legitimacy of *ijtibād* and prevailing opinion (*ghālib al-zann*) on examples such as determination of qiblah and the designation of justness of witnesses and of animals to be sacrificed upon breaching the prohibitions of *ḥajj*. These examples are in kind of *ijtibād* of *taḥqīq al-manāt*. For further information, see

who not only explicitly used al-Shāfi'ī's arguments in debates on analogy but also developed new arguments. His efforts can deservedly be considered as a defense of al-Shāfi'ī in particular and Sunnī fiqh in general against the Zāhirī school, which was on the rise as an analogy denier during early fourth-century AH. Ibn Surayj made a substantial contribution to the development of analogy through his debates with Zāhirī jurists, along with his works for grounding the authoritativeness of analogy. Indeed, the texts, written during his discussions about analogy with Muḥammad ibn Dāwūd, reportedly reached a thousand pages. *Al-Radd 'alā Dāwūd fī inkārib' l-qiyās* and *Ibbāt al-qiyās*, which are attributed to Ibn Surayj in the relevant sources, can be considered the records of these debates.<sup>80</sup>

Apparently, Ibn Surayj included three pieces of evidence, except for the verse about prohibitions of *ḥajj*, in analogy debates. Al-Shāfi'ī, who treated debate based on *ijtihād* and the prevailing opinion (*ghālib al-zann*), had not cited the mentioned verses as evidence. Conversely, Ibn Surayj cites as evidence the verse “So take warning, O people of vision!” (Q 59:2) and becomes the first to develop the well-known argument that analogy is a transition procedure.<sup>81</sup> The evidence cited by Ibn Surayj to ground the authoritativeness of analogy also comprises a description of analogy and explanations of its elements. For example, the description of analogy for the first piece of evidence, the word *istinbāṭ* (Q 4:83), is as follows: “Analogy is an *istinbāṭ* (unveiling of a meaning through *ijihād*) that is drawn by ascribing the new problem (*far'*) to the precedent (*aṣl*) pursuant to similarity between them in terms of precedence.” In the fourth piece of evidence, the word “equivalent/*mithl'*” (Q 5:95) is identified with analogy, and he asserts that “Analogy is to ascribe one thing to its similar (*naẓīr*) grounding on the commonality between them.” The third piece of evidence (Q 5:89) is interpreted to highlight the principles of investigation (*taḥarrī*) and cautious attitude (*iḥṭiyāṭ*), insisting that these principles are possible only through judgment by reasonable persons. Following his second piece of evidence (Q 2:26), Ibn Surayj provides an interesting justification: the use of

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Yunus Apaydın, “Kıyas,” in *Türkiye Diyanet Vakfı İslâm Ansiklopedisi (DİA)*, XXV, 530.

<sup>80</sup> See al-Zarkashī, *al-Baḥr al-muḥīṭ*, V, 26.

<sup>81</sup> Al-Qāsānī, the Zāhirī scholar who objects to Ibn Surayj in this debate, cites the verse on the sufficiency of the Qur'ān (Q 29:51) as counterproof. See al-Zarkashī, *al-Baḥr al-muḥīṭ*, V, 22.

representation and resemblance by omniscient Allah to provide man with justification of/grounds for (*wajb*) his knowledge serves as a ground for their use by people who are subject to deficiency and ignorance.

Strikingly, Ibn Surayj expressed almost all of the key concepts used for analogy during his assertion of the verses noted above as the basis for authoritativeness. His definitive phrases are knitted with concepts such as *istinbāt*, *ishtibāb*, *tamtbil*, *tashbīh*, *naẓīr*, *mithl*, *wajb*, and *taḥarrī*. His evidence through Sunnah is a ḥadīth that is not uttered by al-Shāfiʿī in this respect and that will eventually become much-debated in relevant discussions. Ibn Surayj, who grounds the authoritativeness of analogy with verses and ḥadīths in *al-Wadāʿi*, is also attributed with rational arguments in *uṣūl* sources.<sup>82</sup> These arguments comply with phrases that are provided after the evidence in *al-Wadāʿi*. For example, new incidents for which there is no ruling in verses and ḥadīths are mentioned in the Qurʾān and Sunnah in terms of cause (*ʿillah*), although not in wording. The difference between precedent and new incidents, which are elements of analogy, is that precedent is cited in terms of both name and meaning, whereas new incidents are only cited in terms of meaning.<sup>83</sup> In the event of a nominal difference between a precedent and a new incident that have the same meaning, one needs an analogy, namely, to send the new back to the precedent pursuant to the relevant verse (Q 4:59). Ibn Surayj gives the Qurʾān and Sunnah as the precedent and does not discuss whether rulings determined via consensus can serve as a precedent in the analogy process.

References to Ibn Surayj in the *uṣūl al-fiqh* literature reveal that his contribution to evidence of analogy was not restricted to discussions of authoritativeness. He addresses several problems about the use of such evidence and the determination of its limits, expressing views on many issues that were already being discussed or even asserted by him the first time. Accordingly, Ibn Surayj can be considered an *uṣūl* scholar who wanted to expand the domain of analogy. For example, he objects to the view that analogy can be conducted exclusively

<sup>82</sup> See al-Zarkashī, *al-Baḥr al-muḥīṭ*, V, 26.

<sup>83</sup> In *al-Wadāʿi*, the relevant expression reads “the new one is mentioned in name;” nevertheless, it must be as set forth above, because the former contradicts Ibn Surayj’s purpose. This error, probably caused by a copying mistake, is repeated in both versions. See *ibid.*, fol. 126v; II, 677 (Ṣāliḥ ibn ʿAbd Allāh’s edition).

through *ʿillab*, claiming that analogy can be instead carried out based on names and language. For him, *ʿillab* is not an element that connotes legal judgment as of the beginning but is merely proof that shows the name of the new. Therefore, it is possible to conduct analogy through an indication of the name.<sup>84</sup> To extend the domain of analogy, Ibn Surayj also asserts that general wordings in the Qurʾān can be particularized through clear analogy (*al-qiyās al-jalī*).<sup>85</sup> With respect to Ibn Surayj’s other contributions to thought on analogy, he states that there is a consensus about the permissibility of analogy on *ʿaqliyyāt*,<sup>86</sup> addresses the issue of analogy of

<sup>84</sup> This is exactly like how, pursuant to analogy to the term “fornication,” sexual intercourse with animals is also deemed fornication or how, pursuant to analogy to the term “theft,” grave robbing is subject to same ruling. See al-Jabūrī, “al-Imām Abū l-ʿAbbās ibn Surayj wa āraʾuh<sup>ū</sup> l-uṣūliyyah,” 37-38. For al-Baṣṭī, Ibn Surayj’s opinion is therefore wrong; according to the former, most rulings are determined through their meaning, and not their name. See Abū l-Ḥusayn Muḥammad ibn ʿAlī al-Baṣṭī, *al-Muʿtamad fī uṣūl al-fiqh*, ed. Khalīl al-Mays (Beirut: Dār al-Kutub al-ʿIlmiyyah, 1983), II, 272-273. Shāfiʿī jurist al-Kiyā al-Harrāsī agrees and claims that al-Shāfiʿī’s expressions about wine (*kbāmī*) falsified the views of Ibn Surayj. See al-Zarkashī, *al-Baḥr al-muḥīṭ*, V, 64-65. Al-Shāfiʿī’s view on the matter is unclear. Ḥanafī *uṣūl* writers and al-Zanjānī indicate that al-Shāfiʿī accepts analogy in language; some Shāfiʿī *uṣūl* scholars, however, disagree. Ibn Surayj’s disciple Ibn Abī Hurayrah, Shāfiʿī *uṣūl* scholars al-Shīrāzī, al-Rāzī and Mālikī scholar al-Bāqillānī support Ibn Surayj, whereas al-Juwaynī, al-Āmidī, al-Ghazālī, most Ḥanafīs and Ibn al-Hājib do not. See Muḥammad ibn ʿAlī al-Yamanī al-Shawkānī, *Irṣād al-fuḥūl ilā taḥqīq al-ḥaqq min ʿilm al-uṣūl*, ed. Aḥmad ʿIzzū ʿInāyah (Beirut: Dār al-Kitāb al-ʿArabī, 1999), I, 49; al-Āmidī, *al-Iḥkām*, I, 57; Ḥasan ibn ʿUmar ibn ʿAbd Allāh al-Sīnāwīnī (d. 1347), *al-Aṣl al-jāmiʿ li-ṭīqāḥ al-durar al-manzūmah fī silka Jamʿ al-jawāmiʿ* (Tunis: Maṭbaʿat al-Nahḍah, 1928), I, 66. In the beginning, al-Subkī did not accept this view, but later, he changed his mind, agreeing with Ibn Surayj. See Tāj al-Dīn Abū Naṣr ʿAbd al-Wahhāb ibn Taqī al-Dīn al-Subkī, *al-Asbbāḥ wa-l-nazāʾir*, eds. ʿAdīl Aḥmad ʿAbd al-Mawjūd and ʿAlī Muḥammad Muʿawwaḍ (Beirut: Dār al-Kutub al-ʿIlmiyyah, 1991), II, 174-175. For justifications of Ibn Surayj, see al-Jabūrī, “al-Imām Abū l-ʿAbbās ibn Surayj wa āraʾuh<sup>ū</sup> l-uṣūliyyah,” 37-38.

<sup>85</sup> Taqī al-Dīn al-Subkī, *al-Ibbāj fī sharḥ al-Minhāj*, II, 175; al-Āmidī, *al-Iḥkām*, II, 337. According to al-Zarkashī, hereby view, attributed to Ibn Surayj, does not reflect his true opinion; therefore, Ibn Surayj defends this argument on the ground of generality and not through clear analogy. See *al-Baḥr al-muḥīṭ*, III, 369.

<sup>86</sup> Al-Zarkashī, *al-Baḥr al-muḥīṭ*, V, 63.

resemblance,<sup>87</sup> proposes a rule for how testing (*sabr*) can be carried out to determine *‘illab*,<sup>88</sup> accepts the particularization of *‘illab* determined via verses and *ḥadīths*<sup>89</sup> and performs an octal classification of analogy.<sup>90</sup> Apart from problems about sources, he delivers opinions on many other questions within the scope of *uṣūl*. Consequently, Ibn Surayj has become an opponent of various problems in classical *uṣūl* works.<sup>91</sup> *Bāb ṭalab al-‘ilm*, the final chapter of *al-Wadā’i‘*, should have been written with reference to a chapter in *al-Risālah*. Previously in his *al-Mukhtaṣar*, al-Buwayṭī had also provided a classification of knowledge for learning about al-Shāfi‘ī. Although Ibn Surayj does not reflect this classification completely as is, his distinction between obligatory and virtue (*faḍl*) recall al-Shāfi‘ī’s classification.<sup>92</sup>

#### 4. Assessment and Conclusion

Late third- and early fourth-century AH witnessed significant developments of the evolution of *uṣūl al-fiqh* thought. In this post-*al-Risālah* period, many texts were written about *uṣūl al-fiqh*. Most of these texts consist of treatises on certain topics, introductions on substantive law books, or relevant chapters in works about various problems that are not directly about Islamic law. Although the period between al-Shāfi‘ī and Ibn Surayj was a time when issues about *uṣūl al-fiqh* were much debated and problems gradually became detailed and comprehensive, the writings on *uṣūl* had not yet become an

<sup>87</sup> There are controversial views about this matter that cite him. See al-Jabūrī, “al-Imām Abū l-‘Abbās ibn Surayj wa-ārā’uhū l-uṣūliyyah,” 38-39; al-Juwaynī, *al-Talkhīṣ fī uṣūl al-fiqh*, III, 236-237; al-Zarkashī, *al-Baḥr al-muḥīṭ*, V, 41-42.

<sup>88</sup> Al-Zarkashī, *ibid.*, V, 181-182.

<sup>89</sup> Al-Zarkashī, *ibid.*, V, 137.

<sup>90</sup> Al-Sam‘ānī and through him, al-Zarkashī, mention this classification, but do not relate the sections within. See al-Sam‘ānī, *Qawāṭi‘ al-adīllah*, II, 126; al-Zarkashī, *ibid.*, V, 36.

<sup>91</sup> Many views are attributed to him with regard to much debated issues among *uṣūl* scholars, such as the authoritativeness of opinions of Companions (*qawḍ al-ṣaḥābī*) and the revealed laws preceding Islam (*sbar‘ man qablanā*), *istiṣḥāb* etc. For example, see al-Shūrāzī, *al-Tabṣīrah fī uṣūl al-fiqh*, 207; Abū Ḥāmid Muḥammad ibn Muḥammad al-Ghazālī, *Shifā’ al-ghalīl fī bayān al-sbab wa-l-mukhbīl wa-masālik al-ta’īl*, ed. Ḥamad al-Kubaysī (Baghdad: Maṭba‘at al-Irshād, 1970), 342-344, 368; al-Jabūrī, “al-Imām Abū l-‘Abbās ibn Surayj wa-ārā’uhū l-uṣūliyyah.”

<sup>92</sup> For comparison, see *al-Risālah*, 357-369; al-Buwayṭī, *al-Mukhtaṣar*, fol. 172v.

independent discipline.<sup>93</sup> Works by Ibn Surayj on *uṣūl* should be evaluated in this respect.

Ibn Surayj occupies a distinguished position in the history of Islamic legal theory. His works on *uṣūl* include relevant chapters, already discussed here, within *al-Wadāʿi*,<sup>94</sup> apparently polemical treatises on analogy, and citations based on his discussions with his pupils and circle. In consideration of limited data from *al-Wadāʿi* and extinct treatises, these citations become even more important for relating Ibn Surayj's views on *uṣūl*. References to Ibn Surayj in later *uṣūl* literature are mostly based on these citations and works written by subsequent Shāfiʿī *uṣūl* scholars, his pupils above all. Works by Ibn al-Qās, Abū Ishāq al-Marwazī and al-Ṣayrafī are especially worth mentioning.

Ibn Surayj owes his place in the history of Islamic legal theory to his interest in Islamic theology (*kalām*) and disciplines that developed along with Islamic theology. The reserved attitude of al-Shāfiʿī and his pupils about Islamic theology enabled acceptance of their new *fiqh* approach among Ahl al-ḥadīth circles; consequently, almost all of this circle's prominent figures, including Ibn Surayj's tutor al-Anmāṭī, adopted an explicitly adversarial attitude against Islamic theology. Ibn Surayj, however, did not embrace this attitude completely, instead addressing disciplines such as dialectic and disputation (*jadal* and *munāẓarab*) that are not appreciated by those circles. Ibn Surayj's environment in Baghdad must have influenced his behavior. Ibn Surayj attended several courses by Abū l-Ḥusayn al-Khayyāṭ and Abū l-Ḥasan al-Bardhaʿī, prominent Muʿtazilī scholars of the time. In addition, he made room for personalities such as al-

<sup>93</sup> In his papers on Ibn Dāwūd al-Zāhirī and al-Ṭabarī, Devin Stewart claims the opposite, asserting that in the mentioned period, *uṣūl al-fiqh* attained the status of an independent discipline and accompanied the first examples of his writings. For him, these earliest examples by Ibn Dāwūd and al-Ṭabarī had a similar content and style to later *uṣūl* works, albeit comprising notable differences compared to *al-Risālah*. See "Muḥammad b. Jarīr al-Ṭabarī's *al-Bayān ʿan uṣūl al-abḥām* and the *Genre of Uṣūl al-Fiqh* in Ninth Century Baghdad," in *Abbasid Studies: Occasional Papers of the School of Abbasid Studies, Cambridge, 6-10 July 2002* (Leuven: Peeters Publishers and the Department of Oriental Studies, 2004), 346-348; "Muḥammad b. Dāwūd al-Zāhirī's Manual of Jurisprudence: *al-Wuṣūl ilā Maʿrifat al-Uṣūl*," in *Studies in Islamic Legal Theory*, ed. Bernard G. Weiss (Leiden: Brill, 2002), 137.

Mas‘ūdī in his circle.<sup>94</sup> The main proof of Ibn Surayj’s interest in these domains is the attribute of *mutakallim* himself, in addition to *faqīh* and *uṣūlī*.<sup>95</sup> According to Ibn Surayj, Islamic theology and its methods would not harm Islamic law in any manner; therefore, he took these methods to legal theory.<sup>96</sup> After him, Shāfi‘ī jurists began to devote greater attention to Islamic theology.<sup>97</sup> This intervention undeniably influenced the formation of the characteristic of the tradition of writing on legal theory, which is known as Islamic theology-oriented *uṣūl* (*ṭarīqat al-mutakallimīn*). Abū Ḥafs al-Muṭawwi‘ī describes Ibn Surayj’s contribution to the emergence of this new approach, which is intertwined with dialectic and disputation, by dubbing him “the person who opened the door to disputation and taught dialectic to people.”<sup>98</sup>

In his writings about creeds, Ibn Surayj seems to have adopted the Salaf creed; nevertheless, he did not refrain from entering debates that disturbed Ahl al-ḥadīth circles at the time. The points of debate at the forefront related to goodness-evil (*ḥusn-qubḥ*), such as the status of things before revelation and the problem of gratitude to a giver of benevolence, are enlightening examples for determining Ibn Surayj’s attitude. In both debates, Ibn Surayj agrees with the Mu‘tazilah, indicating that things were based on permissibility before revelation and that gratitude to a giver of benevolence is reasonably obligatory.<sup>99</sup> His views on these problems were supported by some of

<sup>94</sup> Şükrü Özen, “İbn Süreyc,” in *Türkiye Diyanet Vakfı İslâm Ansiklopedisi (DİA)*, XX, 364. About Ibn Surayj’s attending courses by Abū l-Ḥusayn al-Khayyāt, see Abū l-Ḥasan ‘Imād al-Dīn ‘Abd al-Jabbār ibn Aḥmad Qāḍī ‘Abd al-Jabbār, *Faḍl al-i‘tizāl wa-ṭabaqāt al-Mu‘tazilah*, ed. Fu‘ād Sayyid (Tunis: al-Dār al-Tūnisīyyah, 1974), 301.

<sup>95</sup> See Abū l-Faraj Muḥammad ibn Ishāq Ibn al-Nadīm, *al-Fihrist*, ed. Ibrāhīm Ramaḍān (Beirut: Dār al-Ma‘rifah, 1997), 263.

<sup>96</sup> T. Nagel, “Aḥmad b. ‘Omar b. Sorayj,” in *Encyclopaedia Iranica*, I, 643.

<sup>97</sup> Bilal Aybakan, “Şāfi‘ī Mezhebi,” in *Türkiye Diyanet Vakfı İslâm Ansiklopedisi (DİA)*, XXXVIII, 237.

<sup>98</sup> Al-Subkī, *Ṭabaqāt al-Shāfi‘īyyah al-kubrā*, III, 22.

<sup>99</sup> For Ibn Surayj’s argument and his thoughts about status of things prior to sharī‘ah, see *al-Wadā‘i*; fols. 123r-124v. For various parties’ views of that question, see al-Zarkashī, *Salāsīl al-dhabab*, ed. Şafīyyah Aḥmad Khalīfah (Cairo: al-Hay‘ah al-Miṣriyyah al-‘Āmmah li-l-Kitāb, 2008), 120-122; also see Abū l-Baqā’ Taqī al-Dīn Muḥammad ibn Aḥmad Ibn al-Najjār al-Ḥanbalī, *Sbarḥ al-Kawkab al-munīr bi-mukhtaṣar al-Taḥrīr*, ed. Muḥammad al-Zuḥaylī and Nazīh Ḥammād, 2<sup>nd</sup> ed. (Riyadh:

his pupils and were defended in Shāfi'ī circles for some time; nevertheless, they eventually caused a disturbance. The emergence of disturbance was primarily attributable to the gradual identification of the Shāfi'īs with the Ash'arī school. Indeed, major Ash'arī theologians such as al-Bāqillānī and Abū Ishāq al-Isfarā'inī accept the superior status of Ibn Surayj and some others in the science of jurisprudence but complain that these personalities, who read and were influenced by Mu'tazilī works in their old age, unconsciously adopted certain Mu'tazilī views, unaware of their consequences.<sup>100</sup> According to Reinhart, discussions arising from Ibn Surayj's theological attitude emerged once he began to discuss certain issues that previously were not discussed in Ahl al-ḥadīth circles and thus opened "Pandora's box."<sup>101</sup>

Because of this attitude, Ibn Surayj was partially ignored during subsequent periods of the Shāfi'ī school, and some of his views and approaches were abandoned. His preferences in substantive law and *uṣūl* did not gain high recognition in later periods. Nevertheless, for a time he was a very notable Shāfi'ī jurist and *uṣūl* scholar. During early fourth-century AH, he was the most influential Shāfi'ī *mujtabid* and established the line representing the mainstream Shāfi'ī school. Indeed, in some of the discussions mentioned above, he gained his pupils' support, and Ibn Surayj's opinions and approach were recognized in Shāfi'ī circles for some time. This shows that during the first half of fourth-century AH, a Shāfi'ī identity was established around Ibn Surayj's views. It is necessary to consider this periodic influence in recognizing Ibn Surayj's place both in the history of *uṣūl* and in the formation of the Shāfi'ī school in terms of opinions on the substantive law.

Ibn Surayj's efforts in *uṣūl* highlight an important historical era for the development not only of *uṣūl* thought but also of legal theory as an independent discipline. If al-Shāfi'ī is considered the first writer on *uṣūl*, we can say that his emphases and essential theses were adopted and maintained by his pupils, whereas Ibn Surayj, in general terms,

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Maktabat al-'Ubaykān, 1997), I, 325-329; al-Zarkashī, *al-Baḥr al-muḥīṭ*, I, 203; al-Sam'ānī (d. 489/1096), *Qawāṭi' al-adillab*, II, 48.

<sup>100</sup> See al-Zarkashī, *al-Baḥr al-muḥīṭ*, I, 140-141; al-Subkī, *Ṭabaqāt al-Shāfi'īyyah al-kubrā*, III, 202.

<sup>101</sup> A. Kevin Reinhart, *Before Revelation: The Boundaries of Muslim Moral Thought* (Albany: State University of New York Press, 1995), 16.

inherited the *uṣūl* thought of the Shāfi‘ī circle. In this respect, we can discuss the continuity of al-Shāfi‘ī and Ibn Surayj’s efforts on *uṣūl*. Ibn Surayj continued to discuss the problems pursuant to his inherited way of thought, brought along certain expansions in various aspects and paved the way for partial evolutions in conventional thought. His approach to abrogation, style of intervention with discussions such as the retardation of *bayān*, and use of consensus as evidence for substantive legal issues are all worth mentioning as examples of continuity and interruptions in *uṣūl* thought.

## REFERENCES

- al-Āmidī, Abū l-Ḥasan Sayf al-Dīn ‘Alī ibn Muḥammad. *al-Iḥkām fī uṣūl al-aḥkām*. 4 vols. Edited by Sayyid al-Jumaylī. Beirut: Dār al-Kitāb al-‘Arabī, 1984.
- Amīr Bādshāh, Muḥammad Amīn ibn Maḥmūd al-Bukhārī. *Taysīr al-Taḥrīr*. 4 vols. Beirut: Dār al-Fikr, n.d.
- Apaydın, Yunus. “Kıyas.” In *Türkiye Diyanet Vakfı İslām Ansiklopedisi (DİA)*, XXV, 529-539.
- Aybakan, Bilal. *Fıkıh İlminin Oluşum Sürecinde İcma*. Istanbul: İz Yayıncılık, 2003.
- . “Şāfi‘ī Mezhebi.” In *Türkiye Diyanet Vakfı İslām Ansiklopedisi (DİA)*, XXXVIII, 233-247.
- al-Bāji, Abū l-Walīd Sulaymān ibn Khalaf ibn Sa‘d al-Tujībī. *Iḥkām al-fuṣūl fī aḥkām al-uṣūl*. 2 vols. Edited by ‘Abd al-Majīd Turkī. Beirut: Dār al-Gharb al-Islāmī, 1986.
- Bağdatlı İsmail Paşa [İsmā‘īl Pāshā al-Bağhdādī]. *Hadiyyat al-‘arīfīn asmā’ al-mu‘allifīn wa-āthār al-muṣannifīn*. 2 vols. Edited by Kilisli Rifat Bilge, İbnülemin Mahmud Kemal İnal, and Avni Aktuç. Ankara: Milli Eğitim Bakanlığı, 1951.
- al-Bāqillānī, Abū Bakr Muḥammad ibn al-Ṭayyīb ibn Muḥammad al-Başrī. *al-Taqrīb wa-l-irshād (al-ṣagbīr)*. 3 vols. Edited by ‘Abd al-Hamīd ibn ‘Alī Abū Zunayd. Beirut: Mu‘assasat al-Risālah, 1993.
- al-Başrī, Abū l-Ḥusayn Muḥammad ibn ‘Alī. *al-Mu‘tamad fī uṣūl al-fiqh*. 2 vols. Edited by Khalīl al-Mays. Beirut: Dār al-Kutub al-‘Ilmiyyah, 1983.
- Bedir, Murteza. “er-Risāle.” In *Türkiye Diyanet Vakfı İslām Ansiklopedisi (DİA)*, XXXV, 117-119.

- . “An Early Response to Shāfi'ī: 'Īsā ibn Abān on the Prophetic Report (Khabar).” *Islamic Law and Society* 9, no. 3 (2002): 285-311. <https://doi.org/10.1163/156851902320901170>
- al-Buwayṭī, Abū Ya'qūb Yūsuf ibn Yaḥyá al-Miṣrī. *al-Mukbtaşar*. Istanbul: Murat Molla Library, Murad Molla, MS 1189.
- al-Dawīsh, Şālih ibn 'Abd Allāh ibn Ibrāhīm. Introduction to *al-Wadā'i' li-manşūş al-sbarā'i'*, by Abū l-'Abbās Aḥmad ibn 'Umar Ibn Surayj, I, 1-84. Edited by Şālih ibn 'Abd Allāh ibn Ibrāhīm al-Dawīsh. Riyadh: n.p., 1990.
- Dutton, Yasin. *The Origins of Islamic Law: The Quran, The Muwatta and Madinan Amal*. Surrey: Curzon Press, 1999.
- al-Duwayḥī, Aḥmad ibn 'Abd Allāh ibn Muḥammad. *Ilm uşul al-fiqh min al-tadwīn ilā nihāyat al-qarn al-rābi' al-ḥijrī: Dirāsah tārikhiyyah istiqrā'iyyah taḥlīliyyah*. 2 vols. Riyadh: Jāmi'at al-Imām Muhammad ibn Su'ūd al-Islāmiyyah, 2006.
- al-Ghazālī, Abū Ḥāmid Muḥammad ibn Muḥammad. *Shifā' al-ghalīl fī bayān al-sbab wa-l-mukbīl wa-masālik al-ta'īl*. Edited by Ḥamad al-Kubaysī. Baghdad: Maṭba'at al-Irshād, 1970.
- Hasan, Ahmad Y. *The Early Development of Islamic Jurisprudence*. Islamabad: Islamic Research Institute, 1970.
- Ibn Amīr Ḥājī, Abū 'Abd Allāh Shams al-Dīn Muḥammad. *al-Taqrīr wa-l-taḥbīr*. 3 vols. 2<sup>nd</sup> ed. Beirut: Dār al-Kutub al-'Ilmiyyah, 1983.
- Ibn al-Dahhān, Abū Shujā' Fakhr al-Dīn Muḥammad ibn 'Alī ibn Shu'ayb. *Taqwīm al-nazar fī mas'ūl kbīlāfiyyah dhā'i'ah wa-nubadh madhbabiyyah nāfi'ah*. 5 vols. Edited by Şālih ibn Nāşir ibn Şālih al-Khuzaym. Riyadh: Maktabat al-Rushd, 2001.
- Ibn Fūrak, Abū Bakr Muḥammad ibn Ḥasan al-Anşārī. *Mujarrad maqālāt al-Shaykh Abī l-Ḥasan al-Ash'arī*. Edited by Daniel Gimaret. Beirut: Dār al-Mashriq, 1987.
- Ibn Hidāyat Allāh, Abū Bakr al-Ḥusaynī. *Ṭabaqāt al-Shāfi'iyyah*. Edited by 'Ādil Nuwayhiḍ. 3<sup>rd</sup> ed. Beirut: Dār al-Āfāq al-Jadīdah, 1982.
- Ibn al-Labbād, Abū Bakr Muḥammad ibn Muḥammad. *Kitāb al-radd 'alā l-Shāfi'ī*. Edited by 'Abd al-Majīd ibn Ḥamdah. Tunis: Dār al-'Arab li-l-Ṭibā'ah, 1986.
- Ibn al-Nadīm, Abū l-Faraj Muḥammad ibn Ishāq. *al-Fibrīst*. Edited by Ibrāhīm Ramaḍān. 2<sup>nd</sup> ed. Beirut: Dār al-Ma'rifah, 1997.
- Ibn al-Najjār, Abū l-Baqā' Taqī al-Dīn Muḥammad ibn Aḥmad al-Ḥanbalī. *Sharḥ al-Kawkab al-munīr bi-mukbtaşar al-Taḥrīr*. 4 vols. Edited by Muḥammad al-Zuḥaylī and Nazīh Ḥammād. 2<sup>nd</sup> ed. Riyadh: Maktabat al-'Ubaykān, 1997.

- Ibn Surayj, Abū l-‘Abbās Aḥmad ibn ‘Umar. *al-Wadā’i‘ li-manşūş al-sbarā’i‘*. Istanbul: Süleymaniye Library, Ayasofya, MS 1502.
- . *al-Wadā’i‘ li-manşūş al-sbarā’i‘*. Edited by Şāliḥ ibn ‘Abd Allāh ibn Ibrāhīm al-Dawīsh. Riyadh: n.p., 1990.
- al-Isnawī, Abū Muḥammad Jamāl al-Dīn ‘Abd al-Raḥīm ibn al-Ḥasan. *Ṭabaqāt al-Shāfi‘iyyah*. 2 vols. Edited by Kamāl Yūsuf al-Ḥūt. Beirut: Dār al-Kutub al-‘Ilmiyyah, 2002.
- al-Jabūrī, Ḥusayn ibn Khalaf. “al-Imām Abū l-‘Abbās ibn Surayj wa-ārā’uhū l-uşūliyyah.” *Majallat al-Jāmi‘ab al-Islāmiyyah bi-l-Madīnah al-Munawwarah* 81-82 (1409): 143-196.
- Jackson, Sherman A. “Setting the Record Straight: Ibn Labbād’s Refutation of al-Shāfi‘ī.” *Journal of Islamic Studies* 9, no. 2 (2000): 121-146.
- al-Jaşşās, Abū Bakr Aḥmad ibn ‘Alī al-Rāzī. *al-Fuṣūl fī l-uşūl*. 4 vols. Edited by ‘Ujayl Jāsīm al-Nashamī. Kuwait: Wizārat al-Awqāf wa-l-Shu‘ūn al-Islāmiyyah, 1985.
- al-Juwaynī, Abū l-Ma‘ālī Rukn al-Dīn ‘Abd al-Malik ibn ‘Abd Allāh. *al-Burbān fī uşūl al-fiqh*. 2 vols. in one vol. Edited by Abū ‘Abd al-Raḥmān Şalāḥ ibn Muḥammad Ibn ‘Uwayḍah. Beirut: Dār al-Kutub al-‘Ilmiyyah, 1997.
- . *al-Talkbīş fī uşūl al-fiqh*. 3 vols. Edited by ‘Abd Allāh Jawlam al-Nibālī and Shubayr Aḥmad al-‘Umarī. Beirut: Dār al-Bashā’ir al-Islāmiyyah, 1996.
- Kātīb Chalabī, Ḥājī Khalīfah Muştafā ibn ‘Abd Allāh. *Kashf al-żunūn ‘an asāmī l-kutub wa-l-funūn*. 2 vols. Edited by M. Şerefettin Yalrkaya and Kilisli Rifat Bilge. Ankara: Ma‘ārif Vekāleti, 1941.
- Kahḥālah, ‘Umar Riḍā. *Mu‘jam al-mu‘allifīn: Tarājim muşannifi l-kutub al-‘Arabiyyah*. 13 vols. Beirut: Maktabat al-Muthannā, n.d.
- Lowry, Joseph E. “Does Shāfi‘ī Have a Theory of Four Sources of Law?” In *Studies in Islamic Legal Theory*, edited by Bernard G. Weiss, 23-50. Leiden: E. J. Brill, 2002.
- al-Maqdisī, Abū Shāmah Shihāb al-Dīn ‘Abd al-Raḥmān. *al-Muḥaqqaq min ‘ilm al-uşūl fī-mā yata‘allaq’ bi-af‘āl al-Rasūl*. Edited by Aḥmad Kuwaytī. al-Zarqā’: Dār al-Kutub al-Athariyyah & Riyadh: Dār al-Rāyah, 1989.
- Makdisi, George. “The Juridical Theology of Shāfi‘ī: Origins and Significance of Uşūl al-Fiqh.” *Studia Islamica* 59 (1984): 5-47. <https://doi.org/10.2307/1595294>
- al-Mardāwī, Abū l-Ḥasan ‘Alā’ al-Dīn ‘Alī ibn Sulaymān ibn Aḥmad. *al-Taḥbīr sharḥ al-Taḥrīr fī uşūl al-fiqh*. 8 vols. Edited by ‘Abd al-Raḥmān

- ibn 'Abd Allāh al-Jabrīn, 'Iwaḍ ibn Muḥammad al-Qaranī, and Aḥmad ibn Muḥammad al-Sarrāḥ. Riyadh: Maktabat al-Rushd, 2000.
- al-Mardīnī, Shams al-Dīn Muḥammad ibn 'Uthmān ibn 'Alī. *al-Anjum al-zābirāt 'alā ḥall alfāz al-Waraqāt fī uşûl al-fiqh*. Edited by 'Abd al-Karīm ibn 'Alī Muḥammad ibn al-Namlah. 3<sup>rd</sup> ed. Riyadh: Maktabat al-Rushd, 1999.
- al-Māwardī, Abū l-Ḥasan 'Alī ibn Muḥammad. *al-Ḥāwī al-kabīr fī fiqh madhhab al-Imām al-Sbāfi'î*. 19 vols. Edited by 'Alī Muḥammad Mu'awwaḍ and 'Ādil Aḥmad 'Abd al-Mawjūd. Beirut: Dār al-Kutub al-'Ilmiyyah, 1994.
- al-Marwazī, Muḥammad ibn Naşr. *al-Sunnab*. Edited by Abū Usāmah Salīm ibn 'Īd al-Hilālī. Kuwait: Gharās li-l-Naşr, 2005.
- Melchert, Christopher. *The Formation of Sunni Schools of Law (9th-10th Centuries C.E.)*. Leiden: Brill, 1997.
- al-Muzanī, Abū Ibrāhīm Ismā'īl ibn Yaḥyá. *Kitāb al-amr wa-l-naby 'alá ma'ná l-Imām al-Sbāfi'î min mas'ā'il al-Muzanī*. Edited by Robert Brunschvig. "Le livre de l'ordre et de la défense d'al-Muzanī." *Bulletin d'études orientales* 11 (1945): 145-196.
- Nagel, Tilman. "Ahmad b. 'Omar b. Sorayj." In *Encyclopaedia Iranica*, I, 643.
- al-Nawawī, Abū Zakariyyā Muḥyī al-Dīn Yaḥyá ibn Sharaf ibn Mūrī. *al-Majmū' sbarḥ al-Mubadhdhab*. 20 vols. Beirut: Dār al-Fikr, n.d.
- . *Tabdhīb al-asmā' wa-l-huḡbāt*. 4 vols. Edited by 'Abduh 'Alī Kushk. Damascus: Dār al-Fayḥā' & Dār al-Manhal Nāshirūn, n.d.
- Okuyucu, Nail. *Şāfi'î Mezbebinin Teşekkül Süreci*. Istanbul: Marmara Üniversitesi İlahiyat Fakültesi Vakfı Yayınları, 2015.
- Özen, Şükrü. "İslām Hukukunda Aklileşme Süreci: Başlangıçtan Hicri IV. Asrın Ortalarına Kadar." PhD diss., Marmara University, 1995.
- . "İbnü'l-Kassâr." In *Türkiye Diyanet Vakfı İslām Ansiklopedisi (DİA)*, XXI, 104-105.
- . "İbn Süreyc." In *Türkiye Diyanet Vakfı İslām Ansiklopedisi (DİA)*, XX, 363-366.
- . "Îsâ b. Ebân." In *Türkiye Diyanet Vakfı İslām Ansiklopedisi (DİA)*, XXII, 480-481.
- . "Müzenî." In *Türkiye Diyanet Vakfı İslām Ansiklopedisi (DİA)*, XXXII, 246-250.
- Özkan, Halit. "Takrîf Sünnet ve Sahîh-i Buhârî'deki Takrîfler." Master's thesis, Marmara University, 2000.

- . “Takrir.” In *Türkiye Diyanet Vakfı İslâm Ansiklopedisi (DİA)*, XXXIX, 469-471.
- Pala, Ali İhsan. *İslâm Hukuk Metodolojisinde Emir ve Yasakların Yorumu*. Ankara: Fecr Yayınları, 2009.
- Qāḍī ‘Abd al-Jabbār, Abū l-Ḥasan ‘Imād al-Dīn ‘Abd al-Jabbār ibn Aḥmad. *Faḍl al-i‘tizāl wa-ṭabaqāt al-Mu‘tazilab*. Edited by Fu‘ād Sayyid. Tunis: al-Dār al-Tūnisīyyah, 1974.
- al-Rāzī, Abū ‘Abd Allāh Muḥammad ibn ‘Umar Fakhr al-Dīn. *Manāqib al-Imām al-Sbāfi‘i*. Edited by Aḥmad Ḥijāzī al-Saqqa. Cairo: Maktabat al-Kullīyyāt al-Azhariyyah, 1986.
- Reinhart, A. Kevin. *Before Revelation: The Boundaries of Muslim Moral Thought*. Albany: State University of New York Press, 1995.
- Riyāḍīzāda, ‘Abd al-Laṭīf ibn Muḥammad. *Asmā’ al-kutub al-mutamim li-Kashf al-ẓunūn*. Edited by Muḥammad Altūnjī. Cairo: Maktabat al-Khānjī, n.d.
- Şadr al-sharī‘ah, ‘Ubayd Allāh ibn Mas‘ūd ibn Maḥmūd al-Bukhārī al-Maḥbūbī. *al-Tawḍīḥ*. 2 vols. Edited by Zakariyyā ‘Umayrāt. Beirut: Dār al-Kutub al-‘Ilmiyyah, 1996.
- al-Sarakhsī, Shams al-a‘immah Abū Bakr Muḥammad ibn Aḥmad ibn Abī Sahl. *Uṣūl al-Sarakhsī*. 2 vols. Beirut: Dār al-Ma‘rifah, n.d.
- al-Sīnāwīnī, Ḥasan ibn ‘Umar ibn ‘Abd Allāh. *al-Aṣl al-jāmi‘ li-īḍāḥ al-durar al-manẓūmah fī silk Jam‘ al-jawāmi‘*. 2 vols. Tunis: Maṭba‘at al-Nahḍah, 1928.
- Stewart, Devin. “Muḥammad b. Jarir al-Ṭabarī’s *al-Bayān ‘an Uṣūl al-Aḥkām* and the Genre of *Uṣūl al-Fiqh* in Ninth Century Baghdad.” In *Abbasid Studies: Occasional Papers of the School of Abbasid Studies*, edited by John Nawas, 321-349. Leuven: Peeters Publishers and the Department of Oriental Studies, 2004.
- . “Muḥammad b. Dā‘ūd al-Zāhirī’s Manual of Jurisprudence: *al-Wuṣūl ilā Ma‘rifat al-Uṣūl*.” In *Studies in Islamic Legal Theory*, edited by Bernard G. Weiss, 99-158. Leiden: Brill, 2002.
- al-Subkī, Abū Naṣr Tāj al-Dīn ‘Abd al-Wahhāb ibn Taqī al-Dīn. *Ṭabaqāt al-Sbāfi‘iyyah al-kubrā*. 10 vols. Edited by Maḥmūd al-Ṭanāḥī and ‘Abd al-Fattāḥ Muḥammad al-Ḥulw. 2<sup>nd</sup> ed. Cairo: Hajr li-l-Ṭibā‘ah wa-l-Nashr, 1993.
- . *al-Asbbāḥ wa-l-nazā‘ir*. 2 vols. Edited by ‘Ādil Aḥmad ‘Abd al-Mawjūd and ‘Alī Muḥammad Mu‘awwaḍ. Beirut: Dār al-Kutub al-‘Ilmiyyah, 1991.
- al-Subkī, Abū l-Ḥasan Taqī al-Dīn ‘Alī ibn ‘Abd al-Kāfi. *al-Ibbāj fī sharḥ al-Minhāj: ‘alā Minhāj al-wuṣūl ilā ‘ilm al-uṣūl li-l-Qāḍī al-Bayḍāwī al-*

- mutawaffā sanat 685 H.* 3 vols. Beirut: Dār al-Kutub al-ʿIlmiyyah, 1995.
- al-Shāfi'ī, Abū ʿAbd Allāh Muḥammad ibn Idrīs al-Muṭṭalibī al-Qurashī. *al-Risālah*. Edited by Aḥmad Shākir. Egypt: Maktabat al-Ḥalabī, 1940.
- al-Shawkānī, Muḥammad ibn ʿAlī al-Yamānī. *Irsbād al-fuḥūl ilā taḥqīq al-ḥaqq min ʿilm al-uṣūl*. 2 vols. Edited by Aḥmad ʿIzzū ʿInāyah. Beirut: Dār al-Kitāb al-ʿArabī, 1999.
- al-Shīrāzī, Abū Ishāq Ibrāhīm ibn ʿAlī. *Sbarḥ al-Lumaʿ*. 2 vols. Edited by ʿAbd al-Majīd Turkī. Beirut: Dār al-Gharb al-Islāmī, 1988.
- . *al-Tabṣīrah fī uṣūl al-fiqh*. Edited by Muḥammad Ḥasan Haytū. Damascus: Dār al-Fikr, 1403.
- al-Taftāzānī, Saʿd al-Dīn Masʿūd ibn ʿUmar al-Harawī. *al-Talwīḥ ʿalā l-Tawḍīḥ*. 2 vols. Cairo: Maktabat Ṣabīḥ, n.d.
- Yiğit, Metin. *İlk Dönem Hanefî Kaynaklarına Göre Ebû Hanîfe'nin Usûl Anlayışında Sünnet*. Istanbul: İz Yayıncılık, 2009.
- al-Zarkashī, Abū ʿAbd Allāh Badr al-Dīn Muḥammad ibn Bahadur ibn ʿAbd Allāh. *al-Baḥr al-muḥīṭ fī uṣūl al-fiqh*. 6 vols. Edited by Abd al-Qādir ʿAbd Allāh al-ʿĀnī. 2<sup>nd</sup> ed. Kuwait: Wizārat al-Awqāf wa-l-Shuʿūn al-Islāmiyyah, 1992.
- . *al-Mantḥūr fī l-qawāʿid*. 3 vols. Edited by Taysīr Fāʿiq Aḥmad Maḥmūd. 2<sup>nd</sup> ed. Kuwait: Wizārat al-Awqāf wa-l-Shuʿūn al-Islāmiyyah, 1985.
- . *Salāsīl al-dhabab*. Edited by Şafīyyah Aḥmad Khalīfah. Cairo: al-Hayʾah al-Miṣriyyah al-ʿĀmmah li-l-Kitāb, 2008.
- al-Ziriklī, Khayr al-Dīn. *al-Aʿlām: qāmūs tarājīm li-asbḥar al-rijāl wa-l-nisāʾ min al-ʿArab wa-l-mustaʿribīn wa-l-mustasbriqīn*. 8 vols. 15<sup>th</sup> ed. Beirut: Dār al-ʿIlm li-l-Malāyīn, 2002.