

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

A GLOSSARY OF SHIITE METHODOLOGY OF JURISPRUDENCE

(Uṣūl al-Fiqh)

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METHODOLOGY OF JURISPRUDENCE

(Uṣūl al-Fiqh)

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PREFACE

Uṣūl al-Fiqh, the methodology of jurisprudence, which is usually – and inaccurately, if not incorrectly – translated “principles of jurisprudence,” is an Islamic science which is developed by Shiite scholars in two recent centuries into an unparalleled intellectual, logical system of thought and a comprehensive branch of knowledge which not only serves as the logic of jurisprudence but as an independent science dealing with some hermeneutical problems.

When the first English version of Shiite *uṣūl al-fiqh* in its both comprehensive and concise version was introduced by the book “*An Introduction to Islamic Methodology of Jurisprudence (Uṣūl al-Fiqh), A Shiite Approach*” (MIU Press, 2013), necessity of preparing a glossary of Shiite *uṣūl al-fiqh* was strongly felt. That is why this valuable task was undertaken, and, as usual, it could not be accomplished without full support of the dearest friend, Dr. Seyyed Mohsen Miri, head of Islam and West Research Center of al-Mustafa International Research Institute (M.I.R.I.).

PREFACE

The present work, which is, like its precedent, the first, is arranged on the basis of Arabic expressions, while presenting their English equivalents in parentheses. Secondary terms are referred to primary entries. “Al-” in Arabic terms is not considered. An index in the end of the book gives Arabic equivalents to English expressions used in this glossary. Since this work is a glossary, detailed discussion of each entry should be pursued in Shiite books on *uṣūl al-fiqh*.

The last words of every accomplished task must be “Praise belongs to God, the Lord of all Being (Qur., 10: 10).”

Alireza Hodaee

Tehran, July 2013

Transliteration of Arabic Characters

Roman Equivalent	Arabic characters	Long Vowels	
' (except when initial)	ء	آ	ā
b	ب	أ	ū
t	ت	إي	ī
<u>th</u>	ث		
<u>dj</u>	ج		
h	ح		
<u>kh</u>	خ		
d	د		
<u>dh</u>	ذ		
r	ر		
z	ز		
s	س		
<u>sh</u>	ش		
ṣ	ص		
ḍ	ض		
ṭ	ط		
ẓ	ظ		
‘	ع		
<u>gh</u>	غ		
f	ف		
q	ق		
k	ك		
l	ل		
m	م		
n	ن		
h	ه		
w	و		
y	ي		

Short Vowels

ا	a
أ	U
إ	I

Diphthongs

أو	aw
إي	ay
أَيَّ	īyy (final form: ī)
أُوو	uww (final form: ū)
أَيَّا	iyā
أَيَّ	the letter is doubled

A

• *‘Adam Şihhat al-Salb* (Incorrectness of Divesting)

Usage of a term in its designated meaning is literally correct, in another meaning with which it has some pertinence along with some contextual evidence is figuratively correct, and in another meaning without any pertinence is wrong. Therefore, usage of a term literally and figuratively is correct and “the usage” cannot specify whether a term is designated for a meaning or it is used figuratively.

Now, should one know, through assertion of philologists, that a term is designated for a meaning it would be obviously clear that such word is to be used literally in that meaning and figuratively in other pertinent meanings. However, the case is not that clear sometimes and one may wonder how to treat the usage. What can one do in that case in order to find out whether such a usage is literally correct or it is figuratively so and hence one should use it with some contextual evidence?

Uṣūlīs have mentioned some signs of recognition of the literal meaning the most important of which being preceding (*al-tabādur* [q.v.]) and incorrectness of divesting (*‘adam ṣiḥḥat al-salb*). By *‘adam ṣiḥḥat al-salb* is meant that divesting a term of a meaning is not correct. To exercise this sign, let us consider the example of the term “lion.” We know that this term is used for a specific animal literally and for a brave man figuratively. Since you cannot divest “lion” of that animal while you can do that of a brave man, *‘adam ṣiḥḥat al-salb* is a sign which indicates the literal meaning of the term lion.

• *al-Amāra* (Authorized Conjectural Proof)

Uṣūlīs mostly use the term *amāra* (lit. sign) intending *al-ḡann al-mu’tabar* (the valid conjecture, i.e., the conjecture which is considered and made an authoritative proof by the divine lawgiver) and this may cause confusion that those two terms have the same meaning, while they do not. That usage is in fact a figurative one and not making another meaning for the word *amāra*. The literal object of denotation of *amāra* is whatever considered and made valid by the divine lawgiver because of its causing conjecture, such as the single transmission, and appearances. Here, either the name of cause, i.e., *amāra*, is used for its caused, i.e., conjecture, or that of the caused is used for its cause as it is *amāra* that causes conjecture. *Amāra* is figuratively called valid or particular conjecture because it always or mostly causes conjecture typically for most people – and that is why it is called typical conjecture (*al-ḡann al-naw’i*). Since *amāra* is made valid and authoritative proof by the divine lawgiver because of that, it will be an authoritative proof for all people even though it may not cause an actual conjecture for some of them. Hence, if an actual conjecture is not actualized by *amāra* for

someone he should also follow it.

However, it should be noted that in books of *uṣūl* all such terms as “the particular conjecture,” “the valid conjecture,” “the authoritative conjecture,” and the like are used while their cause, i.e., *amāra* is intended. It should also be borne in mind that the best English equivalent to *amāra* is “the authorized conjectural proof.”

On the other hand, the term *amāra* does not include practical principle (→ *al-aṣl al-‘amali*), but rather is contrary to it; for the jurist can refer to practical principles where there is no authorized conjectural proof, i.e., where he finds no authoritative proof for the actual juristic precept. *Amāra* proves its object, but the practical principle does not. Practical principles do not indicate the actuality; they are references to which the duty-bound refers when he is in the state of perplexity and doubt with regard to the actuality – they are at most excusers for the duty-bound.

• *al-‘Āmm* (General)

General is among clear, self evident concepts which need no definition but lexical explanation for the sake of bringing the meaning closer to the mind. By *general* is meant a term whose concept covers whatsoever capable of being conformable to its designation in realization of the judgment. A judgment, too, is sometimes called general due to its covering all instances of the object, the object of burden, or duty-bound.

With regard to direction of a judgment to a general, generality is divided into three kinds: *al-‘umūm al-istighrāqī* (the encompassing generality), *al-‘umūm al-maḍmū‘ī* (the total generality), and *al-‘umūm al-badālī* (the substitutional generality) [qq.v.].

• *al-Amr* (Command)

By *al-amr* (the command; Pl. *al-awāmir*) is meant *wish* (in the sense that one wants something to be done: *al-ṭalab*) which, in turn, means to express will (*al-irāda*) and desire through speech, writing, pointing, or the like; whether by such terms as “I command you” or by an imperative. Thus, the sheer will and desire without being expressed in some way is not called *wish*. However, any wish is not called command, but a specific one, that is, wish of superior from inferior. Hence, superiority is considered in the command, whether the superior demonstrates his superiority or not, and whether he uses an imperative (or uses the verb “command”) or not – the only point is that he should somehow express his wish. On the other hand, wish of the one who is not superior, whether he is inferior or coequal, is not a command, even though he pretends superiority or uses an imperative.

As for the denotation of the command, it is a matter of dispute among *Uṣūlīs*. There are a variety of opinions in this connection the most important of which being obligation (*al-wudjūb*), preference (*al-istiḥbāb*), and the common point between obligation and preference. The truth, however, is that the command is apparent in the obligation – not conventionally, but because of judgment of the intellect. It is intellect's judgment that when the Lord commands us we must obey Him and must be provoked in order to fulfill our duty as servants, unless He declares that His command is not a matter of must and we are free not to do it.

• *al-Aqall wa'l-Akthar al-Irtibāṭiyyain* (Relational Least and Most)

This is a kind of doubt dealt with in the discussion of *aṣāla al-*

iẖtiyāʿ [q.v.]. An example of this kind that one knows that performing prayers is mandatory but wonders whether *sūra*, i.e., recitation of one *sūra* after *sūra al-hamd*, is part of prayers (in the dubiety concerning obligation → *al-shubha al-wudjūbiyya*), or one knows that sculpturing an animating objects is unlawful but wonders whether sculpturing the whole body of such objects is so or making some parts is also unlawful (in the dubiety concerning unlawfulness → *al-shubha al-tahrīmiyya*).

• ***al-Aqall wa'l-Akthar al-Istiqlāliyyain* (Independing Least and Most)**

This is a kind of doubt dealt with in the discussion of *aṣāla al-iẖtiyāʿ* [q.v.]. An example of this kind is where one knows that one has not performed a number of one's daily prayers but doubts the number of them and wonders whether they were six, for instance, or four (in the dubiety concerning obligation → *al-shubha al-wudjūbiyya*), or one knows that one ejaculated and knows that recitation of Qur'ānic *sūras* containing specific verses upon the recitation of which one must bow down is unlawful in such cases but wonders whether recitation of the whole *sūra* is unlawful or only that of the verse (in the dubiety concerning unlawfulness → *al-shubha al-tahrīmiyya*).

• *al-Aṣl al-'Amalī* → *al-Uṣūl al-'Amaliyya*

• ***Aṣāla al-Barā'a* (Principle of Clearance)**

Generally speaking, when it is doubted whether certain act is prohibited by the divine lawgiver and there exists no proof, two opinions are presented by *Shī'a* scholars: non-obligation of precaution by eschewing the act, and obligation of precaution by

eschewing the act; the former being called *al-barā'a* (meaning clearance from obligation) declared by *Uṣūlis* and the latter called *al-iḥtiyāṭ* (meaning obligation of precaution → *aṣāla al-iḥtiyāṭ*) declared by *Akḥbārīs*. This principle is one of “practical principles”. [q.v.]

• *Aṣāla al-Ḥaqīqa* (Principle of Literalness)

Aṣāla al-ḥaqīqa is one of “literal principles” [q.v.] which is used when one doubts whether a certain speaker has intended the literal or the figurative meaning – where there is no contextual evidence while its existence is probable. In that case, it is said that “the principle is the literalness,” i.e., one should principally treat the term as being used in its literal and not figurative meaning, for to use a word figuratively needs contextual evidence which does not exist.

• *Aṣāla al-Iḥtiyāṭ* or *Ishtighāl* (Principle of Precaution or Liability)

Contrary to the principle of clearance (→ *aṣāla al-barā'a*) which was concerned with the case where one was doubtful whether or not one was charged with a burden, the principle of liability, which is one of “practical principles” [q.v.], deals with the case where one definitely knows that there exists some burden but wonders what one is charged with, i.e., the doubt is concerning *al-mukallaḥ bi*. The criterion for the doubt concerning “what one is charged with” is that the doubt is (a) over the very object of the duty, i.e., performing or eschewing which is wished either itself or its opposite, or (b) the object of object, i.e., an external affair as it is doubted – when, of course, one has already known that it is

externally actualized.

In this case, precaution is intellectually obligatory, for the intellect judges that definite liability requires definite clearance, no matter the knowledge is detailed ($\rightarrow al-'ilm\ al-taḥṣīlī$) or summary-fashioned ($\rightarrow al-'ilm\ al-idjmalī$); and this is not, and cannot be, a matter of dispute.

• *Aṣāla al-Istiṣhāb* (Principle of Continuity of the Previous State)

When the duty-bound becomes certain of a precept or an object, then his precious certainty changes into uncertainty and he doubts subsistence of what he was certain of previously, he wonders what to do: should he act in accordance with what he was certain of, or should he not act so? The problem is that in both cases the duty-bound fears opposition of the actuality. However, there is a juristic principle in this connection which removes such perplexity: the principle of *istiṣhāb*, which is one of “practical principles”. [q.v.] The Arabic term *istiṣhāb* is derived from *ṣuḥba* meaning accompanying somebody or taking something with oneself. The expression, therefore, means to take what one has been previously certain of with one to the present time. That is why the best definition of *istiṣhāb* is “to judge that what has previously been is subsistent.”

Constituents of *Istiṣhāb*

In order for *istiṣhāb* to be called *istiṣhāb* or to be covered by the coming proofs for its authority, the following pillars should exist:

1. Certainty. By this is meant certainty of the previous state, whether it is a precept or an object having a precept.
2. Doubt. By this is meant doubt over subsistence of the definite

affair. It should be noted that the doubt includes both real doubt and invalid conjecture.

3. Conjunction of certainty and doubt, in the sense of simultaneous occurrence of certainty and doubt. This does not mean that origins of those two are simultaneous; for sometimes the origin of certainty is before that of doubt, such as where one is certain on Thursday that one's cloth is religiously pure and on Friday doubts whether it is still pure or has become impure; sometimes the origin of certainty is after that of doubt, such as where one doubts on Friday whether one's cloth is religiously pure and this doubt continues until Saturday when one becomes certain that one's cloth has been pure on Thursday; and sometimes origins of those two occur simultaneously, such as where one becomes certain on Friday that one's cloth has been religiously pure on Thursday and at the same time on Friday doubts whether that purity has been subsistent until Friday – all of these being subject to *istiṣhāb*. This component differentiates *istiṣhāb* from “the rule of certainty ($\rightarrow qā'ida\ al-yaqīn$).”

4. Unity of objects of certainty and doubt. Ignoring the time, this means that the doubt is over the very thing that has been the matter of certainty.

5. The time of the definite affair preceding that of the doubtful one. This means that the doubt must be over subsistence of what has already been existent in certain fashion. Should the time of the definite affair be subsequent to that of the doubtful one, which is called reverse *istiṣhāb* (*al-istiṣhāb al-qahqarā*), it would not be an authoritative practical principle.

• ***Aṣāla al-Iṭlāq* (Principle of Absoluteness)**

Aṣāla al-iṭlāq is one of “literal principles” [q.v.] which is used when a speaker has used an absolute term which has some states and conditions and one doubts whether its absolute meaning is intended by the speaker or he may have intended some of those states or conditions. In that case, it is said that “the principle is the absoluteness,” i.e., one should principally treat the term as being used in its absolute meaning not being limited to some states or conditions, for being limited needs contextual evidence which does not exist.

• ***Aṣāla al-Takhyīr* (Principle of Option)**

This principle is one of “practical principles” [q.v.] which is used where the generic compulsion is known while it is not known whether that compulsion is obligation or unlawfulness. In such case, since the burden is compulsory in any case on the one hand and obligation and prohibition are opposite burdens the duty-bound being unable to observe both, the intellect judges that he has the option to choose either of them. However, whether that option is primary (*al-takhyīr al-badnī*, meaning that one is allowed to choose at the beginning either of those two probabilities but one must observe that choice constantly without any change in mind) or continues (*al-takhyīr al-istimrārī*, meaning that one is always allowed to choose either of those two probabilities) is a matter of dispute among *Uṣūlīs*.

• ***Aṣāla al-ʿUmūm* (Principle of Generality)**

Aṣāla al-ʿumūm is one of “literal principles” [q.v.] which is used when a speaker has used a general term and one doubts whether it

is still general or it has been restricted. In that case, it is said that “the principle is the generality,” i.e., one should principally treat the term as being used in its general meaning and not being restricted, for restriction needs contextual evidence which does not exist.

• *Aṣāla al-Žuhūr* (Principality of the Appearance)

Aṣāla al-žuhūr – to which all other literal principles refer – is one of “literal principles” [q.v.] which is used when a speaker has used a term and one doubts what the speaker has really meant. In that case, it is said that “the principle is the appearance,” i.e., one should principally treat the term as being used in its apparent meaning, even though the speaker may have intended another meaning by using it; for using a term in other than its apparent meaning needs contextual evidence which does not exist.

Here, there are two discussions:

1. Whether a specific term is apparent in a specific meaning. Dictionaries deal with this matter. On the other hand, *mabāhith al-alfāẓ* of the science of *uṣūl al-fiqh* discuss appearances of some terms whose appearances are a matter of dispute, such as terms of commands and prohibitions, those of general and particular, and so on. In fact, these are some minor premises of the principality of appearance.

2. Whether a term whose appearance is recognized is an authoritative proof in its specific meaning from the divine lawgiver’s view so that both the divine lawgiver and duty-bounds can argue it. That is the major premise by adding its minor premises one will be allowed to take appearances of Qur’ānic verses and *ḥadīths* into consideration and act on their basis.

The only proof for authority of the appearance is conduct of the wise (→ *binā' al-'uqalā'*), which consists of the following premises:

2.1. The practical conduct of the wise and their unanimity of opinion is doubtlessly established on that the speaker can content himself with the appearance of his words in communicating his ideas to others; the wise do not oblige the speaker to use only such words that are definite with regard to which no other meaning is probable. On the other hand, based on that practical conduct, they take appearances of words of every speaker into consideration for understanding his ideas whether or not his words are explicit-definite. That is why the appearance is an authoritative proof for both the speaker against the hearer if the latter predicates the former's words upon something contrary to the appearance and the hearer against the speaker if the former claims that he has meant something contrary to the appearance. It is the legal procedure that the appearance of a judicial confession or acknowledgment should be taken into consideration even though the term may not be explicit-definite.

2.2. It is also indubitably clear that the holy lawgiver has not taken a way other than that of the wise in His communications. For the lawgiver is considered among the wise, and even their chief; therefore, He should have confirmed that conduct. This argument is sound, since there is no problem with the divine lawgiver having the same conduct and way on the one hand and no prohibition from Him is proved in this connection on the other.

It is necessarily and definitely concluded from those two premises that the appearance is treated as an authoritative proof by the divine lawgiver: for Him against the duty-bound, and as an excuser for the duty-bound.

- *al-Anāmīr* → *al-Amr*

B

- ***al-Barā'a al-'Aqliyya* (Intellectual Clearance)**

If the clearance from obligation ($\rightarrow a\bar{s}ala\ al-barā'a$) is not proved by religious proofs but by the intellectual principle of reprehensibility of punishment without depiction ($\rightarrow qā'ida\ qubh\ 'iqāb\ bilā\ bayān$) it is called *al-barā'a al-'aqliyya*.

- ***al-Barā'a al-Shar'iyya* (Religious Clearance)**

If the clearance from obligation ($\rightarrow a\bar{s}ala\ al-barā'a$) is proved by religious proofs, it is called *al-barā'a al-shar'iyya*.

- ***Binā' al-'Uqalā'* (Conduct of the Wise)**

The proof called “the conduct of the wise” consists of two premises:

1. The wise as they are the wise (i.e., human beings as they are intellectual beings and not as they are animate creatures with some

emotions, desires, customs, and the like) have such a practical conduct. This reveals that such a conduct is originated by the intellect and not other human faculties.

2. The divine lawgiver has not prohibited from following that conduct. This reveals that He has recognized that conduct; for He is among the wise, even chief of the wise and creator of the intellect, and therefore has no other judgment.

The conclusion is that the divine lawgiver has confirmed that conduct and has had no other way in this connection; otherwise, He would have announced and depicted His specific way ordering believers to follow it.

It should be noted, however, that the divine lawgiver's agreement with the conduct of the wise could not be discovered merely through His prohibition not being proved, but rather there must exist some conditions so that one may deduce the divine lawgiver's agreement with a conduct of the wise:

2.1. There should not be a problem with the divine lawgiver having the same conduct and way. Should the divine lawgiver having the same conduct and way be impossible, agreement of the divine lawgiver cannot be discovered from His prohibition not being proved – as is the case with referring to experts such as lexicographers, for need of the divine lawgiver to experts is nonsensical and makes no sense so that He may have a practical conduct in this connection.

2.2. Should the divine lawgiver having the same conduct and way be impossible, it must be proved that the practical conduct has been prevalent even as to religious affairs in the time of infallible-innocent personalities so that one can infer their acknowledgment from their

silence and deduce that the divine lawgiver has been in agreement with the wise. This is the case with, for example, the principle of continuity of the previous state (*aṣāla al-istiṣḥāb* [q.v.]) which is an authoritative proof in the case of doubt about the previous state; for, on the one hand, it is nonsensical that the divine lawgiver should doubt about persistence of His precept, and, on the other hand, the conduct of the wise as to consideration of the previous state has been prevalent in religious affairs. Now, since the conduct of the wise has been prevalent even in religious affairs and the divine lawgiver has not prohibited from that, we can deduce that He has confirmed the conduct in question.

2.3. Should the divine lawgiver having the same conduct and way be impossible while neither of the two previously mentioned conditions exists, there must be a specific, definite proof announcing agreement and confirmation of the divine lawgiver. Otherwise, agreement of the divine lawgiver with the conduct is merely a conjecture, and “Surely conjecture avails naught against truth.” (Qur., 10: 36)

In other words, in any custom of the wise, the divine lawgiver is either expected to be in agreement with the wise since there is no problem with that, as in the case of single report, or is not expected to be in such agreement because of existing problem, as in the case of the principle of continuity of the previous state (*aṣāla al-istiṣḥāb*).

If the former, if it is proved that the divine lawgiver has prohibited from the conduct, that conduct is definitely not of authority, and if not, it is definitely discovered that He is in agreement with the wise. For He is among the wise, even chief of the wise and creator of the intellect; had He not confirmed that conduct having a specific way in

this connection other than that of the wise, He would have announced and depicted that way prohibiting believers from following their own conduct.

If the latter, (2.3.2.1.) it is either known that the conduct of the wise as to its consideration has been prevalent in religious affairs, as is the case with *istiḥāb*, or (2.3.2.2.) that is not known, as is the case with referring to experts for meanings of words.

In (2.3.2.1.), the very lack of establishment of divine lawgiver's prohibition from that custom is sufficient for discovering His agreement with the wise, for that is something He cares about. Had He not confirmed that while that custom is observed by His vicegerent, He would have prohibited duty-bounds from following that custom and conveyed that prohibition to them in any way possible. Thus, the very lack of establishment of prohibition reveals His agreement, for it is obviously clear that an actual prohibition which is not conveyed to and has not reached duty-bounds cannot be regarded an actual, authoritative prohibition.

As for (2.3.2.2.), the very lack of establishment of divine lawgiver's prohibition from that custom is not sufficient to reveal His agreement, for it is probable that He has prohibited the wise from that custom in religious affairs and they did not do so, or they may have arbitrarily not followed that custom in religious affairs and it is not upon the divine lawgiver to prohibit them from following that custom in irreligious affairs – had He not confirmed that in such affairs. That is why we are in need of a specific, definite proof in order to take such custom into consideration in religious affairs.

D

• *Dalāla al-Iqtidā'* (Denotation of Necessitation)

In this denotation (see also: *al-dalāla al-siyāqīyya*), two criteria are taken into consideration: the denotation being conventionally meant by the speaker, and the truth or correctness of the speech being logically, juristically, lexically, or conventionally dependent upon the denotation. Numerous examples can be found for such denotation two of which being as follows:

1. In the verse 82 of *sūra* 12 of the holy Quran, parts of words of Joseph's brothers to their father when they returned from their journey to Egypt are narrated in this way: "Question the city wherein we were," and it is clear that the city cannot be questioned. Thus, the sentence can rationally be correct only if the word "people" is considered omitted in it, so that the sentence should be "Question people of the city... ."

2. There is a *ḥadīth* saying, "There are no prayers for the

mosque's neighbor except in the mosque,” while we know that should such a person say his prayers in his home it will be juristically acceptable. Thus, the truth and correctness of the sentence is dependent upon the word “perfect” being omitted so that what is negated should be perfection of the prayers and not the prayers itself.

Generally speaking, all implicative denotations to single meanings and all figurative meanings refer to the denotation of necessitation.

As for the authority of this denotation, it would undoubtedly be an authoritative proof should there be a denotation and appearance, because of authority of appearances.

• ***Dalāla al-Ishāra* (Denotation of Implicit Conveyance)**

In this denotation (see also: *al-dalāla al-sijāqīyya* and *dalāla al-iqtidā'*) neither of the two following criteria are taken into consideration: the denotation being conventionally meant by the speaker, and the truth or correctness of the speech being logically, juristically, lexically, or conventionally dependent upon the denotation. What is denoted here is only an unclear implicature of the speech or an obvious implicature of the speech in the most general sense – no matter the object of denotation is understood from a single sentence or from a couple of sentences.

An instance of this is denotation of two Qur’ānic verses as to the minimum time of pregnancy: the verse 15 of the *sūra* 46 “And painfully she gave birth to him his bearing and his weaning being thirty months,” and the verse 233 of the *sūra* 2 “Mothers will suckle their children two complete years completely for such as desire to complete the suckling,” since to subtract two years, i.e.,

twenty four months, from thirty months is six and thereby it becomes clear that the minimum time for pregnancy is six months. It is also of this kind the question of obligation of something necessitating obligation of its preliminary, since it is an obvious implicature of the obligation of the thing in the most general sense. That is why they consider obligation of the preliminary of a mandatory act a secondary and not a primary one; for it is not a denotation of the speech by intention and is only understood secondarily, i.e., by the denotation of implicit conveyance.

As for the authority of this denotation, it cannot be treated as an authoritative proof because of authority of appearances, for there is no appearance where it is assumed that such thing is not intended – it is obviously clear that denotation is subject to the intention. Therefore, implicit conveyance should only be called adumbration and implicit conveyance without using the term denotation; hence, it is clear that such conveyance is not included in the appearances so that it can be an authoritative proof from that aspect. Of course, it would definitely be an authoritative proof should there be an intellectual implication through which its requisites, whether judgment or otherwise, could be discovered, such as taking requisites of one's confession into consideration even though he claims that he has not intended them or he denies existence of any implication there.

• *al-Dalāla al-Siyāqiyya* (Contextual Denotation)

There are some denotations that are included neither in *mafhum* [q.v.] nor in *manṭūq* [q.v.], such as the case where the speech denotes implicatively a single word or a single meaning not mentioned in the *manṭūq*, or it denotes contents of a sentence which is an implicature of *manṭūq* but not obviously in the most particular

sense. Those are all called neither *mafhūm* nor *manṭūq*.

To address those denotations in a general way, a good number of *Uṣūlīs* have called them contextual denotation (*al-dalāla al-siyāqīyya*) meaning that the context of a speech denotes a single or compound meaning, or an omitted word. Such denotations are divided into the three following varieties: denotation of necessitation (*al-iqtidā'*), hint (*al-tanbīh*), and implicit conveyance (*al-ishāra*) [qq.v.].

• *Dalāla al-Tanbīh* (Denotation of Hint)

In this denotation (see also: *al-dalāla al-siyāqīyya*), only one criterion, i.e., the denotation being conventionally meant by the speaker, is taken into consideration. Here, it is the context of the speech that causes certainty that a specific requisite is meant or makes its non-consideration unlikely. This denotation has numerous instances the most important of which being classified as follows:

1. The speaker wishes to depict something but expresses its logical or conventional requisite. For example, one addresses his friend saying, "It is ten o'clock" in order to remind him that the time they had agreed upon to go somewhere has come.

2. The speech is associated with some word which conveys that something is a cause, condition, impediment, or part of the judgment. To mention the judgment is thereby a hint that the thing mentioned is a cause, condition, impediment, part of the judgment or it is not so. For instance, if the jurist says, "Repeat your prayers," where he is asked about the doubt concerning numbers of *rak'as* of a two-*rak'a* prayers, it is understood that the said doubt is a cause for annulment of the prayers and the obligation of

repetition.

3. The speech is associated with some word which determines some objects of the act. For instance, when someone says, “I reached the river and drank,” it is understood that what was drunk was water and it was from the river.

As for the authority of this denotation, it would undoubtedly be an authoritative proof should there be a denotation and appearance, because of authority of appearances.

• *al-Dalīl al-Faqāhātī* → *al-Ĥukm al-Žāhirī*

• *al-Dalīl al-Idjtiḥādī* → *al-Ĥukm al-Wāqīʿī*

• ***Dalīl al-Insidād* (Closure Proof)**

The proof known as “the Closure Proof” consists of four preliminaries. Should those preliminaries be accurate, intellect would judge that the duty-bound should act on the basis of any conjecture with regard to precepts – unless a conjecture whose non-authority is definitely proved, such as analogy (*qiyās* [*q.v.*]).

Those four preliminaries can be summarized as follows:

1. The door of knowledge and knowledge-rooted is closed in the most part of juristic precepts in our time when it is later than our holy Imāms’. This is the fundamental base of this proof upon which all other preliminaries are dependent.

2. It is not allowed to leave obedience of actual precepts which are known to us in summary fashion, nor is it permissible to reject them in the position of action. To leave and reject actual precepts can be actualized in two ways: either to treat ourselves as animals

and children who have no burden, or to refer to the principle of “clearance” (→ *aṣāla al-barā’a*) and that of “non-existence of burden” wherever obligation or unlawfulness of something is unknown. Annulment of those two assumptions is self-evidently clear; therefore, we must take into consideration all actual precepts which are known in summary fashion.

3. To consider such precepts necessitates clarifying one's obligation, which, in turn, is restricted to one of the following four states: (3.1) to follow the one who believes in the openness of the door of knowledge, (3.2) to act on the basis of “precaution” in every problem, (3.3) to refer to the respective practical principle (the principle of clearance, that of precaution, etc.) in every problem as the circumstances necessitate, and (3.4) to refer to the conjecture where there is one, and to the practical principles where there is none.

Since referring to the first three states is not acceptable, we should take the fourth into consideration. The first is not acceptable, for how can one who believes in the closure of the door of knowledge refer to whom he considers wrong and ignorant in his believing in the openness of that door? The second is not plausible, for it necessitates intolerable hardship, or even disorder of the society if all duty-bounds are burdened with – which are both rejected in the Islamic law. And the third is not acceptable, for the existence of knowledge of mandatory and prohibited affairs in all doubtful problems in summary fashion prevents us from referring to the practical principles even though in some of them.

4. Thus, the only acceptable state is the fourth, i.e., referring to

the conjecture. Although conjecture has two sides, i.e., the preferable (*al-rāḍijih*) and the chimerical (*al-marḍijih*=*al-mawḥūm*), one is merely allowed to refer to the preferable side; for preferring the chimerical side is intellectually reprehensible. Therefore, one is supposed to take the conjecture into consideration – unless a conjecture whose non-authority is definitely proved, such as analogy (*qiyās*). In case of definite knowledge of non-authority of a conjecture, one should refer to practical principles, precisely as one is supposed to refer to them in doubtful problems with regard to which no conjecture exists. There is no problem with referring to practical principles in such cases, for the knowledge in summary fashion is reduced to the detailed knowledge (*al-ʿilm al-tafṣīlī*) of precepts proved by some authority and primary doubt (*al-shak al-badhi*) with regard to other cases, in which one is supposed to refer to practical principles [*qq.v.*].

• *al-Dalīl al-Laḥẓī* → *al-Idjmaʿ*

• *al-Dalīl al-Lubbi* → *al-Idjmaʿ*

• ***al-Dawām* (Permanence)**

Like the dispute over the command, there is a dispute among *Uṣūlīs* whether prohibition indicates once or repetition by the prohibition. The justifiable opinion is the same with the case of command; hence, the prohibition denotes neither repetition nor once – what is prohibited is the sheer nature of the act. However, there is a rational difference between those two in the position of obedience, for the prohibition is obeyed by eschewing the actualization of the nature of the act and that would be realized only when all instances of the act are left, since if the duty-bound

do the act even once he will not be considered an obedient servant. On the other hand, obedience to the command will be actualized by bringing about the first existence of instances of the nature of the act; the nature of obedience is not dependent upon more than doing the commanded act once. That difference is not due to the convention and denotation of those two, but rather is the rational necessity of the nature of prohibition and command.

• *Dawarān bain al-Aqall wa'l-Akthar* → *al-Shubha al-Mafhūmiyya*

• *Dawarān bain al-Mutabāyinayn* → *al-Shubha al-Mafhūmiyya*

• ***al-Īdidd al-‘Āmm* (General Opposite)**

The dispute over the general opposite (i.e., eschewal and not doing which is non-existential → *mas'ala al-īdidd*) is not over the necessity in principle, for *Uṣūls* apparently agree about the necessity; they disagree only on its nature. They have declared various opinions in this connection. Some have said that the necessity is the sameness, i.e., to command something is the same with prohibiting its opposite. Some have said that since the command is composed of wish of something and prohibition of its eschewal, the prohibition of eschewal is analytical part of meaning of obligation. Some have said that there exists an obvious necessitation in the most particular sense; hence, the denotation is literal, but implicative. Others have said that there exists an obvious necessitation in the most general sense or an unclear necessitation; hence, the denotation is merely intellectual.

The justifiable opinion, however, is that there exists no necessity of any kind, i.e., there is no religious prohibition of eschewal

necessitated by the very command in such a way that there exists a juristic prohibition beyond the very command to the act. The reason is that the obligation, whether it is denotation of the imperative or its intellectual implication – the latter being true – is not a composite concept; but rather it is a simple, single one which is necessity of the act. A requisite of obligation of something, of course, is prohibition of its eschewal. However, that prohibition is not a juristic prohibition made by the Lord as He is the Lord, but rather is an intellectual secondary prohibition without there being a prohibition from the divine lawgiver beyond the very obligation. The reason is obvious: the very command to do something in an obligatory mode is sufficient to prohibit its eschewal; so, there is no need for the divine lawgiver to prohibit eschewal of something in addition to commanding it.

• ***al-Ḍidd al-Khāṣṣ* (Particular Opposite)**

To hold that to command something necessitates prohibiting its particular opposite (i.e., the existential, incompatible affair, such as eating with regard to prayers → *mas'ala al-ḍidd*) is dependent upon and secondary to the belief in its necessitation the prohibition of its general opposite (→ *al-ḍidd al-'āmm*); and since there is no juristic prohibition of the general opposite, there is no juristic prohibition of the particular opposite either.

• ***al-Djam' al-'Urfi* (Customary Gathering)**

By *djam'* is meant taking two contradictory proofs altogether. It is an intellectual judgment that taking two seemingly contradictory proofs altogether is more plausible than leaving either of them. This judgment is due to the fact that contradiction does not occur unless all constituents of authority exist in either of them as to

both chain of transmission and denotation. In case of existence of all constituents of authority, i.e., existence of the origin, nothing may cause leaving the proof but existence of an impediment to the efficacy of the origin; and that impediment can be nothing but their mutual repudiation. On the other hand, possibility of gathering both proofs as to their denotations leaves no room for certainty of their mutual repudiation, which leads to lack of certainty as to the existence of impediment to the efficacy of authority with regard to the proof. Thus, how can one judge that one or both of those proofs is no longer authoritative proof?

However, it should be noted that such judgment of the intellect is not absolute, but rather is conditional upon the gathering being “customary” or “acceptable,” in the sense that it should not be in a way that custom of people of the language does not confirm it on the one hand and no third proof supports it on the other. (See also: *al-murad^jidj^hāt*)

F

- ***al-Fawr* (Promptitude)**

There is a dispute among *Uşūlis* whether the imperative *per se* conventionally denotes promptitude, belatedness (*al-tarā~~k~~hi*), both of them as homonymous, or none of them but rather it is the contextual evidence that designates any of them.

The justifiable is the last opinion; for the imperative denotes merely the wishful relation (\rightarrow *al-amr*) and hence has no indication of any of the promptitude or belatedness. Thus, should an imperative be void of any evidence, it could be performed either promptly or belatedly.

G

• *Ghayr al-Mustaqillāt al-‘Aqliyya* (Dependent Intellectual Proofs)

Dependent intellectual proofs are those whose major premises are intellectual while their minor premises are juristic, such as “this act is juristically mandatory,” and “whatsoever is juristically mandatory it is intellectually necessitated that its preliminary should juristically be mandatory (→ *muqaddima al-wāḍiib*),” or “whatsoever is juristically mandatory it is intellectually necessitated that its opposite should juristically be forbidden (→ *mas’ala al-didd*),” and so forth. As clearly seen, minor premises of such syllogisms are proved in the science of *fiqh*, so they are juristic, while their major premises are intellectual, i.e., it is the intellect’s judgment that there exists an intellectual implication between the precept in the first premise and another juristic precept. The consequence of such minor and major premises becomes a minor premise of a syllogism whose major premise is authority of intellect.

H

- ***Ĥadīth al-Rafʿ* (Removal)**

This is the prophetic *ĥadīth* argued by *uṣūlīs* for “the clearance from obligatory” (→ *aṣāla al-barāʿa*) which declares: “Nine things are removed from my people: error, forgetfulness, what they have done under duress, *what they do not know*, what they cannot endure, what they have done under compulsion, to take as a bad omen, jealousy, to think of createdness [of the Almighty] so long as one has not uttered it.”

- *Ĥāl al-Isnād* → *al-Muṣḥtaqq*

- *Ĥāl al-Talabbus* → *al-Muṣḥtaqq*

- ***al-Ĥaqīqa al-Mutaṣharriʿiyya* (Muslims' Literal Meaning)**

Doubtless all Muslims understand specific juristic meanings from such words as *ṣalat* (the prayers), *ṣawm* (fasting), *ḥadjj* (pilgrimage to Mecca), and the like, while we know that such meanings were

unknown to Arabs before Islam and were transferred to those new juristic meanings after the Islamic era. Had such transfer happened after the holy Prophet's time, we would have Muslims' literal meaning (*al-ḥaqīqa al-mutasharri'īyya* [q.v.]) according to which any such term found in the Quran and *Sunna* should be interpreted as its usual, and not juristic, meaning in the process of inferring juristic precepts. See also: *al-ḥaqīqa al-shar'īyya*.

• *al-Ḥaqīqa al-Shar'īyya* (Juristic-Literal Meaning)

Doubtless all Muslims understand specific juristic meanings from such words as *ṣalāt* (the prayers), *ṣawm* (fasting), *ḥadjj* (pilgrimage to Mecca), and the like, while we know that such meanings were unknown to Arabs before Islam and were transferred to those new juristic meanings after the Islamic era. Now, the question is that whether such transfer has happened in the holy Prophet's time so that we may have the juristic-literal meaning or it has occurred after him and therefore what we have in hand is Muslims' literal meaning (*al-ḥaqīqa al-mutasharri'īyya* [q.v.]).

The answer to that question would make a difference in the process of inferring juristic precepts from the Quran and *Sunna*. Should there exist the juristic-literal meaning, any such term without contextual evidence would be predicated to its juristic meaning, while it must be interpreted as its usual meaning if such a juristic-literal meaning does not exist.

It is obviously clear that those new meanings were not made through convention by specification (→ *al-waḍ' al-ta'yīn*), for in that case it should have been narrated to us in one way or another. As for the "convention by determination" (→ *al-waḍ' al-ta'ayyūn*), it must be said that it had doubtlessly happened in Imam Ali's time,

for by that time all Muslims have been using such terms in their new juristic meanings for a long time. Hence, since in Shiite jurisprudence only such prophetic *ḥadīths* that are narrated by holy Imāms are treated as valuable, all such terms in their words should be predicated to their new juristic meanings where they are void of any contextual evidence. As for the holy Quran, there is no room for such a dispute, since almost all such words are used in it along with contextual evidence and convey their new juristic meanings.

• *al-Ḥudjdja* (Authoritative Proof)

Ḥudjdja literarily means whatsoever capable of being used as an argument against someone else through which one can overcome one's opponent in a dispute. Overcoming someone else is either by making him silent and nullifying his argument, or by making him accept one's argument – in this sense *ḥudjdja* being an excuser. In *uṣūl al-fiqh*, however, *ḥudjdja* means that which proves its object but does not attain the level of certitude (*al-qaṭʿ*), i.e., it does not cause certitude with regard to its object – since in case of certitude it is the certitude which is *ḥudjdja*, though in its literal meaning. In other words, *ḥudjdja* is whatsoever revealing and indicating something else in such a way that the former proves the latter – its proving being made by the lawgiver, duty-maker as it is the actuality. This proving will be sound only by adding the proof which proves validity and authority of that revealing and indicates the thing in the divine lawgiver's view. Therefore, *ḥudjdja* in this sense does not include certitude (*al-qaṭʿ*), i.e., certitude is not called *ḥudjdja* in this sense, but in the literal sense; for certitude is essentially a way and cannot be made an authoritative proof by anyone. *Ḥudjdja* in this sense is synonymous with *amāra*, proof (*al-dalīl*), and way (*al-ṭariq*). See also: *al-ḥukm al-ẓāhiri*

• *al-Ĥudjdjyya* → *al-Ĥudjdja*

• ***al-Ĥukm al-Wāqīʿ* (Actual Precept)**

A precept which is directed to something *per se* as it is an act – such as the prayers, since the obligation is directed to the prayers as it is prayers and an act *per se* without consideration of anything else – is called “the actual precept” (*al-ĥukm al-wāqīʿ*) and the proof which proves it “the persuasive proof” (*al-dalil al-idjtihādī*).

• ***al-Ĥukm al-Ẓāhirī* (Apparent Precept)**

Where a precept is directed to something as its actual precept is unknown and there is no proof for supporting any of the existing opinions, the jurist doubts the primary, actual precept of the disputed matter; and since he is not supposed to remain perplexed practically, there must exist another precept, though intellectual, for him, such as obligation of precaution, clearance from obligation, or ignoring the doubt. Such a secondary precept is called “the apparent precept” (*al-ĥukm al-ẓāhirī*) and the proof which proves it “the juristic proof” (*al-dalil al-faqāhatī*) or “the practical principle” (*al-aṣl al-ʿamālī* [q.v.]). See also: *al-ĥukm al-wāqīʿ*.

• ***al-Ĥukūma* (Sovereignty)**

Ĥukūma is inclusion or exclusion of something in or from an object by a *predicative sentence* through expanding or limiting realm of the object or subject; such as “perform ablution for prayers,” and on the one hand: “circumambulation of Kaʿba is prayers” leading to the conclusion that one should perform ablution while circumambulating in *ḥadjdj*, and on the other: “funeral prayers is not prayers,” leading to

the conclusion that one is not supposed to perform ablution for funeral prayers. Thus, *ḥukūma* occurs where one of the two seemingly contradictory proofs is supposed to be given priority over the other because of its sovereignty while both of them are still authoritative proofs, i.e., neither of them repudiates the other. See also: *al-ta'arūd*.

I

- ***al-'Ibādī* (Act of Worship)**

Ibādī is an act whose religious acceptance is conditional upon the duty-bound's intention of proximity to God, or that which is the sheer burden made by God for proximity to Him; such as prayers, fast, pilgrimage to Mecca, and the like.

- ***al-Idjma'* (Consensus)**

Being defined as consensus of Muslim jurists, that of Muslim community, and so on, *idjma'* is considered one of the three-fold or four-fold free-standing sources of religious precepts by Sunnī *Uṣūlīs* and jurists. *Shī'a Uṣūlīs* and jurists, however, do not treat consensus as a free-standing source, but rather as a way through which Sunna can be revealed. Thus, authority and innocence are for words of the infallible-innocent personality, which may sometimes be revealed by the consensus, and not for the consensus *per se*. That is why *Shī'a* jurists sometimes treat unanimity of opinion of a few individuals

whose unanimity is technically not called *idjma'* as consensus, because of its definite revelation of opinions of the infallible-innocent personality on the one hand, and do not consider a consensus which does not reveal opinions of the infallible-innocent personality as *idjma'* even though it is technically called so on the other.

Before any argumentation, one point should be noted: it is obviously clear that consensus of all people, or a specific people, as it is consensus has no implication to revealing divine precepts; for it is not of unanimity of opinion of the wise as they are the wise which is an authoritative proof like the Book and Sunna. Unanimity of opinion of the wise as they are the wise is in fact the very intellectual proof, as will be discussed later, and not the technical consensus. The reason why a consensus of people which is not included in the unanimity of opinion of the wise as they are the wise cannot be considered a source for religious precepts is that such a consensus may be caused by people's habits, beliefs, emotions, or sentiments which are of human characteristic and the divine lawgiver transcends them. Should consensus of people as it is consensus be an authoritative proof, consensus of other people who follow other religions should be an authoritative proof as well – something no Muslim believes in. Thus, some other proof must be presented by Sunnī jurists with regard to the authority of consensus.

As for Shiite perspective, consensus as it is consensus would have no value should it not reveal opinion of the infallible-innocent personality, and that is why it is not considered a free-standing source for religious precepts. In fact, authority is for the revealed, i.e., Sunna, and not for the revealer, i.e., consensus; and consensus precisely plays the role of massive report – with one difference: the latter reveals the very words of the infallible-

innocent personality (and that is why it is called lexical proof (*al-dalil al-laḥṣi*)) while the former reveals the opinion of the infallible-innocent personality and not his words (and that is why it is called thematic proof (*al-dalil al-lubbi*) which conveys the theme and not the terms). Now that consensus is an authoritative proof because of revealing opinion of the infallible-innocent personality and not *per se*, there is no need for unanimity of all; rather, that of those whose unanimity reveals words of the infallible-innocent personality would be sufficient, no matter how many they are – as explicitly asserted by some great Shīʿa jurists and *Uṣūlīs*.

As for the ways through which the consensus reveals opinion of the infallible-innocent personality, they are claimed to be up to twelve four of which being more considerable. However, since most of later Shīʿa jurists and *Uṣūlīs* have raised doubts about them and followed some specific way called “the way of surmise (*ṭarīqa al-ḥads*),” we will discuss this way only. According to the way of surmise, when one observes that all Shīʿa jurists have a consensus on a precept while they disagree too much on most of precepts, one will definitely become certain that their consensus is rooted in the holy Imām’s opinion and, being handed down from generation to generation, they have received it from their Imām – as is the case with consensus of followers of all other creeds and sects with regard to which no one doubts that the matter of consensus is taken from their leader. It should be emphasized that in the way of surmise, consensus of all jurists of all times, beginning from the era of holy Imāms, must be actualized; for disagreement of one earlier generation, and even one single known outstanding jurist, prevents actualization of certitude in this connection.

All detailed discussions and arguments in Shiite *uṣūl al-fiqh* on the

authority of consensus as well as the ways through which the consensus reveals opinion of the infallible-innocent personality deal with *al-idjīmā‘ al-muḥāṣṣal* (the acquired consensus), i.e., a consensus which is acquired by a jurist who has searched all opinions of all jurists in person. It is this kind of consensus whose authority is a matter of dispute.

However, a case where a jurist has acquired a consensus and then has reported it to others (which is called *al-idjīmā‘ al-manqūl*, i.e., the reported consensus), is also a matter of dispute and different opinions are presented in this connection. Some have considered the reported consensus an authoritative proof since it is a single report, some have treated it as not being an authoritative proof since it cannot be considered an instance of single report, some have considered it an authoritative proof where it reveals religious precepts in the view of the one who is reported to and not the reporter alone, and others have held some other different views in this regard. Detailed discussions on this problem should be pursued in Shiite books of *uṣūl al-fiqh*.

• *Idjtimā‘ al-Amr wa’l Nahy* (Conjunction of the Command and the Prohibition)

Uṣūls have disputed from a long time ago whether or not conjunction of command and prohibition in one act, i.e., a single act as it has one existence which is a gathering of two designations, is possible. By conjunction is meant accidental encounter between the commanded act and the prohibited act in one thing. This may occur only where the command is directed to a designation and the prohibition to another designation which has no relation to the first, but those designations encounter rarely in one thing – here,

conjunction of the command and the prohibition occurs, i.e., they encounter one another. Such conjunction of and encounter between two designations is of two kinds: case conjunction (*al-idjtima' al-manridi*), and real conjunction (*al-idjtima' al-haqiqi*).

Case conjunction occurs where there is no one act which corresponds to both designations, but rather there are two acts which have become synchronous and simultaneous one of which corresponding to the designation of the mandatory act and the other to the designation of the prohibited act. For instance, when someone is performing the prayers and in the meantime looking at a woman whom looking at is religiously prohibited, looking does not correspond to designation of the prayers, the prayers do not correspond to designation of looking, and both of them do not conform to one act. Such case conjunction is neither impossible nor a matter of dispute in this discussion. Hence, should one look at a woman whom looking at is religiously prohibited while performing one's prayers, one would be both obedient and disobedient simultaneously without one's prayers being annulled.

Real conjunction, even though at a glance and in a conventional view, occurs where there is one act which corresponds to both designations, such as the well-known example of performing the prayers in an expropriated space. In that example which is the matter of dispute in this discussion, designation of the prayers, which is the commanded act, has no relation to that of expropriation, which is the prohibited act, but it accidentally happens that the duty-bound gathers them by performing the prayers in an expropriated space. Here, designation of the commanded, i.e., the prayers, encounters designation of the prohibited, i.e., expropriation, in that prayers performed in an

expropriated space; hence, that single act corresponds to both designations of the prayers and expropriation. Thus, that single act is included in the commanded act from one aspect which necessitates treating the duty-bound as obedient while it is included in the prohibition from another aspect which necessitates treating him as disobedient.

Now, the matter of dispute in this discussion becomes clear: Is it possible that the command should remain directed to that designation which corresponds to that “one” and also the prohibition should remain directed to that designation which corresponds to that “one” and the duty-bound should be considered both obedient and disobedient in one act, or is it not possible and the gathering of the two designations is either commanded only or prohibited only, i.e., either only the command remains actual and the duty-bound is obedient alone or only the prohibition remains actual and he is disobedient alone? Both of these opinions are held by *Uṣūlīs* each presenting their own proofs in order to establish their claims.

A very important point to be borne in mind is that the matter of dispute among *Uṣūlīs* over possibility or otherwise of conjunction of the command and the prohibition concerns where the duty-bound has a way out (*al-mandūḥa*), i.e., he is able to obey the command in another case other than the gathering; or, in other words, he has encountered the conjunction deliberately because of misuse of his free will. It is such case that is a matter of disagreement among *Uṣūlīs*: some believe in its possibility and others in its impossibility.

Nevertheless, there is no dispute among *Uṣūlīs* over the impossibility of conjunction where obedience to the command can be actualized

exclusively through the gathering and the duty-bound has become compelled to encounter the conjunction; for it is clear that in case of exclusion, the actuality of two duties becomes impossible, since obedience of both is impossible: if the duty-bound does the commanded act he has disobeyed the prohibition, and if he eschews it he has disobeyed the command. Therefore, all *Uṣūls* agree that conjunction of the command and the prohibition in such case is impossible and either the command or the prohibition is actual. However, there is disagreement among *Uṣūls* as to which of them is so.

• *al-Idjtimā' al-Ḥaqīqī* → *Idjtimā' al-Amr wa'l Nahy*

• *al-Idjtimā' al-Mawridī* → *Idjtimā' al-Amr wa'l Nahy*

• ***al-Idjzā'* (Replacement)**

Idjzā' is infinitive, meaning that something has replaced something else in doing its job. Hence, “replacement” necessitates that the act done should not be repeated.

Doubtless when the duty-bound performs what the Lord has commanded him in its desired way, i.e., he performs the desired in accordance with what he is commanded observing all juristic and intellectual conditions, that act is considered obedience to that command no matter the command is voluntary-actual (*ikhtiyārī*), compelling (*idṭirārī*), or apparent (*ẓāhirī*). This neither is nor can be a matter of dispute.

There is also neither doubt nor dispute over that such an obedience of such characteristic is considered enough and need not be replaced by any other obedience – for it is assumed that the

duty-bound has performed his duty in the desired manner, and that is enough. In this case, the command directed to the duty-bound will be removed, for that which was urged by the command has been actualized and its time has terminated. It is impossible for the command to remain after its purpose has been actualized – unless if one holds that the impossible, i.e., actualization of the effect without the cause, is possible.

The only case which can be disputed is where two commands exist: one primary, actual which is not obeyed by the duty-bound either because it has become impossible for him or because of his ignorance of it, and one secondary which is “compelling” in case of impossibility of the first or “apparent” in case of ignorance of the first. Now, should the duty-bound obey that secondary compelling or apparent command and then the compulsion or ignorance should be removed, it would be plausible to dispute whether or not what was performed in obedience to the second command is enough and replaces the first without any need for the first command to be repeated within the time or performed belatedly out of the time. This discussion is, in fact, to inquire whether there exists an intellectual implication between performing the commanded act by a compelling or apparent command and contenting oneself with it without obeying the primary, voluntary, actual command.

- *al-'Ilm* → *al-Qaṭ'*
- ***al-'Ilm al-Idjmālī* (Summary-fashioned Knowledge)**

The object of knowledge in this kind is more than one (→ *al-'ilm al-taḥṣīlī*). For instance, one definitely knows that one bowl of water

among two or more bowls is religiously polluted, but one does not know which one is so. Objects of knowledge in this kind are called *aṭraf al-‘ilm al-idjīmālī*.

The summary-fashioned knowledge makes its object incontrovertible, precisely as the detailed knowledge does. For there is no difference between those two kinds of knowledge but being in detail and in summary fashion, and that makes no variety as to their function. The criterion for the intellect’s judgment as to the liability and obligation of obedience is merely recognizing nature of the Lord’s command, without considering any other property.

And that incontrovertible-making is like “causality” as to both the definite opposition (\rightarrow *al-mukhalafa al-qat’iyya*) and the definite obedience (\rightarrow *al-mumwafaqa al-qat’iyya*), and not like a “prerequisite” so that its effectiveness may be prevented even as to the definite opposition and duty-negating principles may be exercised as to all parts of summary-fashioned knowledge. It does not allow occurrence of even a single opposition to “the known in summary fashion,” for such allowing necessitates contradiction: on the one hand the intellect judges that it is mandatory to avoid all parts as a preliminary to avoiding the unlawful existing among doubtful affairs, and on the other hand it allows committing some parts – an obvious contradiction. Furthermore, it is treated by the intellect as the Lord’s permission to disobey Him, and this is obviously impossible.

• *al-‘Ilm al-Taṣṣīlī* (Detailed Knowledge)

The object of knowledge in this kind is one. For instance, one definitely knows that a particular bowl of water is religiously polluted. The detailed knowledge makes its object definitely

incontrovertible. See also: *al-‘ilm al-idjmālī*.

• ***al-Inhīlāl al-Ĥaqīqī* (Actual Reduction)**

Al-Inhīlāl al-Ĥaqīqī occurs where the knowledge changes from summary fashion (→ *al-‘ilm al-idjmālī*) into detailed, such as the case where the duty-bound knows in summary fashion that one of the two bowls is religiously impure and then realizes that one certain bowl is so. Here, the other bowl would be treated as pure, since the dubiety concerning it has changed into a primary one.

• ***al-Inhīlāl al-Ĥukmī* (Quasi-Reduction)**

Al-Inhīlāl al-Ĥukmī occurs where the summary-fashioned knowledge (→ *al-‘ilm al-idjmālī*) is subsistent, but it is no longer effective; such as the case where one of the two bowls which are parts of a summary-fashioned knowledge of religious impurity becomes part of another summary-fashioned knowledge of religious impurity with another bowl. The second summary-fashioned knowledge cannot affect the part in question whose obligation of avoiding had become incontrovertible by the first summary-fashioned knowledge, since it would be a kind of acquiring what is already acquired.

• ***al-Istishāb al-Kullī* (Continuity of the Previous State of the Universal)**

By *istishāb al-kullī* is meant *istishāb [q.v.]* of the universal where one is certain of its existence within one of its instants but later on doubts subsistence of the very universal. This doubt over subsistent of the universal within its instances can be considered in three ways – called varieties of *istishāb al-kullī*.

1. The doubt is over subsistence of the universal because of doubting subsistence of the very instance one was certain of.

2. The doubt is over subsistence of the universal because of the doubt over determination of the instance one was certain of, in the sense that the instance is either definitely subsistent or is definitely removed. In this case, one is summarily certain of existence of an instant of the universal instants and thereby is certain of existence of the universal within that, but one is doubtful whether that actual instant has a long lifespan and therefore is definitely subsistent in the second time or has a short lifespan and therefore is definitely removed in that time – that is why one is doubtful about subsistence of the universal.

3. The doubt is over subsistence of the universal because of the doubt over existence of another instant instead of the one whose generation or removing is definitely known, i.e., the doubt is caused by the probability of existence of another instant. In this case, should the second instant actually be existent, the universal would be subsistent through it; otherwise, the universal would become non-existent due to the annihilation of the first instant.

This variety is of two kinds:

3.1. It is probable that the second instant is originated in the vessel of existence of the first one, and

3.2. Probable origination of the second instant is simultaneous with the removal of the first, which, in turn, may be actualized through changing the first into the second or mere accidental simultaneity of removal of the first and origination of the second.

• ***al-Iṭlāq* (Absoluteness)**

By absoluteness is meant encompassment and extensiveness of the term with regard to its meaning and states without the term being used in encompassment in the way understood from an indefinite noun in a negative context – since in that case the term would be considered general and not absolute. Such a term is called *muṭlaq*, like “slave” in “free a slave” which is not qualified by “believer,” i.e., it is not said “free a believer slave” and the duty-bound is allowed to free either a believer or an unbeliever slave.

As an absolute term is not made for the absolute meaning but rather for the meaning *per se*, absoluteness is to be discovered through premises of wisdom (→ *muqaddimāt al-ḥikma*).

• ***al-Iṭlāq al-Badalī* (Substitutional Absoluteness)**

Absoluteness in this kind of *iṭlāq* [q.v.] covers instances, but in substitutional way, as in “free a slave” and “do not free an unbeliever slave.”

• ***Iṭlāq al-Maqām* (Absoluteness of the Position)**

Since the contrariety of absolute and qualified is that of possession and privation, for absoluteness is lack of qualification in that which can be qualified, absoluteness follows qualification in the possibility, in the sense that if qualification is possible in the speech or proof the absoluteness is possible and if it is impossible the absoluteness is impossible. Hence, in a case where qualification is not possible, one cannot discover absoluteness from the speech of speaker; that speech is neither absolute nor qualified – though in fact one of them is necessarily intended by the speaker. In such

cases, however, one can discover absoluteness from absoluteness of the position (*iṭlāq al-maqām* or *al-iṭlāq al-maqāmī*) and not from that of speech. By absoluteness of the position is meant that although the speaker cannot qualify his words in one sentence, he can qualify it by adding another sentence after finishing his first sentence and utter the condition he intends.

- *al-Iṭlāq al-Maqāmī* → *Iṭlāq al-Maqām*

- ***al-Iṭlāq al-Shumūlī* (Inclusive Absoluteness)**

Absoluteness in this kind of *iṭlāq* [q.v.] covers all instances, as in “in the sheep there is *ṣakāt*” and “in the fed sheep there is not *ṣakāt*.”

K

- ***Kaff al-Nafs* (Continence)**

There is a dispute among *Uşūlis* specifically in the discussion of the prohibition over this issue whether the desired in the prohibition is merely not to do (*nafs an lā tafʿal*) or continence (*kaff al-nafs*). The difference between the two is that the former is a sheer non-existential affair while the latter is an existential one inasmuch as continence is a psychic act.

The justifiable opinion is the first. What caused some to believe in the second is that they thought that “to eschew,” whose meaning is to keep non-existence of the prohibited act as it is, is not possible for the duty-bound, since it is pre-eternal, out of reach of power, and cannot become an object of wish. However, it is quite plausible that the continence, which is a psychic act, would become an object of wish in the prohibition. The answer to this illusion is that impossibility of non-existence in the pre-eternity does not contradict its possibility in the continuity, for the power

for existence implicates the power for non-existence. One can even say that the power for non-existence is based on the nature of the power for existence; otherwise, should non-existence be impossible in the continuity the existence would not be possible at all, since the free, powerful agent is the one who performs the act if he wishes and does not perform the act if he does not wish.

However, the truth is that such discussion is basically nonsense, for “wish” is not the meaning of prohibition so that it may be discussed whether the desired is eschewal or continence. The wish for eschewing is an implication of the prohibition; the meaning of prohibition is forbidding and dissuading – yea, to forbid an act implicates logically the wish for its eschewing. Thus, the prohibition is basically directed to the act itself and there is no room for doubting whether the wish in the prohibition is for eschewal or continence.

• *al-Khabar al-Mutawātir* (Massive Report)

Al-Khabar al-mutawātir is a report which causes confidence in one’s soul in such a way that all doubts are removed and definite certainty occurs because of report of massive transmitters whose collusion in lying is impossible. What should be emphasized with regard to the massive report is that in a report which has several mediators, like reports of old events, all conditions of massive report must be actualized in each generation; otherwise the report is not to be treated as massive, for the conclusion is pursuant to the inferior preliminaries. The reason is clear: a report with several mediators is in fact made of several reports, for each generation reports the report of its previous one. Therefore, report of the last generation must be a massive report of a massive report of a massive report, and so forth, up to a massive report of the very incident or words;

and it is clear that should conditions of massive report not be actualized in any generation the report would not be massive, but rather single.

• ***Khābar al-Wāḥid* (Single Report)**

Khābar al-wāḥid, in its *uṣūlī* sense, means that which is not massive (→ *al-khābar al-mutamātīr*) even though reporters may be more than one. This kind of report may sometimes provoke knowledge even though the reporter may be one – and that is where the report is overwhelmed by evidence provoking knowledge of truthfulness of the report. Such a report is doubtlessly an authoritative proof, for acquisition of knowledge is the utmost end, as there is no authority beyond knowledge and authority of every authoritative proof affair rests upon it.

However, where the single report is not overwhelmed by such evidence, even though it may be overwhelmed by some evidence provoking confidence but not knowledge, there is a major disagreement among *Uṣūlīs* as to its authority as well as conditions of its authority. The disagreement, especially among Shiite scholars, refers, in fact, to the existence or otherwise of definite proof supporting authority of the single report; for it is a matter of consensus among them that the single report as it provokes personal or typical conjecture is not considerable – as conjecture *per se* is definitely not authoritative proof in their opinion. Thus, those who deny authority of single report merely deny existence of such a definite proof, while others believe that it does exist.

As for opinions in this connection, some have denied authority of single report in an absolute way, such as al-Sayyid al-Murtadā, Ibn Barrādj, Ibn Zuhra, and Ibn Idrīs who claimed that there is a

consensus among Shi'a scholars that the single report is absolutely not an authoritative proof. However, that opinion has found no support from others who came after Ibn Idrīs. Some *Ak̥hbārīs* have said that all *ḥadīths* collected in Shiite well-known books, especially *al-Kutub al-Arba'a* (the Four-fold Books, i. e., *al-Kāfi* by Kulaini, *Man Lā-Yaḥḍuruh al-Faqīh* by al-Shaikh al-Ṣadūq, and *Tahdhīb al-Aḥkām* and *al-Istibṣār fī-mā Ikhtalaf min al-Ak̥hbār* both by al-Shaikh al-Ṭūsī) are definitely truthful. Others, who believe in the authority of single report but not in an absolute way hold different views as to the criterion for its authority maintaining that it is its being considered by Shi'a jurists, righteousness of the transmitter or only his being trustworthy, the sheer conjecture of being uttered by authorities without taking into consideration qualities of the transmitter, and so forth.

• *al-Khāṣṣ* (Particular)

Particular is among clear, self evident concepts which need no definition but lexical explanation for the sake of bringing the meaning closer to the mind. By *particular* is meant a term, or a judgment, which covers only some instances of its object, object of burden, or duty-bound. See also: *al-'amm*.

• *al-Kitāb* (The Book)

The Holy Qur'ān, the Muslims' sacred book, is the everlasting miracle of the Holy Prophet Muḥammad, and is doubtlessly a divine mercy and guidance which “could not have been forged apart from God” (10: 37). Thus, it is the primary, definite authoritative source of the Islamic law, as its verses contain divine laws. As for other sources of the Islamic law, such as *Sunna* and consensus, they refer to the Qur'ān and are nourished by it.

However, it should be noted that the Qur'ān, whose authority with regard to the issuance is definitely established inasmuch it is transmitted massively from a generation to another, is not totally so with regard to its denotation; for it contains unambiguous (*muḥkam*) and ambiguous (*mutashābih*), the former being, in turn, divided into explicit-definite (*naṣṣ*) whose denotation is definite, and apparent (*ẓāhir*) whose denotation is dependent upon the belief in the authority of appearances. It also contains abolisher and abolished, general and particular, absolute and qualified, and ambiguous and clear which altogether make its denotation indefinite in a good number of its verses. That is why some discussions are presented in this connection in books of *uṣūl al-fiqh*.

M

- ***Mabāhith al-Alfāz* (Discussions of Terms)**

Mabāhith al-alfāz is that part of the science of *uṣūl al-fiqh* in which denotations and appearances of terms are discussed from a general aspect, such as appearance of the imperative in the obligation, that of the prohibition in the unlawfulness, and the like.

- ***Mabāhith al-Ĥudjdja* (Discussions of the Authority)**

Mabāhith al-ĥudjdja is that part of the science of *uṣūl al-fiqh* in which it is investigated whether some specific thing is juristically treated as a proof; for instance, whether report of a single transmitter, appearances, appearances of the Quran, Sunna, consensus, intellect, and the like are authoritative proofs.

- ***Mabāhith al-Mulāzamāt al-‘Aqliyya* (Discussions of Intellectual Implications)**

Mabāhith al-mulāzamāt al-‘aqliyya is that part of the science of *uṣūl al-*

fiqh in which implications of precepts are surveyed even though such precepts may not be inferred from terms, such as discussing truthfulness of mutual implication of intellectual judgments and juristic precepts, of obligation of something necessitating obligation of its preliminaries (known as “the problem of preliminary of the mandatory act”), of obligation of something necessitating unlawfulness of its opposite (known as “the problem of the opposite”), of possibility of conjunction of the command and the prohibition, and so on.

• *al-Mafāhīm* → *al-Mafhūm*

• ***al-Mafhūm***

The Arabic term *mafḥūm* (pl. *mafāhīm*) is used for three different expressions the third of which being meant in the science of *uṣūl al-fiqh*. The first is used to denote “meaning,” and the second to denote “concept” as the opposite of instance (*miṣḍāq*). The third, however, is used in *uṣūl al-fiqh* only to convey a specific meaning equivalent to implicature of a sentence. This meaning is used in opposition to *manṭūq* (the uttered) which means what is denoted by the sentence *per se* in such a way that the uttered sentence is bearing that meaning and is a frame for it. By *mafḥūm*, therefore, is meant what the sentence is not bearing and does not denote comprehensively; rather, it is an “obvious implicature in the most particular sense” of the sentence. (An implicating conceiving of whose implicated implicates conceiving of itself is called “obvious implicating in the most particular sense,” as in “two being twice as one” in which the very conceiving of two implicates immediate conceiving of its being twice as one.) Hence, *mafḥūm* is specifically used for the implicative denotation (*al-dalāla al-iltizāmīyya*).

Let us take an example in order to give a clear insight of *manṭūq* and *maḥbūm* at the beginning of our discussion. Suppose that the jurist has said, “If the water is pure, one can make ablution with it.” In this sentence, *manṭūq* is the content of the sentence, i.e., lawfulness of making ablution with pure water, and *maḥbūm*, should such a sentence have *maḥbūm*, is unlawfulness of making ablution with impure water.

Hence, *manṭūq* can be defined as “a precept denoted by the word where it is uttered,” and *maḥbūm* as “a precept denoted by the word where it is not uttered.” Here, by the precept is meant precept in the most general meaning and not one of the five-fold burdensome precepts. Sometimes the phrase “non-existence where non-existence” (*al-intifā’ ind al-intifā’*) is used for *maḥbūm*, meaning non-existence of the judgment where the condition, qualifier, and the like become non-existent.

• *Mafhūm al-‘Adad* (Number)

Limitation of an object to a specific number will doubtlessly not denote negation of the judgment from others. Thus, this command: “Fast three days of every lunar month” does not mean that fasting other than the three days is not recommended; hence, it does not contradict another proof which commands fasting some other days of every month.

Of course, should the precept be obligation, for instance, and limitation by the maximum number be for determination of the highest level— such as the proof that makes fasting thirty days of Ramaḍān obligatory – it would doubtlessly denote that the more is not mandatory. However, this is not due to the limitation by number having *maḥbūm*, but rather because of peculiarities of the case. Thus,

limitation by number has no *mafḥūm*.

• ***Mafḥūm al-Gḥāya* (Termination)**

Concerning sentences in which a termination occurs, such as the Qur'ānic verse: "Then complete the Fast *unto* the night," (2: 187) and the *ḥadīth*: "Everything is lawful *until* you know that it, itself, is unlawful," it is disputed whether or not qualification by termination denotes negation of *type* of the judgment from other than termination as well as from termination itself should it not be included in the terminated.

The criterion for *mafḥūm* of the termination is the very criterion for that of condition and qualifier [*qq.v.*]. Should the termination be condition for the judgment it would have *mafḥūm* and would denote negation of the judgment from other things, and should it be condition for the object or the predicate only it would not denote *mafḥūm*. Now, the question is that which of those two probabilities can be justified.

What seems to be more justifiable is to hold that the termination is apparent in referring to the judgment and to be a termination for its preceding relation; it is its reference to the object itself or the predicate itself is the one which is in need of depiction and evidence. Hence, the termination has *mafḥūm*.

• ***Mafḥūm al-Ĥaṣr* (Exclusivity)**

It is obviously clear that whatsoever denotes exclusivity definitely denotes *mafḥūm*, since such structure is merely made to convey non-existence where non-existence, otherwise there would be no need to use such structure with such terms and one could simply convey one's desire by using simple words in simple sentences.

• ***Mafhūm al-Laḡab* (Designation)**

By *al-laḡab* is meant any noun used as an object of the judgment, such as the thief in this Qur'ānic verse: "And the *thief*, male and female, cut off the hands of both." (5: 38) *Mafhūm* of the designation means that the judgment does not cover what is not covered by the noun in general.

Since we did not accept that the qualifier [*q.v.*] denotes *mafḥūm*, it is more plausible to hold that the designation does not have such denotation, for the very object of the judgment does not even allude to the judgment being dependent upon the designation, let alone any appearance in the exclusiveness. The ultimate thing understood from the designation is that the *person* of the judgment does not cover what is not generally covered by the noun, but this is far from negation of the *type* of the judgment from another object. It is even said that should the designation have *mafḥūm*, it would be the weakest one.

• ***al-Mafhūm al-Mukhālif* / *Mafhūm al-Mukhālafa* (Disaccording Mafhūm)**

Disaccording is the *mafḥūm* in which the type of precept disaccords with the precept in the *manṭūq*, i.e., if the precept in the *manṭūq* is obligation it is unlawfulness in the *mafḥūm*, if it is unlawfulness in the former it is obligation in the latter, and so forth. There are six instances of this kind, and they are as follows: *mafḥūm* of the condition (*al-shart*), that of the qualifier (*al-waṣf*), that of the termination (*al-ghāya*), that of the exclusivity (*al-ḥaṣr*), that of the number (*al-'adad*), and that of the designation (*al-laḡab*) [*qq.v.*].

• ***al-Mafhūm al-Muwāfiq* / *Mafhūm al-Muwāfaqa***

(Accordant *Mafhūm*)

Accordant is the *mafḥūm* in which the type of precept accords with the precept in the *manṭūq*, i.e., if the precept in the *manṭūq* is obligation it is obligation in the *mafḥūm*, if it is unlawfulness in the former it is unlawfulness in the latter, and so forth – as in the Qur’ānic verse: “Do not say to them (your parents) Fie,” (17: 23) that denotes prohibition of assault and battery which are more insulting and painful than to say “Fie” which is explicitly declared unlawful in the verse.

There is no dispute over authority of accordant *mafḥūm*, in the sense that the precept transmits to that which has priority in terms of motive of the precept.

• *Mafḥūm al-Sharṭ* (Condition)

Doubtless *manṭūq* of the conditional sentence conventionally denotes that the consequent is dependent upon the antecedent. However, conditional sentences are of two kinds:

1. That which is made to depict the object of judgment. In this kind, the antecedent is the very object of the judgment; the judgment in the consequent is dependent upon the condition in the antecedent in such a way that consideration of the judgment without condition is implausible. For instance, in this Qur’ānic verse: “And do not constrain your slave-girls to prostitution if they desire to live in chastity,” (23: 33) supposition of constraining to prostitution is implausible unless when the desire of slave-girls to live in chastity is assumed.

All *Uṣūlīs* are in agreement that such conditional sentences have no *mafḥūm*, since non-existence of the condition means non-

existence of the judgment; hence, to judge that the consequent does not exist is nonsensical except in the way of “negative by non-existence of the object”: it is not to judge that consequent does not exist, it is non-existence of the judgment. Thus, there is no *majhūm* for the verse in question and it cannot be said that if your slave-girls did not desire to live in chastity you should constrain them to prostitution.

2. That which is not made to depict the object of the judgment. In this kind, the antecedent is not the very object of the judgment and the judgment in the consequent is dependent upon the condition in the antecedent in such a way that its consideration without condition is plausible. For instance, when one says, “If your friend did you a favor, do him a favor,” to do one’s friend a favor is not logically dependent upon one’s friend’s doing one a favor, since one can do one’s friend a favor whether the latter does the former a favor or not.

It is this kind of conditional sentence that is a matter of dispute in this discussion. It refers to the dispute whether or not the conditional sentence denotes non-existence of the judgment where the condition becomes non-existent, in the sense that whether or not it is understood from the nature of making the judgment conditional upon the condition that the *type* of precept, obligation for instance, would become non-existent should the condition become non-existent.

In order to have *majhūm*, conditional sentence needs to denote three subsequent affairs, whether conventionally or by absoluteness, as follows:

1. To denote that there is a relation and implication between the antecedent (*al-muqaddam*) and the consequent (*al-tālī*).

2. To denote that, in addition to relation and implication, the consequent is dependent upon, subsequent to, and subject to the antecedent; hence, the antecedent is a cause for the consequent.

3. To denote that, in addition to those two, the antecedent is the exclusive cause, in the sense that there is no parallel cause upon which the consequent can be dependent.

That the *maḥbūm* of the conditional sentence is dependent upon those three affairs is obviously clear; for should the sentence be occasional, or the consequent not be dependent upon the antecedent, or be dependent but not in an exclusive way, the consequent would not become non-existent where the antecedent does not exist. The only thing to be proved is that the sentence is apparent in those three-fold affairs, whether conventionally or by absoluteness, so that it can have *maḥbūm*.

The truth is that the conditional sentence is apparent in those affairs, conventionally in some and by absoluteness in others:

1. As for the relation and existence of necessary connection between the two, it appears that it is conventional – because of *tabādur* [*q.v.*]. It should be noted, however, that it is not because of articles of condition being specified to that so that one may deny it; it is necessitated by the compound disposition of the conditional sentence as a whole.

2. As for the consequent being dependent upon the antecedent, no matter what kind of dependence it might be, it is also conventional; but not in the sense that the sentence is specified twice – one for the implication and another for the dependence – but rather in the sense that it is specified once for the specific

relation which is dependence of the consequent upon the antecedent. Again, the reason is *tabādur* of dependence of the consequent upon its antecedent, as the conditional sentence denotes that the antecedent is situated in the position of supposition and in case of its actualization the consequent will be actualized secondarily, i.e., consequent follows the antecedent in the actualization. In other words, what immediately comes to the mind from the conditional sentence is that its consequent would necessarily be actualized should its condition be actualized. This is obviously clear and cannot be denied, except by someone who is obstinate or negligent, for it is the meaning of dependent-making of something – which is the content of conditional sentence. The conditional sentence has no content other than that; that is why its first clause is called subordinate clause and antecedent and its second clause principle clause and consequence.

3. As for exclusiveness of the condition, it is by absoluteness; for had there been another condition to substitute that one or to be added to it so that they may both make one compound condition, there would have necessarily been an additional depiction either by “or” in the first state or “and” in the second. Now, where dependent-making of the consequent upon the condition is left absolute, it reveals that the condition is independent and inclusive; it has neither a partner nor a substitute or parallel. Otherwise, the wise speaker was mandatorily supposed to depict that where he was in the position of depiction.

In short, there is no doubt that the conditional sentence is apparent in having *mafhum*, except in cases where it is made to depict the object of the judgment or there is contradictory contextual evidence. This can clearly be proved by the following

ḥadīth of the sixth Imām:

Abū Baṣīr asked, “A lamb is slaughtered and blood came out, but no part of its body moved.”

Imām replied, “Do not eat. Ali said, ‘If the leg jerked or the eye blinked, eat.’”

It is clear that Imām’s appeal to Imām Ali’s words cannot be justified except when the conditional sentence has *mafḥūm*, i.e., “If the leg did not jerk or the eye did not blink, do not eat.”

• *Mafḥūm al-Waṣf* (Qualifier)

By *waṣf* in *mafāḥīm* discussions is meant whatsoever can be a condition, in its broadest sense, for the object of burden.

The qualifier here should have an object of qualification, for a case where the qualifier itself is the object of judgment – like this verse: “And the thief, male and female, cut off the hands of both” (5: 38) – is called designation (*laqab*) and should be discussed in the *mafḥūm* of designation. The reason is that there must be a constant object of the judgment which can be both qualified and not qualified by the qualifier so that the negation of judgment can be assumed.

The qualifier here should also be more particular than the qualified either absolutely or in some aspect, since should it be equal or absolute general, it would make no constriction in the qualified so that one can assume negation of the judgment from the qualified where the qualifier is negated. However, the more particular in some respect is considered only with respect to the separation of the qualified from the qualifier and not to that of the qualifier from the qualified, for the object, i.e., the qualifier, should

be preserved in the *mafhūm*; a given object neither proves nor negates any other object. Thus, *mafhūm* of “there is *zakāt* in the pastured sheep” – should there be *mafhūm* for such sentence – would be “there is not *zakāt* in the fed sheep,” and not “there is not *zakāt* in other than the pastured sheep” nor “there is not *zakāt* in other than the pastured, such as camel.”

Anyhow, the dispute in this discussion is that whether the sheer qualification by the qualifier, without there being any contextual evidence, denotes *mafhūm*, i.e., denotes non-existence of the judgment of the qualified where the qualifier does not exist. There are two opinions in this connection, the prominent one being that such sentence has no *mafhūm*. The problem is that whether the qualification understood from the qualifier is the qualification of the judgment which means that the judgment is made dependent upon the qualifier, or it is the qualification of the object of the judgment – or the object of the object (*muta‘allaq al-mawḍū‘*), due to difference of cases – the object or the object of the object being the combination of the qualified and the qualifier altogether. If the first, the qualification by the qualifier is apparent in non-existence of the judgment where the qualifier does not exist; because of absoluteness, for absoluteness necessitates that when dependence of the judgment upon the qualifier is assumed the qualifier should be exclusive – as explained in the qualification by the condition. If the second, however, the qualification by the qualifier is not apparent in non-existence of the judgment when the qualifier does not exist, for this case is included in *mafhūm* of designation. Here, the qualifier and the qualified are merely uttered to limit the object of judgment; the case is not that the object is the essence of the qualified and the qualifier being a condition for judging it. For instance, if the teacher says, “Draw a quadrilateral, perpendicular,

equilateral shape,” it is clearly understood that what he desires is a square and he has expressed his wish by using those terms to allude to that. In this case, the object is the total meaning denoted by the statement, which is a compound of the qualified and the qualifier, i.e., “a quadrilateral, perpendicular, equilateral shape” in the example which is in place of square. Thus, as the sentence “draw a square” does not denote non-existence where non-existence, what is in its place does not denote either, for it is in fact like a qualifier which is not dependent upon a qualified.

Now, what is the justifiable opinion? The appearance of the qualifier *per se* and without any contextual evidence is the second, i.e., it is a condition for the object and not the judgment. Thus, the judgment is absolute with regard to it; hence, there is no *mafhum* for the qualifier.

- *al-Mandūḥa* → *Idjtimā‘ al-Amr wa’l Nahy*
- *al-Manṭuq* → *al-Mafhūm*
- ***al-Marra* (Once)**

There is a dispute among *Uṣūlis* whether the imperative *per se* conventionally denotes once or repetition, and the justifiable opinion is that neither of them is denoted by the imperative *per se*, for the imperative denotes merely the wishful relation (→*al-amr*) and nothing else. Of course, obedience to the command necessitates bringing about at least one instance of the nature of the act, for not doing that is equivalent to disobedience. However, the absoluteness of the mode necessitates that performing the mandatory act once is enough; for the Lord's desire can only be considered as one of the three following probabilities:

1. The desired is sheer existence of the thing without any proviso or condition, in the sense that He wishes that His desired should not remain non-existent but rather come out from darkness of non-existence into the light of existence – even though through one single instance. In such case, the desired would necessarily be actualized and obeyed by the first existent and doing the mandatory act more would merely be a vain performance; its example being daily prayers.

2. The desired is one existence with the proviso of unity, i.e., it is conditional upon not being more than the first existence. In such case, should the duty-bound perform it twice, he has absolutely not obeyed the command; its example being the inaugural *takbīr* (saying “God is the greatest”) of daily prayers, since the second nullifies the first and becomes null itself.

3. The desired is the repeated existence; either conditional upon repetition, i.e., the desired being the whole as a whole and hence obedience not being actualized by doing the mandatory act once such as *rakʿas* of one prayers, or unconditioned with regard to its repetition, i.e., the desired being each of existences, such as fasting in days of Ramaḍān inasmuch as each day has its specific obedience.

Doubtless the two later facets are in need of more depiction. Thus, should the Lord, who is in the position of depiction, command in an absolute way and do not qualify His command to any of those two facets, it would be discovered that He has wished the first facet. Hence, the obedience, as was said earlier, would be actualized by the first existence and the second one would be considered neither disobedience nor obedience.

• ***Mas'ala al-Īdidd* (Problem of the Opposite)**

Uṣūlīs have disputed whether or not to command something necessitates prohibiting its opposite. By the opposite in this discussion is meant that which is incompatible, in its broadest sense, with something else; hence, it covers both the “opposite” and the “contradictory” in their philosophical senses – the former being an existential while the latter being a non-existential affair. That is why *Uṣūlīs* have divided the opposite into “the general opposite (*al-īdidd al-‘amm*)”, i.e., eschewal and not doing which is non-existential, and “the particular opposite (*al-īdidd al-khāṣṣ*)”, i.e., the existential, incompatible affair, such as eating with regard to prayers.

The dispute is, then, whether or not something commanded by the Lord would necessitate, intellectually or literally, that He, as He is the Lord, has prohibited its general or particular opposite. If positive, there is another dispute over how this can be proved.

• *al-Mubayyan* → *al-Mudjmal*

• ***al-Mudjmal* (Ambiguous)**

By “ambiguous” is meant what whose denotation is not clear. In other words, ambiguous is the word or act by which it is not clear what the speaker or doer has meant. Thus, ambiguous is the word or act which has no appearance, contrary to the “clear” which has an appearance denoting what is meant by the speaker or doer in the way of conjecture or certitude. Hence, clear covers both the apparent (*ẓāhir*) and the explicit-definite (*naṣṣ*).

As for the ambiguous *act*, its mode of occurrence is not understood; for instance, when the holy Imam performs ablution in circumstances

of possibility of dissimulation in which it is not understood whether he had dissimulated (so that it would not denote lawfulness of such performing) or he had performed it in the manner of actual ablution (so that it would denote its lawfulness), or when the holy Imam performs an act in his prayers and it is not understood whether it is done as a mandatory or a recommended act and hence it becomes ambiguous in this respect – though it is clear with respect to its denotation that such an act is lawful and not forbidden.

As for the ambiguous *word*, there are so many things that cause ambiguity in words. For example, where the word is homonymous but used without evidence, where the word is used in a figurative manner but without evidence, where it is not clear to what the pronoun refers, where the sentence suffers from incorrect arrangement, where the speaker is in the position of ambiguity and negligence, and so forth.

Ambiguity and clarity are not absolute, since something may be ambiguous for someone but clear for someone else, and a clear affair may be so by itself and may become so by another affair which clarifies it.

• ***al-Mukhālafa al-Qaṭʿiyya* (Definite Opposition)**

Al-Mukhālafa al-qaṭʿiyya is to ignore the summary-fashioned knowledge (→ *al-ʿilm al-idjmalī*) and commit all doubtful things, e.g., to drink all four bowls of water one of which is definitely polluted. Here, the duty-bound has definitely opposed the Lord's command to avoid drinking religiously polluted water – and that is why it is called definite opposition.

• ***al-Mukhaṣṣis* (Restrictor)**

In case of restriction ($\rightarrow al-takḥṣīs$), what expels something from being covered by the ‘*amm* [q.v.] judgment is called *mukhaṣṣis*. For instance, should it be said “respect all scholars except evil-doer ones,” “except evildoer ones” is *mukhaṣṣis*.

• ***al-Mukhaṣṣis al-Munfaṣil* (Separate Restrictor)**

Should the restrictor ($\rightarrow al-mukhaṣṣis$) not be depicted in the same single utterance delivered by the speaker but rather in an independent utterance before or after that, such as “perform your prayers completely,” and “do not perform your prayers completely when travelling,” it is called *separate* and like the joint restrictor ($\rightarrow al-mukhaṣṣis al-muttaṣil$) denotes that by general is meant other than the particular; with a difference, that is, in the joint restrictor the appearance is not formed but in peculiarity while in the separate restrictor the appearance is initially formed in generality but since the appearance of the particular is stronger it is given precedence over the general – and this is due to the principle of giving the more apparent (*al-aẓhar*) or the explicit, definite (*al-naṣṣ*) precedence over the apparent.

• ***al-Mukhaṣṣis al-Muttaṣil* (Joint Restrictor)**

Should the restrictor ($\rightarrow al-mukhaṣṣis$) be depicted in the same single utterance delivered by the speaker, such as “perform your prayers completely except when travelling,” it is called *joint* and denotes that by general is meant other than the particular. The case is the same with the circumstantial evidence denoting peculiarity in such a way that the speaker can count on it in depicting his will.

• *Muqaddimāt al-Ĥikma* (Premises of Wisdom)

Since terms are designated for the essence of meanings and not for the meanings as they are absolute, there must be particular or general evidence which make the speech *per se* apparent in the absoluteness in order to prove that by the term is intended the absolute and to make the judgment penetrate to all instances. Such general evidence will exist only if the three following premises exist:

1. Possibility of absoluteness and qualification. This exists where the object of judgment is capable of division before being judged, since if it is capable of division only after being judged the qualification will be impossible.

2. Lack of any evidence, neither joint (\rightarrow *al-mukḥaṣṣis al-muttaṣil*) nor separate (\rightarrow *al-mukḥaṣṣis al-munfaṣil*). The joint evidence forms the appearance of the speech only in the qualified. As for the separate evidence, although an appearance in the absoluteness takes form for the speech, that appearance is not an authoritative proof – because of existence of the evidence, which should be given precedence. That appearance, therefore, is a primary one leaving no room for the principality of absoluteness.

3. The speaker being in the position of depiction. Should the speaker not be in the position of depiction, but in the position of law-making only or in that of depicting another precept, no appearance in the absoluteness would take form for the speech. For instance, in the verse 4 of sūra 5: “and such hunting dogs as you teach...eat what they catch for you,” the Almighty is in the position of depiction of lawfulness of what hunting dogs catch and not in that of purity of parts bitten by dogs so that one can refer to the absoluteness of the

speech and judge that such parts are juristically pure and they need not to be purified by water.

What should one do if one doubts whether or not the speaker is in the position of depiction? The principle in such cases is that the speaker is in the position of depiction, for as the wise treat the speaker as being attentive not unconscious and serious not joking when they doubt that, they treat him as being in the position of depiction and explanation not in that of negligence and ambiguousness.

The premises mentioned above are called premises of wisdom. The conclusion is that any speech capable of being qualified but not being qualified by a speaker who is wise, attentive, serious, and in the position of depiction is apparent and an authoritative proof in the absoluteness, in such a way that both the speaker and the listener can refer to its absoluteness in the position of argumentation.

• *Muqaddima al-Wāḍiḥ* (Preliminary of the Mandatory Act)

It is absolutely clear for every wise man that if something is mandatory while its actualization is dependent upon some preliminaries it is necessary for him to acquire those preliminaries in order to actualize that act through them. This is for certain. The only thing which is a matter of doubt and dispute among *Uṣūlīs* is that whether or not this intellectual necessity reveals a juristic necessity as well, i.e., whether juristic obligation of something necessitates intellectually the juristic obligation of its preliminaries. In other words, the intellect doubtlessly judges that preliminaries

of a mandatory act are mandatory. Now, does it judge that they are mandatory with the divine lawgiver as well? Thus, the intellectual implication between intellectual judgment and juristic obligation is the matter of dispute here.

The outcome of this discussion is deduction of juristic obligation of preliminaries in addition to their intellectual obligation, and this is enough as an outcome of a problem in *uṣūl al-fiqh*. However, this is not a practical outcome, for when preliminaries are intellectually mandatory the duty-bound has no way to leave them undone, and in such case to believe in their obligation or non-obligation is of no use. Nevertheless, there are a lot of scholarly outcomes for this discussion on the one hand and it is related to a good number of practical, juristic problems on the other – something that *Uṣūlis* cannot ignore. That is why this discussion mostly deals with such problems as varieties of conditions and preliminaries, their possibility or otherwise, and the like; and discussing the very implication seems somehow a marginal issue.

As for the opinions with regard to juristic obligation of the preliminary of the mandatory act, various differentiations are made by *Uṣūlis*. The justifiable opinion, however, is that it is absolutely not mandatory. For, as proved in discussions of independent intellectual proofs, in cases where judgment of intellect for necessity of something exists in such a way that it calls the duty-bound to do that thing there will remain no room for the Lord's command as He is the Lord. The discussion in question is among such things with respect to the cause, for if the command to that which has preliminary calls the duty-bound to do the commanded act, that call will necessarily, due to the judgment of intellect, make him actualize whatever the commanded act is dependent upon in order to acquire that act. And with the assumption of existence of

that motive in the duty-bound's soul there will remain no need for another motive from the Lord while He, as was assumed, knows that such motive exists; for the Lord as He is the Lord commands only for the sake of motivating the duty-bound to do the commanded act and establishing motive in his soul where there is no motivation. Furthermore, to establish a second motive from the Lord in such case is impossible, for it is acquiring what is already acquired – something impossible.

In other words, if the command to that which has preliminary is not enough to call the duty-bound to do the preliminary, no command to the preliminary will be enough to call to the preliminary as it is preliminary; and if the command to that which has preliminary is enough to call and motive to the preliminary, no need will remain for the command from the Lord – rather it is in vain, or impossible, since it is acquiring what is already acquired. That is why commands to some preliminaries should be predicated upon being guides to consideration of such preliminaries as conditions for the mandatory act – as is the case with all commands where there exists an intellectual judgment.

• ***al-Muqayyad* (Qualified)**

A term which is not left absolute ($\rightarrow al-iftlāq$) but is qualified by something is called *muqayyad*; such as “slave” in “free a believer slave,” which is qualified by “believer.” That is why to free an unbeliever would not be enough and the duty-bound should free a believer slave.

• ***al-Muradjdjīh āt* (Preferrers)**

According to *ḥadīths*, if one of the two contradictory proofs is

endowed with a preferrer, it should definitely be taken; but what the preferers are is a matter of dispute. Such preferers differ in cases of contradiction ($\rightarrow al\text{-}ta'arud$) and interference ($\rightarrow al\text{-}tsazāhum$). The former include such affairs as being in accordance with celebrity, conforming to the holy Qur'ān, not being uttered due to dissimulation, positive qualities of transmitters, and the like. As for the latter, preferers refer to the importance of one of the two proofs in the view of divine lawgiver: what is more important in His view is the one which should be given priority.

• *al-Mush_htaqq* (Derived)

As there is no precise word in English to convey the meaning of *al-mush_htaqq* in its *uṣūlī* sense on the one hand and there are some specific expressions in this discussion on the other, we have to take the example of somebody or something which possesses a quality and then loses it in order to clarify the topic. In the discussion of *mush_htaqq*, somebody or something that may or may not possess a quality while in both cases he or it permanently exists is addressed as *al-dhāt*, the quality as *al-mabda'*, to possess the quality as *al-talabbus*, to lose the quality as *inqida' al-talabbus*, and what is abstracted and derived from the quality as *al-mush_htaqq*.

For the purpose of clarification of this complicatedly presented discussion, let us take an example. Suppose that Ali has finished the high school, he is now studying law at a university, and he will definitely become a judge when he is graduated.

A. If we say, "Ali *was* a student," "Ali *is* a university student," and "Ali *will be* a judge" we are literally correct. In those examples we are using exactly the time when "student," "university student," and "judge" are attributed to Ali. That time is called "the time of

possession (*ḥāl al-talabbus*).” Thus, when we attribute something to somebody or something else in the time when the former possesses the latter, we are *literally* correct and there is no dispute over this among *Uṣūlīs*.

B. If we say, “Ali *is* a judge” we are attributing something to Ali when he has not possessed it yet, i.e., the time of attribution (*ḥāl al-isnād*) is different from that of possession (*ḥāl al-talabbus*) which will be in the future. In this case, we are *figuratively* correct, since Ali will be a judge in the future; and this point is also not a matter of dispute among *Uṣūlīs*.

C. Now, suppose that Ali finished the university course, was appointed as a judge, finished his thirty years of duty, and became retired having no position in the juristic system. In this case, if we say, “Ali *was* a judge” we are literally correct, since we used the time of possession, and there is no dispute over this. But how would be the case if we would say, “Ali *is* a judge”? Is this usage correct literally or figuratively? Such case, i.e., when something is attributed to somebody or something else because he, or it, has possessed it in the past, is the matter of dispute among *Uṣūlīs*: some consider it as being literally and others as being figuratively correct.

The justifiable opinion is that it is used figuratively in such case, for it does not precede other meanings in coming to our mind on the one hand and it is correct to divest it of someone who is no longer in that position on the other. In other words, signs of literalness do not exist; hence, such usage is figurative.

So far the problem is clarified in a simple way. However, we need to explain some specific terms used in this discussion by *Uṣūlīs* to become able to present this discussion in its normal

scholarly way. To sum up what was explained in a simple way in its specific scholarly way, note the following:

1. To use *al-mushtaqq* with regard to *ḥāl al-talabbus* is absolutely a literal usage, whether the time used is past, present, or future (as explained in A) – without there being any dispute among *Uṣūlīs*.

2. To attribute *al-mushtaqq* to the *dhāt* presently, i.e., with regard to *ḥāl al-isnād* before the time of *al-talabbus* because the *dhāt* will possess it later on (as explained in B), is a figurative usage – without there being any dispute among *Uṣūlīs*.

3. To attribute *al-mushtaqq* to the *dhāt* presently, i.e., with regard to *ḥāl al-isnād* when it no longer possesses the *mabda'* merely because it has had it in the past (as in the second example in C), is the matter of dispute among *Uṣūlīs* whether it is a literal or a figurative usage.

This dispute manifests its result in some juristic precepts. For instance, according to some *ḥadīths* performing minor ablution with some water warmed by the sun is disapproved. “The water warmed by the sun” is a *mushtaqq*. Suppose that such water has now become cold. A jurist who holds that calling that water “warmed by the sun” is literally correct gives verdict that performing minor ablution with that water is still disapproved, while the one who maintains that such calling is a figurative usage does not treat such an ablution as being disapproved.

• *al-Mustaqillāt al-‘Aqliyya* (Independent Intellectual Proofs)

Independent intellectual proofs are those whose both minor and major premises are intellectual, such as “justice is intellectually

good,” and “whatsoever is intellectually good is juristically good,” which results that “justice is juristically good.” This kind is usually discussed in the science of theology (*kalām*) and not *uṣūl al-fiqh*, as it is the major dispute between *Ashāʿira* and *ʿAdliyya* (including both *Muʿtaẓila* and *Shiʿa*).

- *al-Muṭlaq* → *al-Iṭlāq*

- ***al-Muwāfaqa al-Qaṭʿiyya* (Definite Obedience)**

Al-Muwāfaqa al-qaṭʿiyya is to avoid all parts of the summary-fashioned knowledge (→ *al-ʿilm al-idjmālī*) and not to commit even a single doubtful thing, e.g., not to drink even one bowl of water of four bowls one of which is definitely polluted. Here, the duty-bound has definitely obeyed the Lord’s command to avoid drinking religiously polluted water, no matter which of those bowls is polluted – and that is why it is called definite obedience.

N

- *Nafs an lā Taf'al* → *Kaff al-Nafs*

- ***al-Nahy* (Prohibition)**

By *al-nahy* (the prohibition; pl. *al-nawāhi*) is meant wish of the superior from the inferior to eschew and not to do an act, whether by such terms as “I prohibit you” or by any other mode; or, to be more precise, the superior's dissuading and forbidding the inferior from doing an act whose requisite being wish of eschewing and not doing that act.

The prohibition is like the command in denoting necessity and obligation intellectually and not conventionally (→ *al-amr*). The only difference is that the purpose in the command is obligation of doing while in the prohibition is that of eschewing. Therefore, the prohibition is apparent in the unlawfulness as the command was apparent in the obligation.

It should be noted that by “act” in the definition of prohibition

is meant what is conveyed by the infinitive, even though it may not be an existential affair. Thus, “Do not leave the prayers” is a prohibition while “Eschew drinking wine” is a command – though it means “Do not drink wine.”

• *al-Naskh* (Abolishment)

Terminologically, *naskh* (abolishment) denotes removal of what is established in the religion, such as precepts and the like. By “establishment in the religion” is meant the real, actual establishment and not the apparent one because of literal appearance. That is why the removal of a precept which is established by the appearance of generality or absoluteness through a restrictor or a qualifier proof is not called *naskh*, but rather restriction, qualification, and the like. In the latter, the second proof which is given precedence over the appearance of the first is contextual evidence revealing the real intent of the divine lawgiver; it does not remove that precept but apparently, without any real removal of the precepts – contrary to the abolishment – and this is the real difference between abolishment on the one hand and restriction and qualification on the other.

The phrase “precepts and the like” is added so that the definition may cover both burdensome and conventional precepts as well as whatsoever whose establishment and removal is entrusted to the divine lawgiver as He is the Lawgiver. Thus, abolishment does not include existential things which are made by the divine lawgiver as He is the Creator.

Although some have doubted possibility of abolishment in general and that of the holy Qur’ān in particular, their arguments are absolutely inconsiderable.

It should be noted that it is a matter of consensus among all Muslim scholars of any sect that no Qur'ānic verse can be treated as abolished except where its abolishment is proved by a definite proof. It is also a matter of consensus that there are abolisher and abolished verses in the holy Qur'ān. The only matter of dispute is recognition of cases of abolishment. Thus, cases whose abolishment is proved definitely, which are very few, are treated so in *fiqh*. However, if the abolisher is conjectural and not definite, it is not an authoritative proof and must be ignored.

• ***al-Naṣṣ* (Explicit-Definite)**

When a *term* is explicitly used in a meaning in such a way that no other meaning is probable, it is called *naṣṣ*. See also: *ẓāhir*.

In another application, where the term is not concerned, *naṣṣ* is used as an equivalent to *proof* in its general sense.

• *al-Nawābī* → *al-Nahy*

Q

• *Qā'ida Qubh 'Iqāb bilā Bayān* (Principle of Reprehensibility of Punishment without Depiction)

The intellect undoubtedly judges that punishment without depiction is reprehensible. In other words, it judges independently, without any need to religious judgments, that it is reprehensible to reproach and punish someone without there being a depiction available to him – of course when he has made a thorough quest for probable existing proofs but has found nothing. This intellectual rule, which cannot be a matter of dispute, is called *qā'ida qubh 'iqāb bilā bayān* (principle of reprehensibility of punishment without depiction).

• *Qā'ida al-Yaqīn* (Rule of Certainty)

This rule, in which the doubt is called the penetrative doubt (*al-shakk al-sārī*), deals with the case where one doubts the very thing one was certain of. For instance, one is certain on Friday that one's cloth is religiously pure, then on Saturday one doubts whether

one's cloth *was* religiously pure on Friday. In such case, the doubt penetrates to Friday and the certainty of Friday changes into doubt. Such case is not included in the proofs of authority of *istiṣḥāb* [q.v.], for it is not "to judge that what has previously been is subsistent," as nothing has previously been certain. On the other hand, there is no other proof in favor of this rule; that is why it cannot be treated as an authoritative proof for religious precepts.

• *al-Qaṭʿ* (Certitude, Knowledge)

Since *qaṭʿ* (certitude, or knowledge, i.e., that which is one hundred percent for certain) is essentially a path to the factuality, its authority is essential, i.e., it is raised from the very nature of its essence and is not taken from something else. The certitude must necessarily be followed, that necessity being an intellectual one originated by the fact that certitude is *per se* a path to the factuality and its reality is the very manifestation of the actuality. Thus, the essence of certitude is the very manifestation; it is not something which is endowed with manifestation. Since the certitude is essentially a path it is neither plausible to be made a path by the divine lawgiver nor is it possible to be negated as a path; for both making and negating the essence and its requisites are impossible. Therefore, the certitude is an authoritative proof whatever its cause may be (contrary to *Akḥbārīs*, who hold that certitude should not be followed when it is caused by intellectual preliminaries), for whomever it may be actualized (contrary to those who maintain that certitude is not valid if actualized for someone who becomes certain too much and too quickly (*al-qaṭṭāʾ*)), and whatever its object of denotation may be. In all such cases, the certitude is essentially a path to the actuality, and that is why no affirmative or negative change can be made in it. Yea, the

only thing possible is to make the one who is wrongly certain realize that there is something wrong in the preliminaries of one's certitude. In that case, one's certitude will necessarily be changed into either possibility of or certitude in the contrary view – and there is nothing wrong with that.

• *al-Qiyās* (Juristic Analogy)

Qiyās, to be defined precisely later, is a matter of major dispute among Muslim scholars of different sects. Following their infallible-innocent Imams, Shi'a scholars have denied its authority; and among Sunni sects, followers of Dāwūd b. Khalaf, called al-*Zāhiriyya*, and *Ĥanbalīs* hold the same. The first one who took the analogy into consideration and used it widely was Abū *Ĥanīfa* (in the second Hijri century). That method, however, was later on adopted by *Shāfi'īs* and *Mālikīs* and used by some in such an extremist way that they preferred it to the consensus and rejected some *ḥadīths* by it.

Definition of *Qiyās*

Qiyās is defined variously the best of which being “establishment of a precept for something by a motive (*'illa*) because of its establishment for something else by that motive.” The first thing is called “subordinate (*far'*),” the second “principle (*aṣl*),” and the common motive “encompassing (*djāmi'*).” In fact, *qiyās* is a function performed by the arguer in order to infer a juristic precept for something whose precept is not depicted by the divine lawgiver inasmuch as such a function provokes certainty or conjecture as to the precept of that thing. This function is the very predication of the subordinate upon the principle with regard to

the proved precept of the principle through which the arguer grants the same precept to the subordinate – if obligation, obligation; if unlawfulness, unlawfulness; and so forth – in the sense that he argues that the subordinate should have the same precept with the principle because of commonness of the motive. Thus, that arguer's function becomes a proof for religious precepts, since it provokes certainty or conjecture that the divine lawgiver has the same judgment.

Shiite Position on *Qiyās*

Following Ahl al-Bayt, Shrī'a scholars have absolutely denied authority of *qiyās*, for it provokes nothing but conjecture (which, according to the Quran (10: 36), avails naught against truth) on the one hand and no acceptable, definite proof is argued to support it on the other. One *ḥadīth* will suffice to present Shiite position on *qiyās*:

Abān b. Taghlib narrates that he asked Imām Dja'far al-Sādiq (the sixth Imām), "What do you say on compensation of a woman's finger cut by a man?"

Imām replied, "Ten camels."

I asked, "Two fingers?"

Imām replied, "Twenty."

I asked, "Three?"

Imām replied, "Thirty."

I asked, "Four?"

Imām replied, "Twenty."

Being astonished, I asked, "A man cuts three fingers of a woman and gives thirty camels but cuts four fingers and gives twenty?! We

heard this when we were in Irāq and we used to say one who said this was Satan!”

Imām replied, “Calm down Abān! This is the holy Prophet’s judgment that woman equals man up to the third of compensation, but when it comes to the third hers becomes half. O Abān, you are arguing *qiyās*, while arguing *qiyās* against Sunna obliterates the latter.” (al-Kulanī, 7: 300)

S

- *al-Sabab* → *al-Ṭarīq*
- *al-Ṣaḥīḥ wa'l A'amm* (Sound and What Incorporates Both)

There is a dispute among *Uṣūlīs* whether terms of acts of worship and transactions are designations specified for sound meanings (i.e., perfect in terms of parts and conditions) or for what incorporates imperfect (*al-fāsid*) ones as well. In other words, when such term is used, should it be predicated only to perfect instances or could it be predicated to imperfect ones too? The justifiable opinion is the second, i.e., terms being specified for what incorporates both, since it is the denotation of preceding (*al-tabādur*) and incorrectness of divesting (*'dam ṣiḥḥat al-salb*) [qq.v.] which are two signs of literalness. When we think of a term, what incorporates both comes to the mind first and precedes the sound, and also it is not veracious to divest the term of the imperfect instance.

• *al-Shakk al-Sārī* → *Qā'ida al-Yaqīn*

• ***al-Shubha Ghair al-Mahṣūra* (Large-Scale Dubiety)**

This is a kind of doubt dealt with in the discussion of *aṣāla al-ihṭiyāṭ* [q.v.]. Contrary *al-shubha al-mahṣūra* [q.v.] whose definition is clear, several definitions are presented for the large-scale dubiety some of which being as follows:

1. It is treated by people as being large-scale dubiety, such as one in one thousand.

2. The parts are abundant in such a way that counting them in a short time, or absolutely, is difficult.

3. The parts are abundant in such a way that the wise do not take the summary-fashioned knowledge existing among them into consideration and treat it as no knowledge.

4. Abundance of parts causes hardship and difficulty with the definite obedience, and it is clearly known in the Islamic jurisprudence that the hardship removes duties.

5. Abundance of parts is that much that weakens the probability in each of them. There is consensus among *Shī'a* scholars that precaution is not mandatory in this kind.

• ***al-Shubha al-Ḥukmiyya* (Dubiety concerning the Precept)**

When the doubtful is a universal precept, such as doubting whether smoking is unlawful or it nullifies fasting, the dubiety is called *al-shubha al-ḥukmiyya*. This is a kind of doubt dealt with in the discussion of *aṣāla al-barā'a* [q.v.].

• *al-Shubha al-Mafhūmiyya* (Dubiety concerning the Concept)

In the discussion entitled “penetration of ambiguity of the restrictor to the general” the authority of the general in the case of ambiguity of the particular is thoroughly discussed. It is mentioned there that the said ambiguity is of two types, one being that of the concept – a problem called “the dubiety concerning the concept.” In this case, the doubt is about the concept of the particular *per se*, i.e., the particular is ambiguous; such as this *ḥadīth*: “Every water is juristically pure except what its taste, color, or smell is polluted [by a juristically impure object],” in which it is doubted whether by pollution is meant the sheer sensory pollution or it includes the assumed pollution as well. Or this order, for instance, by the commander: “Trust soldiers of the squadron except John,” in which it is doubted whether John refers to John Smith or John Cooper.

The dubiety in this type is, in turn, divided into “over the least and the most (*dawarān bain al-aqall wa'l-akthar*),” like the first example in which it was doubted whether the sheer sensory pollution is excepted or the restriction includes the assumed change as well (the least being the sensory pollution, and the most being what incorporates the assumed as well), and “over two divergent things (*dawarān bain al-mutabayinayn*),” such as the second example in which the restriction is doubted whether it addresses John Smith or John Cooper. See also: *al-mudjmal*.

• *al-Shubha al- Maḥṣūra* (Small-Scale Dubiety)

When the doubtful exists between two or more specified and limited things, the dubiety is called *maḥṣūra*. For instance, one knows that the liquid existing in one of these two or more

specified bowls is religiously impure and its drinking, therefore, is unlawful. This is a kind of doubt dealt with in the discussion of *aṣāla al-iḥtiyāṭ* [q.v.].

• ***al-Shubha al-Mawḍūʿiyya* (Dubiety concerning the Object)**

When the duty-bound knows the precept but wonders whether certain thing is an instance of the object, the dubiety is called *mawḍūʿiyya*. For instance, one definitely knows that drinking wine is forbidden but wonders whether this liquid in this glass *is* wine or not. This is a kind of doubt dealt with in the discussion of *aṣāla al-barāʾa* [q.v.].

• ***al-Shubha al-Miṣdāqiyya* (Dubiety concerning the Instance)**

In the discussion entitled “penetration of ambiguity of the restrictor to the general” the authority of the general in the case of ambiguity of the particular is thoroughly discussed. It is mentioned there that the said ambiguity is of two types, one being that of the instant – a problem called “the dubiety concerning the instant.”

Here, the doubt is about the inclusion of an instance of the general in the particular while the concept of the particular is clear without any ambiguity. For instance, concerning this *ḥadīth*: “Every water is juristically pure except what its taste, color, or smell is polluted [by a juristically impure object],” we doubt whether specific water has been polluted by something juristically impure and has been included in the precept of the particular or not and still holds its purity. See also: *al-mudjmal*.

• ***al-Shubha al-Taḥrīmiyya* (Dubiety as to Unlawfulness)**

When the dubiety is over unlawfulness, e.g., whether certain act is prohibited by the divine lawgiver, the dubiety is called *al-shubha al-taḥrīmiyya*. This is a kind of doubt dealt with in the discussion of *aṣāla al-barā'a* [q.v.].

• ***al-Shubha al-Wudjūbiyya* (Dubiety as to Obligation)**

When the dubiety is over obligation, e.g., whether certain prayers in certain case is made mandatory by the divine lawgiver, the dubiety is called *al-shubha al-wudjūbiyya*. This is a kind of doubt dealt with in the discussion of *aṣāla al-barā'a* [q.v.].

• ***al-Shuhra* (Celebrity)**

Literally, *al-shuhra* means obviousness and clarity of something. Terminologically, however, it is of two applications: one is in the science of *ḥadīth* where any *ḥadīth* whose transmitters are less than the level of massive report (*mutawātir*) is called *mashhūr* (i.e., celebrated) or sometimes *mustafīd*, and the other is in the jurisprudence where any opinion of jurists on a juristic problem which is abundant but not at the level of consensus is called *mashhūr* (and sometimes the very jurists are called the same, as in “*mashhūr* says so,” or “*mashhūr* holds that...”).

Thus, *shuhra* is of two varieties:

1. *Shuhra* in the *ḥadīth*. In this kind, it is not necessary that jurists should have taken that *ḥadīth* into consideration in a celebrated way as well; they may or may not do so. However, such celebrity provokes preference of the celebrated *ḥadīth* over others, and that is why the celebrated *ḥadīth* is an authoritative proof from this aspect.

2. *Shubra* in the verdict, meaning celebrity of a verdict of jurists which provokes the belief in its conformity to the factuality – though not at the level of certitude. This is, in turn, of two varieties:

2.1. It is known that such *shubra* is dependent upon a specific *ḥadīth* available to us. This kind is called “practical celebrity (*al-shubra al-‘amaliyya*)” and it is discussed in the science of *uṣūl al-fiqh* whether it compensates for the weakness in the chain of transmission and/or for the weakness in the denotation.

2.2. It is not known on what that celebrity is dependent, whether there exists a *ḥadīth* in conformity with the celebrity but the celebrity did not consider it or it is not known whether the celebrity has considered it, or there is no *ḥadīth* at all. This kind is called “celebrity of verdict (*al-shubra al-fatwā’iyya*).”

It is this celebrity of verdict that is the matter of dispute here, for some jurists have allegedly held that this kind of celebrity, as it is celebrity, is an authoritative proof over juristic precepts and, like single report, should be included in particular conjectures, while others hold that there is nothing that can confirm its authority.

• *al-Sīra* (Custom)

By the custom is meant continuity of practical conduct of people to do or to leave something. By people, in turn, is meant either all people of every folk and creed, whether Muslim or non-Muslim – this custom being called “the custom of the wise (*sīra al-‘uqalā*)” and by recent *Uṣūlīs* “the conduct of the wise (*binā’ al-‘uqalā* [q.v.])” – or only Muslims as they are Muslims or a specific sect of Muslims such as *Shī’a* – this custom being called “the custom of

people of the religion (*sīra al-mutasharri'a* [q.v.]),” or “the religious custom (*al-sīra al-shar'iyya*),” or “the Islamic custom (*al-sīra al-Islāmiyya*).”

• ***Sīra al-Mutasharri'a* (Custom of People of the Religion)**

The custom of people of religion, i.e., Muslims, to do or to eschew something (\rightarrow *al-sīra*) is in fact a kind of consensus. It is even the highest level consensus, for it is an actual consensus of all Muslims while consensus on verdicts is a literal one and made only by scholars.

Such conduct is of two kinds, for it is sometimes known that it has been prevalent in the time of infallible personalities in such a way that the infallible personality has exercised, or, at least, confirmed it, and sometimes that is not known or it is known that such custom has appeared after infallible personalities' time.

If the former, that custom is undoubtedly a definite, authoritative proof for agreement of the divine lawgiver and is, *per se*, an indicator of religious precepts. It is this point that differentiates between custom of the people of religion and custom of the wise; for the latter is in need of another proof proving its confirmation by the divine lawgiver, even though through lack of establishment of His prohibition.

As for the latter, there is no way to rely on that for discovering agreement of infallible personalities in a certain manner, as was the case with consensus. The case is even worse and lower with this one, as will be explained. Consideration of the way customs take shape in human communities, including Muslims', clarifies the influence of irreligious habits on human emotions: some influential person does something in order to satisfy his own desires or for

some other reason such as imitating other cultures, then comes someone else who follows the first, and thereby the act continues and gradually becomes prevalent among people without there being someone who prohibits them from that wrong act because of neglectfulness, heedlessness, fear, and the like. That act is conveyed by the first generation to the second and other coming generations and becomes a custom of Muslims. In this case, should someone cast doubts upon that custom, which has become sacred with the passage of time, and blame Muslims because of their heedlessness, he would definitely be treated as someone against the Islamic laws and customs.

That is why we cannot treat present Muslim customs as being present in early Islam; and when we doubt authority of something we have to treat it as unauthorized, for there is no authority but through knowledge and certainty.

As for the extent of an authorized custom of people of religion, it proves lawfulness of something if it is a custom of doing, and lawfulness of eschewing and lack of obligation if it is a custom of eschewal. There is no denotation of obligation or unlawfulness, even preference or disapproval, in any custom of doing or eschewing; for the act is, *per se*, ambiguous having no denotation more than lawfulness of doing or eschewing.

• *al-Sunna*

Among Sunni jurists, *Sunna* (lit. lifestyle) is “word, act, and acknowledgment (*taghrir* → [*q.v.*]) of the Prophet.” That expression is originated by Muslim’s being commanded by the holy prophet to follow his *Sunna*. Then, wherever the word *Sunna* is used in an absolute manner without being attributed to anyone, it is

interpreted specifically as what contains a precept declared by the holy prophet, whether by his word, act, or acknowledgment.

As for Shiite jurists, since it is proved for them that words of infallible-innocent Imāms of the Household of the Prophet are, like those of the Prophet, authoritative proofs, they expanded the expression *Sunna* so that it may include “word, act, and acknowledgment of the infallible-innocent personality.” The secret of that expansion is that holy Imāms are not like transmitters of words of the holy prophet so that their words should be authoritative proofs because they are trustworthy in transmission, but rather because they are appointed by God via the holy prophet in order to deliver factual precepts. That is why they do not make any judgment but in accordance with factual precepts as they are with God, and that happens either through inspiration, as happens for the holy prophet through revelation, or through receiving from the previous infallible-innocent personality, as Imam Ali said, “The holy prophet taught me a thousand windows of knowledge through each one opens for me a thousand windows.” Therefore, their declaration of precepts is not of kind of transmission and narration of *Sunna*, nor of kind of *idjtihad* and inference from sources of law-making; but rather, they are themselves a source for law-making. Thus, their words are *Sunna* and not transmission of *Sunna*. However, they sometimes narrate traditions from the holy prophet, for the sake of transferring his precious epigrams, for arguing against others who do not believe in them, or for some other reasons.

As for proving their leadership and that their words are to be considered as those of the holy prophet, it is discussed in *‘ilm al-kalām* (Islamic theology).

T

- ***al-Ta‘ādul wa’l Tarādīj*** (Equilibrium and Preferences)

This expression is used in the discussion dealing with the question of contradiction of proofs. By equilibrium is meant that two proofs are equal in whatsoever necessitating preference of one to another, and by preferences is meant whatsoever necessitating preference of one to another where they are not equal – by infinitive being meant subject in the latter, i.e., preferrer.

- ***al-Ta‘āruḍ*** (Contradiction)

Contradiction between two proofs occurs where either of them nullifies and repudiates the other. Such repudiation is either in all denotations or some of them, in such a way that assumption of subsistence of authority of either of them along with that of the other is impossible and one cannot act in accordance with both of them.

Contradiction of proofs occurs only where the following conditions exist:

1. Neither of two proofs being definite; for should one of them be definite untruth of the other would be revealed, and it is obviously clear that untrue cannot contradict true. As for both of them being definite, it is absolutely impossible.

2. Actual conjecture not being considered in the authority of both, since actualization of actual conjecture as to two contradictory proofs is also impossible. Of course, actual conjecture may be taken into consideration particularly in one of them.

3. Denotations of two proofs contradicting one another, even though in parallel and in some aspects, so that mutual repudiation may occur. The criterion is that they would result in what cannot religiously be made and is impossible in the actuality, even though such impossibility being caused by something outside of their very denotations; as is the case with contradiction of proofs of obligation of Friday prayers and that of obligation of *ẓuhr* prayers on Friday, since there is no contradiction between those two proofs *per se* inasmuch as conjunction of obligation of two prayers in a specific time is not impossible, but as it is known through another proof that only one prayer is obligatory at a given time they repudiate one another.

4. Either of two proofs possessing conditions of authority, in the sense that either of them is an authoritative proof whose following is mandatory if there appears no contradictory proof – though one unspecified proof would become unauthorized as soon as contradiction occurs.

5. Relation of two proofs not being that of interference (\rightarrow *al-taẓāhum*).

6. Relation of two proofs not being that of sovereignty (\rightarrow *al-hukūma*).

7. Relation of two proofs not being that of entry (\rightarrow *al-nurūd*).

• *al-Tabādur* (Preceding)

Usage of a term in its designated meaning is literally correct, in another meaning with which it has some pertinence along with some contextual evidence is figuratively correct, and in another meaning without any pertinence is wrong. Therefore, usage of a term literally and figuratively is correct and “the usage” cannot specify whether a term is designated for a meaning or it is used figuratively.

Now, should one know, through assertion of philologists, that a term is designated for a meaning it would be obviously clear that such word is to be used literally in that meaning and figuratively in other pertinent meanings. However, the case is not that clear sometimes and one may wonder how to treat the usage. What can one do in that case in order to find out whether such a usage is literally correct or it is figuratively so and hence one should use it with some contextual evidence?

Uṣūlīs have mentioned some signs of recognition of the literal meaning the most important of which being preceding (*al-tabādur*) and incorrectness of divesting (*‘adam ṣiḥḥat al-salb [q.v.]*). By *tabādur* is meant that when one thinks of a term, a specific meaning comes to one’s mind first – from the very term without there being any contextual evidence – and precedes other meanings. This clearly

proves that the term indicates its meaning merely because of convention and nothing else. To exercise this sign, let us consider the example of the term “lion.” We know that this term is used for a specific animal literally and for a brave man figuratively. Now, when you hear the term “lion” it is the meaning of that animal which comes to your mind first and not a brave man, and this is *tabādur*. Hence, *tabādur* is a sign which indicates the literal meaning of a term.

• ***Tadākhul al-Asbāb* (Intervention of Causes)**

In the discussion of *mafhum* of the condition [*q.v.*] a problem is raised concerning some case where there are two (or more) conditional sentences in which conditions are multiple but consequents are one. In such case, *manṭiq* of each sentence opposes *mafhum* of the other. The case in question may be of two kinds the second of which being where the consequent is religiously repeatable, as in: “If you had sexual intercourse, make major ablution,” and “If you touched a dead body, make major ablution.” This kind is, in turn, of two kinds:

1. It is proved that each condition is part of the cause. Doubtless, the consequent is one and will be actualized when both conditions are realized.

2. It is proved, either by another proof or by the appearance of the same proof, that each condition is an independent cause. Here, whether or not the conditional sentence has *mafhum*, it is disputed whether the rule to which one is supposed to refer to in such cases necessitates intervention of causes so that they may have one consequence, or necessitates non-intervention of causes so that the consequence should be repeated by repetition of conditions.

Doubtless, as we have frequently stressed, the specific proof should be followed in this respect should there be one, as in the case with intervention of causes of ablution such as urine, sleep, and the like and non-intervention of causes of obligation of prayers such as coming of the time of daily prayers, eclipse of the sun or moon, and so forth. The dispute is over the problem where no specific proof exists and one wonders what one is principally supposed to do – a problem known as the problem of “intervention of causes.”

The justifiable opinion concerning this problem is non-intervention of causes. The reason is that every conditional sentence has two appearances: appearance of the condition in independence in the causality, and appearance of the consequence in that the object of the judgment is the sheer being. As for the former, the appearance necessitates that the consequence should be multiple in the conditional sentences; hence, causes do not intervene. As for the latter, since the sheer being of something cannot be object of two judgments, it is necessitated that all causes should have one consequence and judgment when their conjunction is assumed; hence, the causes intervene. Thus, those two appearances contradict one another. If the first appearance is preferred, we should believe in non-intervention, and if the second, in intervention. Now, which one is more justifiable to be preferred?

The justifiable idea is to give the appearance of condition priority over that of consequence. Since the consequence is dependent upon the condition it is subject to the latter both in realization and demonstration: if the latter is one it is one, and if the latter is multiple it is multiple. Now that the antecedent is multiple, because

of appearance of two conditional sentences, the consequent, which is subject to it, is not apparent in the unity of the desired. Thus, there would be no contradiction between the two appearances; rather, the appearance in the multiplicity removes the appearance in the unity, since the latter cannot exist unless when it is assumed that the appearance in the multiplicity is removed or that there is no such appearance, while there is such appearance here. The principle in such case, therefore, is non-intervention.

• ***Tadākhul al-Musabbabāt* (Intervention of the Caused)**

Should one believe that causes intervene (\rightarrow *tadākhul al-asbāb*), one would not be in need of discussing whether or not the caused intervene. That discussion, however, is necessary for those who hold the contrary opinion, for they should find out whether or not is it acceptable to content oneself with one obedience where the caused are common in the designation and reality, such as major ablutions. In other words, they should find out whether or not the caused intervene.

The principle here is also non-intervention. The reason is that obedience of multiple mandatory acts by one act, even though where all of them are intended, needs a specific proof; otherwise, every obligation necessitates a specific obedience incapable of substitution by any other obedience – even in cases where mandatory acts share the same designation and reality.

• ***al-Takhaṣṣuṣ* (Non-Inclusion)**

Takhaṣṣuṣ means non-inclusion of some instances in the object of ‘*amm*’ judgment [*q.v.*]. In order to clarify this, let us take an example. Suppose that Joshua is not a teacher in the school. Now,

should the principal order his deputy to pay salaries of all teachers, Joshua would not be paid. This non-payment is not because of Joshua being excluded from the judgment, i.e., paying salaries, but rather because of not being an instant of the object, i.e., teacher.

• ***al-Takhṣīṣ* (Restriction)**

Takhṣīṣ (→ *al-khāṣṣ*) means to expel some instances of ‘*āmm* [q.v.] from being covered by the judgment. In order to clarify this, let us take an example. Suppose that John is a teacher in the school. Now, should the principal order his deputy to pay salaries of all teachers except John’s, John would not be paid. This non-payment is not because of John not being an instant of the object, i.e., teacher, since he *is* a teacher, but rather because of John being excluded from the ‘*āmm* judgment, i.e., paying salaries.

- *al-Takḥyīr al-Badwī* → *Aṣāla al-Takḥyīr*
- *al-Takḥyīr al-Istimrārī* → *Aṣāla al-Takḥyīr*
- *al-Takrār* → *al-Marra*; also: *al-Dawām*

• ***al-Taqrīr* (Acknowledgment)**

By *taqrīr* is meant a case where someone performs an act in the presence of the infallible-innocent personality and the latter remains silent while he is aware of what the former is doing and is in the state of capability of informing the former if he is wrong in what he is doing. The state of capability occurs when the time is enough for depiction and when there is no obstacle for that, such as fear, dissimulation, despairing of influence of advising, and the like. Such silence of the infallible-innocent personality and taking

no action with regard to what someone has done is called *taqrīr*.

Doubtless such an acknowledgment, accompanied by those conditions, is apparent in that such an act is permissible where its prohibition is probable and is lawful and acceptable where it is an act of worship or transaction. For should it be unlawful in the actuality or suffer from deficiency it was upon the infallible-innocent personality to prohibit the doer if he is knowledgeable of what he is doing, because of obligation of commanding to good and prohibiting from bad, and to expound the precept as well as mode of the act if the doer is ignorant of the precept, because of obligation of teaching the ignorant.

The case is the same where someone explains a precept or quality of an act of worship or transaction in the presence of the infallible-innocent personality while he is capable of depiction but he remains silent, since this is acknowledgement of what he has said.

- *al-Tarākhī* → *al-Fawr*

- ***al-Ṭarīq* (Path)**

There is a dispute whether *amāra* [q.v.] is path or cause. By *amāra* being a path is meant that it is merely made to take duty-bounds to the actuality and to reveal the latter; if it is a success, the actuality will become incontrovertible, and if it is a failure, it will merely be an excuser for the duty-bound in opposing the actuality. By *amāra* being a cause is meant that it is a cause in generating a good in its outcome which is equivalent to causing elimination of the actuality in case of failure of *amāra*.

The justifiable opinion is the first. To believe in the latter is

dependent upon not believing in the former; for to believe in the latter is caused by inability to justify the former – which is the principle in this connection. However, since we are able to justify the former, there will remain no room for the belief in the latter. The former being the principle in this connection means that *amāra*, *per se*, must be a sheer path to its outcome; for it is to recount, express, and reveal the actuality. Furthermore, the wise take it into consideration because it reveals the actuality – and the conduct of the wise (\rightarrow *binā' al-'uqalā'*) is the primary base in the authority of *amāra*. *Amāra* being treated by the wise as a cause is nonsensical.

• *al-Tazāḥum* (Interference)

In case of disagreement of two religious proofs where they do not repudiate one another in the position of lawgiving (\rightarrow *al-ta'arud*) but rather it is the duty-bound who cannot take both of them in the position of obedience, such as the case where someone is going to be drowned and the only way to save him is an expropriated land, *tazāḥum* occurs. There is only one preferrer in the case of *tazāḥum*, and it is “significance;” i.e., between the two cases, the one which is more important must be given priority. (See also: *al-muradidjijāt*)

U

- *al-'Umūm* → *al-'Āmm*

- ***al-'Umūm al-Badalī* (Substitutional Generality)**

In the substitutional generality (→*al-'āmm*), such as “respect any scholar you wish,” the judgment is directed to one instance in a substitutional way. Hence, only one instance, in a substitutional way, is the object of the judgment and should one instance be obeyed the burden would absolutely be treated as being obeyed.

Should it strike you that this kind cannot be treated as generality, since to be substitutional, in which the object is not but one, contradicts generality, we would remind you that the meaning of generality in this kind is generality in the substitution, i.e., capability of every instance to be an object. Of course, should the generality in this kind be understood because of absoluteness (→*al-ītlāq*), it would be included in the absolute and not the general.

Generally speaking, generality of the object of the judgment with

regard to its states and instances, if it is an object of a mandatory or a recommended command, is mostly of the kind of substitutional generality.

• ***al-'Umūm al-Istighrāqī* (Encompassing Generality)**

In the encompassing generality ($\rightarrow al-\bar{amm}$), such as “respect every scholar,” the judgment covers every single instance in such a way that every instance is singly an object of the judgment and every judgment of every instance has its own specific obedience or disobedience. Thus, in this kind there will be as many obedience and disobedience as number of objects of the judgment.

• ***al-'Umūm al-Maḍmūʿī* (Total Generality)**

In the total generality ($\rightarrow al-\bar{amm}$), such as “believe in the holy Imāms,” the judgment is for the total as such and the total is treated as one object. Hence, the obedience in the example will not be actualized unless one believes in the all twelve Imāms and not even in the eleven. Thus, in this kind there would only be a single obedience, i.e., obedience of the total, and disobedience even in one instance will be considered an absolute disobedience.

• ***al-Uṣūl al-'Amaliyya* (Practical Principles)**

Doubtless every follower of the religion knows, in summary fashion, that there are some divine obligatory precepts, whether compulsory or unlawful, that all duty-bounds, whether knowledgeable or ignorant, must observe. Such knowledge in summary fashion makes actual, obligatory duties incontrovertible; and since the intellect necessitates clarification of one's obligation it becomes obligatory for duty-bounds to struggle for seeking

knowledge of such duties through a reliable way whose following should make them certain of clearance from liability. That is why we believe in the obligation of knowledge-seeking in the one hand and of the quest for proofs of such duties on the other.

However, knowledge-seeking does not lead to precept finding in all probable cases; that is why the duty-bound may sometimes doubt what his duty is and wonder what to do. The divine lawgiver has taken such cases into consideration and made some practical duties for him in order to refer to them when necessary and act in accordance with them to become certain that he will not be punished in the hereafter because of negligence in performing his duties. Such principles, which are authorized merely for rescuing from perplexity without any consideration of the actuality, are called *al-uṣūl* (sing. *ʾUṣūl*) *al-ʿamalīyya*.

Uṣūlis have realized that such duties, which are general and not peculiar to certain parts of jurisprudence, are of four kinds: the principle of clearance from liability (*aṣāla al-barāʾa*), the principle of precaution or liability (*aṣāla al-iḥtiyāt* or *iṣṭighāl*), the principle of option (*aṣāla al-takhyīr*), and the principle of continuity of the previous state (*aṣāla al-istiṣhāb*) [qq.v.].

Generally speaking, two points should be borne in mind as to the practical principles:

1. By doubt is meant both real doubt, i.e., a case wherein both sides are equal, and the invalid conjecture; for the latter is treated as the former. In fact, the latter is really a kind of the former, for perplexity of the duty-bound will not be removed by following it and he remains doubtful whether or not he has cleared his obligation.

2. To refer to practical principles is allowed only when the jurist

has quested for the authorized conjectural proof of the precept which is the matter of dubiety and despaired of finding it. Thus, there would be no room for exercising practical proofs where the quest is possible and existence of an authorized conjectural proof is probable. The quest and despair in this connection is a matter of must for jurists, for knowing and learning precepts are obligatory. That is why the jurist would not be excused should he oppose an actual duty by exercising a practical principle, especially that of clearance.

• *Uṣūl al-Fiqh*

The science in which such rules whose results are placed in ways of deduction of juristic precepts are discussed is *uṣūl al-fiqh*. For instance, performing the prayers (*ṣalāt*) is mandatory in Islam, and this Qur'ānic verse proves that obligation: "And that perform the prayers" (6: 72). However, denotation of the verse is dependent upon the imperative, like "perform" in that verse, being apparent in the obligation on the one hand and Qur'ānic apparent meanings being authoritative on the other. Those two issues are dealt with in the science of *uṣūl al-fiqh*. Now, when the jurist learns through this science that the imperative is apparent in the obligation and that the Qur'ānic apparent meanings are authoritative proofs, he can infer from the said verse that the prayers is mandatory.

In the same way, deduction of every juristic precept inferred from any juristic or intellectual proof must be dependent upon one or more issues of this science.

It should be noted, however, that the science of *uṣūl al-fiqh* is developed by Shiite scholars in two recent centuries into an unparalleled intellectual, logical system of thought and a

comprehensive branch of knowledge which not only serves as the logic of jurisprudence but as an independent science dealing with some hermeneutical problems.

• ***al-Uṣūl al-Lafẓiyya* (Literal Principles)**

When a doubt occurs concerning a term it can be of two kinds: a doubt concerning convention whether that term is specified for a certain meaning, and a doubt concerning intention of a speaker whether he has meant the literal or figurative meaning. *Al-Tabādur* and *‘adam ṣihhat al-salb* [qq.v.] are two signs of recognition of the literal meaning. However, that is not enough for the removal of the second doubt, for those signs cannot determine speaker's intention. What can we do, then? *Uṣūlīs* have presented some principles in this connection, called “literal principles,” their most important ones being *aṣāla al-ḥaqīqa*, *aṣāla al-‘umūm*, *aṣāla al-iṭlāq*, *aṣāla al-ṣubūr* [qq.v.].

As for the authority of such principles, they are all based on “the conduct of the wise (*binā’ al-‘uqalā’* [q.v.])” according to which the wise practically consider the apparent, general, absolute, etc. meaning of terms in their communications and ignore other inconsiderable probable meanings – as they ignore the probability of heedlessness, fault, jest, ambiguousness, and the like – and since the divine lawgiver has not prohibited us from that conduct and has not declared another specific way in His communications, we lawfully conclude that He has indorsed and confirmed that conduct having treated apparent meanings as authoritative – as the wise do.

W

- ***al-Waḍʿ* (Convention)**

A smoke essentially denotes a fire; but the case is not the same with denotation of words – whatever the language may be – for in that case all people throughout the world should have been speaking the same language. Thus, denotation of words is just through convention. Convention of a word, therefore, means to make that word for a meaning and to designate it to that meaning. That convention can be made in two ways: convention by determination ($\rightarrow al-waḍʿ\ al-taʿayyuni$), and convention by specification ($\rightarrow al-waḍʿ\ al-taʿyīni$).

- ***al-Waḍʿ ʿĀmm waʿl Mawḍūʿ lah ʿĀmm* (Convention General and Object of Convention General)**

In this variety, the conceived meaning is general and the object of convention is the very general, i.e., the object of convention is a general meaning conceived by itself and not by a general facet.

There is no dispute among *Uṣūlīs* that this variety is possible, and has occurred as well, its example being common nouns such as water, heaven, star, and the like. See also: *al-waḍ‘ wa’l mawḍū‘ lah*.

• ***al-Waḍ‘ ‘Āmm wa’l Mawḍū‘ lah Khāṣṣ* (Convention General and Object of Convention Particular)**

In this variety, the conceived meaning is general and the object of convention is an instance of that general and not itself, i.e., the object of convention is a particular meaning conceived not by itself but by its general facet. There is no dispute among *Uṣūlīs* that this variety is possible, but they dispute whether it has occurred – though according to the justifiable opinion it has definitely occurred, and its example are prepositions, demonstrative pronouns, pronouns, and the like. See also: *al-waḍ‘ wa’l mawḍū‘ lah*.

• ***al-Waḍ‘ Khāṣṣ wa’l Mawḍū‘ lah ‘Āmm* (Convention Particular and Object of Convention General)**

In this variety, the conceived meaning is particular and the object of convention is a general facet of that particular, i.e., the object of convention is a general meaning conceived not by itself but by its particular facet. *Uṣūlīs* have disputed over possibility of this variety, and the justifiable opinion is that it is impossible. For the particular cannot be a facet of the general; rather, it is the general that is a facet and aspect of the particular. See also: *al-waḍ‘ wa’l mawḍū‘ lah*.

• ***al-Waḍ‘ Khāṣṣ wa’l Mawḍū‘ lah Khāṣṣ* (Convention Particular and Object of Convention Particular)**

In this variety, the conceived meaning is particular and the object

of convention is the very particular, i.e., the object of convention is a particular meaning conceived by itself and not by its general facet. There is no dispute among *Uṣūlīs* that this variety is possible, and has occurred as well, its example being proper nouns. See also: *al-waḍ‘ wa’l mawḍū‘ lah*.

• ***al-Waḍ‘ al-Ta‘ayyuni* (Convention by Determination)**

Words sometimes denote their meanings by being specified to the latter through repetition in the usage which makes minds familiar with it in such a way that as soon as one hears the word one refers to the meaning. This kind of convention is called “convention by determination. See also: *al-waḍ‘*.

• ***al-Waḍ‘ al-Ta‘yīnī* (Convention by Specification)**

Words normally denote their meanings by making (*al-dja‘l*) and specification. This kind of convention is called “convention by specification. See also: *al-waḍ‘*.

• ***al-Waḍ‘ wa’l Mawḍū‘ lah* (Convention and Object of Convention)**

In the convention, the term and the meaning must necessarily be conceived; for convention is a judgment on the meaning and the term, and making judgment about something is not acceptable unless it is conceived and known – even though in an undifferentiated mode, for any given thing can be conceived either by itself (*bi-naḥsib*), or by its general facet (*bi-waḍḥib*). For instance, when you see a white object from a distance you can judge that it is white while you do not know what exactly it is; this judgment is acceptable because you have somehow conceived it – as a thing, an

animal, or the like – and that is not like an absolutely unknown object which in no way can be judged.

Now, since the meaning must be conceived on the one side, its conception is of two kinds on the second, and it is particular or general on the third, the convention can be divided into four varieties of *al-waḍʿ khāṣṣ waʿl mawḍūʿ lab khāṣṣ*, *al-waḍʿ ʿamm waʿl mawḍūʿ lab ʿamm*, *al-waḍʿ ʿamm waʿl mawḍūʿ lab khāṣṣ*, *al-waḍʿ khāṣṣ waʿl mawḍūʿ lab ʿamm* [qq.v.].

• ***al-Wāḍjib al-ʿAynī* (Individual Mandatory Act)**

The “individual mandatory act” (opp. *al-wāḍjib al-kifāʾī* [q.v.]) is the one which is obligatory for every duty-bound and cannot be substituted by obedience on the part of others, such as the prayers, fasting, pilgrimage, and so forth.

• ***al-Wāḍjib al-Kifāʾī* (Collective Mandatory Act)**

The “collective mandatory act” (opp. *al-wāḍjib al-ʿaynī* [q.v.]) is the one in which what is desired is merely actualization of the act, no matter who has done it, such as burying a dead person, purifying the mosque, and the like. Hence, that affair is obligatory for all, but should it be done by some it is considered done and others will be exempted. However, if it is eschewed by all and left undone all will be punished, but in the case of being done by some only those who have participated will be rewarded.

• ***al-Wāḍjib al-Mashrūṭ* (Conditional Mandatory Act)**

When a mandatory act is compared with something external, if its obligation is dependent upon that thing and that thing is

considered in the obligation of the mandatory act as a condition, such as pilgrimage to Mecca (*al-ḥaḍīdī*) with regard to financial capability (*al-istiṭā'a*), it is called “conditional mandatory act” (opp. *al-wāḍib al-muṭlaq* [q.v.]), since its obligation is conditional upon actualization of that external thing; and that is why the pilgrimage will not become mandatory unless financial capability is actualized.

It should be noted that all mandatory acts are conditional with regard to general conditions of burden, i.e., puberty, power, and intellect. Hence, the minor, impotent, and insane have no burden in the actuality. It should also be known that the absolute and conditional are relative, since one mandatory act is absolute with regard to one thing and conditional with regard to another – as the pilgrimage is absolute with regard to travelling to Mecca while it is conditional with regard to financial capability.

• ***al-Wāḍib al-Mu'allaq* (Suspended Mandatory Act)**

Doubtless when condition of the conditional mandatory act is realized its obligation becomes actual, like the absolute mandatory act, and the burden is actually directed to the duty-bound. Now, if actuality of the obligation is prior to that of the mandatory act and therefore the time of mandatory act is later than that of obligation, it is called “suspended” (opp. *al-wāḍib al-munadīdī* [q.v.]), since the act and not its obligation is suspended until a time not realized yet. An example of this is the pilgrimage, since when the financial capability is actualized the obligation of the pilgrimage becomes actual – as it is said – while the mandatory act is suspended until coming of the time of the ritual. Here, when the financial capability is actualized the pilgrimage becomes mandatory, and that is why it is mandatory for the duty-bound to provide all preliminaries to

become able to perform it in its specific, limited time.

It should be noted, however, that there is a dispute among *Uṣūlis* whether *al-wāḍjib al-mu‘allaq* is possible. Some believe in its possibility, while the majority of *Uṣūlis* hold that it is impossible.

• *al-Wāḍjib al-Muḍayyaq* (Constricted Mandatory Act)

Considering the time, the mandatory act is divided into of specified time (*al-mumwaqqat*) and of unspecified time (*ghayr al-mumwaqqat*). The one of specified time, in turn, is divided into extended and constricted; and the one of unspecified time into urgent (*ḥawrī*) and non-urgent (*ghayr ḥawrī*).

The mandatory act of specified time is the one in which a specific time is considered juristically, such as the prayers, the pilgrimage, fasting, and the like. If we consider the relation between this kind and its specified time, where both of those times are equal the mandatory act is called “constricted” (opp. *al-wāḍjib al-muwassa‘* [q.v.]), such as fasting whose specified time precisely covers its time of performance.

• *al-Wāḍjib al-Munadjdjaz* (Definite Mandatory Act)

Doubtless when condition of the conditional mandatory act is realized its obligation becomes actual, like the absolute mandatory act, and the burden is actually directed to the duty-bound. Now, if actuality of the obligation and the mandatory act is simultaneous, in the sense that the time of mandatory act is the very time of the obligation, the mandatory act is called “definite” (opp. *al-wāḍjib al-mu‘allaq* [q.v.]); such as the prayers when its time comes, since its obligation is actual and the mandatory act, i.e., the prayers, is also actual.

• ***al-Wāḍjib al-Muṭlaq* (Absolute Mandatory Act)**

When a mandatory act is compared with something external, if its obligation is not dependent upon actualization of that thing, such as the pilgrimage with regard to travelling to Mecca – even though its actualization is dependent upon the latter – it is called “absolute mandatory act” (opp. *al-wāḍjib al-mashrūṭ* [q.v.]), since its obligation is unconditional upon that external thing.

It should be known that the absolute and conditional are relative, since one mandatory act is absolute with regard to one thing and conditional with regard to another – as the pilgrimage is absolute with regard to travelling to Mecca while it is conditional with regard to financial capability.

• ***al-Wāḍjib al-Muwassaʿ* (Extended Mandatory Act)**

Considering the time, the mandatory act is divided into of specified time (*al-muwaqqat*) and of unspecified time (*ghayr al-muwaqqat*). The one of specified time, in turn, is divided into extended and constricted; and the one of unspecified time into urgent (*fawri*) and non-urgent (*ghayr fawri*).

The mandatory act of specified time is the one in which a specific time is considered juristically, such as the prayers, the pilgrimage, fasting, and the like. If we consider the relation between this kind and its specified time, where its performing takes less time than its specified time the mandatory act is called “extended” (opp. *al-wāḍjib al-mudayyiq* [q.v.]), since the duty-bound is free to perform it in the first, middle, or the last part of the time; such as daily prayers which cannot be left undone in the whole time but must be done once in its specified time.

• ***al-Wāḍjib al-Ta‘abbudī* (Religiously Mandatory Act)**

In the Islamic holy *Shari‘a*, there are obligations that are not considered sound and their commands are not obeyed unless they are performed with the intention of proximity to God, such as the prayers, fasting, and the like. Such mandatory acts are called “religiously” (opp. *al-wāḍjib al-tawaṣṣulī* [q.v.]).

• ***al-Wāḍjib al-Ta’yīnī* (Determinate Mandatory Act)**

The “determinate mandatory act” (opp. *al-wāḍjib al-takhyīrī* [q.v.]) is the one which is determinately wished and has no horizontal parallel in the position of obedience, such as prayers and fasting in Ramaḍān. To Add “horizontal” is necessary because there are some determinate mandatory acts that have some vertical parallels, such as ablution which has the vertical parallel, i.e., dry ablution (*al-tayammum*), since the latter is lawful only when the former is not possible.

• ***al-Wāḍjib al-Takhyīrī* (Optional Mandatory Act)**

The “optional mandatory act” (opp. *al-wāḍjib al-ta’yīnī* [q.v.]) is the one which is not determinately wished and has a horizontal parallel. In other words, what is wished is whether this one or another, in such a way that the duty-bound is free to choose each of them. An example of this kind is the penance when one does not observe fasting in Ramaḍān deliberately, sine he must either fast sixty days, or feed sixty needy people, or free a slave.

• ***al-Wāḍjib al-Tawaṣṣulī* (Instrumental Mandatory Act)**

In the Islamic holy *Shari‘a*, there are some obligations whose

commands are obeyed merely by being performed without having any divine intention, such as saving a drowning person, burying a dead person, purifying cloths and body for prayers, and the like. Such mandatory acts are called “instrumental” (opp. *al-wāḍḥib al-ta‘abbudī* [q.v.]).

• *al-Wurūd* (Entry)

Entry is used for a case where something is not included in something else – in a real manner, but through depiction of the divine lawgiver and not existentially – like the relation between authoritative conjectural proof (\rightarrow *al-amāra*) and such intellectual practical principles as clearance and option. The object of intellectual principle of clearance (\rightarrow *aṣāla al-barā’ā*) is “lack of depiction,” while the proof which makes the conjectural proof authoritative treats it as depiction – through declaration of the divine lawgiver – and thereby the object of intellectual principle of clearance is removed by such divine declaration. Also, the object of practical principle of option (\rightarrow *aṣāla al-takhyīr*) is perplexity, while the authoritative conjectural proof, because of the proof which has made it authoritative, makes one part preferable and thereby removes perplexity. See also: *al-ta‘ārud*.

Z

- ***al-Ẓāhir* (Apparent)**

When a term is used in a meaning not in such an explicit way that no other meaning is probable – as some other meaning is probable, but that probability is not considerable since the wise ignore it – it is called *ẓāhir* (apparent). See also: *naṣṣ*.

- ***al-Ẓann al-Khāṣṣ* (Particular Conjecture)**

By *al-ẓann al-khāṣṣ* is meant the conjecture whose authority and validity is proved by a definitive, certain proof and not “the major closure proof (*dalīl al-insidād al-kabīr*).” It, therefore, means *amāra* [*q.v.*] which is an absolutely authoritative proof even when the door of knowledge is open. It is also called the knowledge-rooted (*‘ilmi*) path, since its authority is proved via knowledge and certainty.

- *al-Ẓann al-Mu‘tabar* → *al-Amāra*

• ***al-Ẓann al-Muṭlaq* (Absolute Conjecture)**

By *al-ẓann al-muṭlaq* is meant every conjecture whose authority and validity is proved by “the major closure proof (\rightarrow *dalīl al-insidād*).” It, therefore, means *amāra* which is an authoritative proof only when the door of knowledge and knowledge-rooted (*‘ilmī* \rightarrow *al-ẓann al-khāṣṣ*) is closed, i.e., closure of the door to both the very knowledge of precepts and knowledge-rooted paths leading to them.

- *al-Ẓann al-Naw‘ī* \rightarrow *al-Amāra*

Table of Technical Terms

1. English-Arabic

A

Abolishment: *al-Naskh*

Absolute Mandatory Act: *al-Wāḍiḥ al-Muṭlaq*

Absolute: *al-Muṭlaq*

Absoluteness of the Position: *Iṭlāq al-Maqām / al-Iṭlāq al-Maqāmi*

Absoluteness: *al-Iṭlāq*

Accordant: *al-Munwāfiq*

Acknowledgment: *al-Taqrir*

Act of Worship: *al-ʿibādah*

Actual Precept: *al-Ḥukm al-Wāqʿi*

Ambiguous: *al-Muḍmal*

Analogy (Juristic): *al-Qiyās*

Apparent Precept: *al-Ḥukm al-Ẓāhiri*

Apparent: *al-Ẓāhir*

Appearance: *al-Ẓubūr*

Authoritative Proof: *al-Ḥudūdīya*

Authority: *al-Ḥudūdīyya*

Authorized Conjectural Proof: *al-Amāra*

B

Book: *al-Kitāb*

C

Cause: *al-Sabab* (pl. *al-Asbāb*)

Celebrity: *al-Shuhra*

Certainty: *al-Yaqīn*

Certitude: *al-Qaṭʿ*

Clear: *al-Mubayyan*

Clearance: *al-Barāʾa*

Closure Proof: *Dalīl al-Insidād*

Collective Mandatory Act: *al-Wāḍiḥ al-Kifāʾi*

Command: *al-Amr* (pl. *al-Awāmīr*)

Condition: *al-Sharṭ*

Conditional Mandatory Act: *al-Wāḍiḥ al-Mashrūṭ*

Conduct of the Wise: *Binaʾ al-Uqalāʾ*

Conjecture: *al-Ẓann*

Conjunction: *al-Idjtimāʿ*

Consensus: *al-Idjtimāʿ*

Constricted Mandatory Act: *al-Wāḍiḥ al-Mudayyaq*

Contextual Denotation: *al-Dalāla al-Siyāqīyya*

Continence: *Kaff al-Nafs*

Continuity of the Previous State: *al-Istiṣhāb*

Continuous: *al-Istimmārī*

Contradiction: *al-Ta'arud*
 Convention by Determination: *al-Wad' al-Ta'ayyuni*
 Convention by Specification: *al-Wad' al-Ta'yini*
 Convention: *al-Wad'*
 Correctness: *al-Ṣiḥḥat*
 Custom: *al-Sira*
 Customary: *al-Urfi*

D

Definite Mandatory Act: *al-Waḍīb al-Munadḍiaḥ*
 Definite Obedience: *al-Munwāfaqa al-Qaṭ'iyya*
 Definite Opposition: *al-Mukhālafa al-Qaṭ'iyya*
 Denotation: *al-Dalāla*
 Denotation of Hint: *Dalāla al-Tanbīh*
 Denotation of Implicit Conveyance: *Dalāla al-Ishāra*
 Denotation of Necessitation: *Dalāla al-Iqtidā'*
 Dependent Intellectual Proofs: *Ghayr al-Mustaqillāt al-'Aqliyya*
 Depiction: *al-Bayān*
 Derived: *al-Mushtaqq*
 Designation: *al-Laqaḥ*
 Detailed: *al-Taḥṣīl*
 Determinate Mandatory Act: *al-Waḍīb al-Ta'yini*
 Disaccording: *al-Mukhālīf*
 Divesting: *al-Salb*
 Dubiety: *al-Ṣhubḥa*
 Dubiety as to Obligation: *al-Ṣhubḥa al-Wuḍūbiyya*
 Dubiety as to Unlawfulness: *al-Ṣhubḥa al-Taḥrīmīyya*
 Dubiety concerning the Concept: *al-Ṣhubḥa al-Maḥbūmīyya*
 Dubiety concerning the Instance: *al-Ṣhubḥa al-Miṣdāqīyya*

Dubiety concerning the Object: *al-Shubha al-Mawḍūʿiyya*

Dubiety concerning the Precept: *al-Shubha al-Hukmiyya*

Duty-bound: *al-Mukallaf*

E

Encompassing: *al-Istighrāqī*

Entry: *al-Wurūd*

Equilibrium: *al-Taʿādul*

Extended Mandatory Act: *al-Wāḍib al-Muvasṣaʿ*

G

Gathering: *al-Djamʿ*

General: *al-ʿĀmm*

Generality: *al-ʿUmūm*

I

Implication: *al-Mulāzama*

Implicature: *al-Maṣbūm* (pl. *al-Maṣābim*)

Inclusive: *al-Shumūlī*

Incorrectness: *ʿAdam Ṣiḥḥat*

Independent Intellectual Proofs: *al-Mustaḳillāt al-ʿAqliyya*

Independing: *al-Istiqlālī*

Individual Mandatory Act: *al-Wāḍib al-ʿAynī*

Instrumental Mandatory Act: *al-Wāḍib al-Tawaṣṣuli*

Intellect: *al-ʿAql*

Intellectual Implications: *al-Mulāzamat al-ʿAqliyya*

Intellectual: *al-ʿAqli* / *al-ʿAqliyya*

Interference: *al-Taṣāḥum*

Intervention: *al-Tadākhul*

J

Joint: *al-Muttaṣil*

Juristic-Literal Meaning: *al-Ĥaḳīqa al-Sharʿiyya*

K

Knowledge: *al-ʿIlm*

L

Large-Scale: *Ghair al-Maḥṣūra*

Least: *al-Aqall*

Liability: *al-Ishtighāl*

Literal: *al-Lafẓī*

M

Massive Report: *al-Khabar al-Mutawātir*

Most: *al-Akṭhar*

Muslims' Literal Meaning: *al-Ĥaḳīqa al-Mutasharriʿiyya*

N

Non-Inclusion: *al-Takhaṣṣuṣ*

Number: *al-ʿAdad*

O

Object of Convention: *al-Mawḍūʿ laḥ*

Once: *al-Marra*

Opposite: *al-Ḍidd*

Option: *al-Takhyīr*

Optional Mandatory Act: *al-Wādīb al-Takhyīrī*

Optional: *al-Takhyīrī*

P

Particular: *al-Khāṣṣ*

Path: *al-Ṭarīq*

People of the Religion: *al-Mutaṣharri'a*

Permanence: *al-Dawām*

Practical: *al-'Amalī*

Precaution: *al-Īhtiyāṭ*

Preceding: *al-Tabādur*

Precept: *al-Ĥukm*

Preferrer: *al-Muraḍḍijh* (pl. *al-Muraḍḍijhāt*)

Preliminary: *al-Muqaddima*

Premises of Wisdom: *Muqaddimāt al-Ĥikma*

Primary: *al-Badvi*

Principal: *al-Aṣāla*

Principle: *al-Aṣl* (pl. *al-Uṣūl*)

Problem: *al-Mas'ala*

Prohibition: *al-Nahy* (pl. *al-Nawāhi*)

Promptitude: *al-Fanr*

Proof: *al-Dalīl*

Punishment: *al-'Iqāb*

Q

Qualified: *al-Muqayyad*

Qualifier: *al-Waṣf*

R

Reduction: *al-Inḥilāl*

Relational: *al-Irtibāṭī*

Religiously Mandatory Act: *al-Wāḍḡib al-Ta‘abbudi*

Removal: *al-Raf‘*

Repetition: *al-Takrār*

Replacement: *al-Idjzā‘*

Reprehensibility: *al-Qubḥ*

Restriction: *al-Takḥṣīs*

Restrictor: *al-Mukḥaṣṣis*

Rule: *al-Qā‘ida*

S

Separate: *al-Munfaṣil*

Single Report: *Ḳhabar al-Wāḥid*

Small-Scale: *al-Maḥṣūra*

Sound: *al-Ṣaḥīḥ*

Sovereignty: *al-Ḥukūma*

Substitutional: *al-Badalī*

Summary-fashioned: *al-Idjmālī*

Suspended Mandatory Act: *al-Wāḍḡib al-Mu‘allaq*

T

Term: *al-Lafẓ* (pl. *al-Alfāẓ*)

Termination: *al-Gḥāya*

The Caused: *al-Musabbabāt*

U

Universal: *al- Kullī*

Uttered: *al- Manṭūq*

W

Way out: *al-Mandūḥa*

2. Arabic-English

	ا
Conjunction	الاجتماع
Replacement	الاجزاء
Consensus	الاجماع
Summary-fashioned	الاجمالى
Precaution	الاحتياط
Relational	الارتباطى
Continuity of the Previous State	الاستصحاب
Encompassing	الاستغراقى
Independing	الاستقلالى
Continuous	الاستمرارى
Liability	الاشتغال
Principality	الأصالة

Principle	الأصل
Absoluteness	الإطلاق
Absoluteness of the Position	إطلاق المقام / الإطلاق المقامى
Least	الأقل
Most	الأكثر
Authorized Conjectural Proof	الأماره
Command	الأمر
Reduction	الإحلال
ب	
Substitutional	البدلى
Primary	البدوى
Clearance	البراءة
Conduct of the Wise	بناء العقلاء
Depiction	البيان
ت	
Preceding	التبادر
Non-Inclusion	التخصُّص
Restriction	التخصيص
Option	التخيير
Optional	التخييرى
Intervention	التداخل

TABLE OF TECHNICAL TERMS

Interference	التراحم
Equilibrium	التعادل
Contradiction	التعارض
Detailed	التفصيلي
Acknowledgment	التقرير
Repetition	التكرار
	ج
Gathering	الجمع
	ح
Authoritative Proof	الحجة
Authority	الحجية
Juristic-Literal Meaning	الحقيقة الشرعية
Muslims' Literal Meaning	الحقيقة المتشرعية
Precept	الحكم
Apparent Precept	الحكم الظاهري
Actual Precept	الحكم الواقعي
Sovereignty	الحكومة
	خ
Particular	الخاص
Massive Report	الخبر المتواتر
Single Report	خبر الواحد

د

Denotation	الدلالة
Denotation of Implicit Conveyance	دلالة الإيثار
Denotation of Necessitation	دلالة الإقتضاء
Denotation of Hint	دلالة التنبيه
Proof	الدليل
Closure Proof	دليل الإنسداد
Contextual Denotation	الدليل السياقية
Permanence	الدوام

ر

Removal	الرفع
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س

Cause	السبب
Divesting	السلب
Custom	السيرة

ش

Dubiety	الشبهة
Dubiety as to Unlawfulness	الشبهة التحريمية
Dubiety concerning the Precept	الشبهة الحكمية
Dubiety concerning the Instance	الشبهة المصادقية
Dubiety concerning the Concept	الشبهة المفهومية

TABLE OF TECHNICAL TERMS

Dubiety concerning the Object	الشبهة الموضوعية
Dubiety as to Obligation	الشبهة الوجوبية
Condition	الشرط
Inclusive	الشمولى
Celebrity	الشهرة
	ص
Sound	الصحيح
	ض
Opposite	الضد
	ط
Path	الطريق
	ظ
Apparent	الظاهر
Conjecture	الظن
Appearance	الظهور
	ع
General	العام
Act of Worship	العبادة
Number	العدد
Customary	العرفى
Punishment	العقاب

Intellect	العقل
Intellectual	العقلي
Knowledge	العلم
Practical	العملي
Generality	العموم
	غ
Termination	الغاية
Large-Scale	غير المحصورة
Dependent Intellectual Proofs	غير المستقلات العقلية
	ف
Promptitude	الفور
	ق
Rule	القاعدة
Reprehensibility	القبیح
Certitude	القطع
Juristic Analogy	القياس
	ک
Book	الكتاب
Continence	كفّ النفس
Universal	الکلی

	ل
Term	اللفظ
Literal	اللفظي
Designation	اللقب
	م
Clear	المبيّن
People of the Religion	المتشرّعة
Joint	المتصل
Ambiguous	المجمل
Small-Scale	المحصورة
Disaccording	المخالف
Definite Opposition	المخالفة القطعية
Restrictor	المخصّص
Once	المرّة
Preferrer	المرجّح
The Caused	المسبّبات
Independent Intellectual Proofs	المستقلات العقلية
Derived	المشتق
Absolute	المطلق
Implicature	المفهوم
Premises of Wisdom	مقدّمات الحكمة

Preliminary	المقدِّمة
Qualified	المقَيَّد
Duty-bound	المكَلَّف
What one is charged with	المكَلَّفُ بِهِ
Intellectual Implications	الملازِمَاتُ الْعَقَلِيَّةُ
Implication	الملازِمَةُ
Way out	المندوحة
Uttered	المنطوق
Separate	المنفصل
Accordant	الموافق
Definite Obedience	الموافقة القطعية
Object of Convention	الموضوعُ لَهُ
ن	
Abolishment	النسخ
Prohibition	النهى
و	
Optional Mandatory Act	الواجب التخييري
Religiously Mandatory Act	الواجب التعبدى
Determinate Mandatory Act	الواجب التعيينى
Instrumental Mandatory Act	الواجب التوصلى
Individual Mandatory Act	الواجب العينى

TABLE OF TECHNICAL TERMS

Collective Mandatory Act	الواجب الكفائي
Conditional Mandatory Act	الواجب المشروط
Constricted Mandatory Act	الواجب المضيق
Absolute Mandatory Act	الواجب المطلق
Suspended Mandatory Act	الواجب المعلق
Definite Mandatory Act	الواجب المنجز
Extended Mandatory Act	الواجب الموسع
Entry	الورود
Qualifier	الوصف
Convention	الوضع
Convention by Determination	الوضع التعيني
Convention by Specification	الوضع التعييني
	ى
Certainty	اليقين

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