

We shall say: It means, "You have performed in the [command's] first parts a performance that only a believer in the vision does." But attesting is different than realization and performance.

II. DISCUSSION: [This Concerns] whenever part of a rite of worship [*'ibâda*], or its condition, or one of its recommended *Sunnas*²³ is abrogated—such as omitting two *rak'as* from four, or omitting the condition of ritual *purity* [for prayer].

Some people have said that it is an abrogation of a part of a rite of worship, not of its foundation. Others have said that it is an abrogation of the foundation of the rite of worship. Still others have said that abrogating a condition is not an abrogation of the foundation, while abrogating a *part* is an abrogation of its foundation. They did not allow calling a condition [of a rite] a part [of it]. But some of them did call it [as such].

To shed light on this issue, in our view, is to say that if He obliged four *rak'as* then restricted them to two *rak'as*, He then abrogated the foundation of the rite of worship. For the essence of abrogation is removal and change. Now certainly the rule [characterizing] the four [*rak'as*] was that of obligation. Then its obligatoriness was abrogated entirely. The two *rak'as* are a different rite of worship. They are not [to be considered] part of the four. For if they were part of them, then he who prays four for

²³The term '*Sunna* ' here means the nonobligatory parts of a rite of worship.

the morning prayer would be fulfilling the obligation and more, as if he has prayed with two *taslimas*,²⁴ or as when a *dirham* is obligatory on a person [for charity] and then [he] gives two.

If it is said: If He reduces the four to one *rak'a*, while the one *rak'a* was already characterized as being insufficient—thus now becoming sufficient—is this then an additional abrogation besides abrogating the four [*rak'as*]?

We shall say: Considering the *rak'a* as insufficient means that its existence is the same as its nonexistence. This is basically a rational judgment that is not of the *Sharî'a*, while abrogation is obliterating what has been established by the *Sharî'a*.

So if the term abrogation means only elimination—in whatever manner and without regard to what is being eliminated—then this is abrogation. But we have explained it differently than this in the definition of abrogation. Yet, if the [condition of] ritual purity is dropped, then the obligatoriness of ritual purity is abrogated, while prayer remains an obligation. Certainly, if the status of prayer without ritual purity is such that it was insufficient, then it has now become sufficient. Still, this is changing an original [rational] rule, not a *Sharî'a* rule. For prayer without ritual purity is not sufficient because it is not commanded by the *Sharî'a*.

²⁴*Taslîma* is the salutation pronounced upon finishing the last *rak'a* of a prayer. See Lane, 4:1412.

If it is said: The validity of prayer is dependent upon ritual purity, then the dependence of its validity was abrogated by /1:117/ the *Shari'a*. Consequently, it is an abrogation related to the rite of worship itself, and prayer with ritual purity is different from prayer without ritual purity, as three is different than four. So let this be an abrogation of a particular prayer, while obligating another one.

We shall say: This is why some people imagined that abrogating a condition of a rite of worship is similar to the abrogation of a part [of it]. There is no doubt that if He had obligated prayer without ritual purity, then it would be an abrogation of its mandatoriness with ritual purity. This, then, would be another rite of worship.

But if prayer is permitted in any case, with or without ritual purity, then prayer without ritual purity would not be sufficient because it remains under the original [rational] rule, for it was not commanded then, but is now made sufficient, and the original rule is eliminated.

As for the validity of prayer and the fact that it is dependent upon ritual purity, abrogating this dependence is an abrogation of the foundation of the rite of worship, or an abrogation of the dependence of the validity [of prayer upon ritual purity], or [abrogation] of the significance of conditionality. But this is an open question and an insignificant issue. There is no great benefit associated with it.

But regarding one of its parts prescribed as *Sunna* [i.e. nonobligatory] upon which sufficiency is not dependent—such as

standing to the right of the *imâm* or covering the head—then there is no doubt that this does not expose the rite of worship to abrogation. Therefore, reducing the scope of the rite of worship is an abrogation of its foundation, while the reduction of the *Sunna* aspects does not expose a rite of worship [to abrogation]. Also, there is dispute about the reduction of a condition; but when investigated, it appears more appropriate to attach it to the reduction of the scope of a rite of worship.

III. DISCUSSION: An addition to the text is an abrogation according to some people, but it is not according to others. To us, analysis [of the issue] is preferable. Therefore, we say that one should examine the relationship of an addition [*ziyâda*] with the recipient [*al-mazîd 'alayhî*].

This has three ranks:

The first is knowing that [the addition] is not related to [the recipient], as in the case when He obligates prayer and fasting and then obliges alms and pilgrimage. In such a case, the rule of the recipient does not change since its obligatoriness and sufficiency remain, while abrogation either eliminates a rule or changes it. But [here] it was not eliminated.

The second rank, which is furthest from the first, is when the addition is attached to the recipient in a unified manner that eliminates diversity and separation. For example, if two *rak'as* are added to the morning prayer, this is then abrogation, since the status of the [original] two *rak'as* was sufficient and valid; but this has been eliminated. Surely the obligation of the four [*rak'as*] has

been initiated and was not obligatory. But this is not abrogation because what has been eliminated is the original [rational] rule, not the *Sharî'a* rule.

If it is said: The four *rak'as* include the two and more; therefore, they are fixed, not eliminated, and the two *rak'as* were added to them.

We shall say: Abrogation is obliterating the standing rule, not eliminating the subject of the rule. As for the status of the two *rak'as*, they were sufficient and valid; but this has been eliminated. Why should it not be so, while we have explained that four is not three plus more.²⁵ Rather, it is a different kind. For if it were the same, then five would equal four and more. Thus, it necessarily follows that whoever prays five [*rak'as*], this should be sufficient. But know one holds this.

The third rank, which is between the two ranks, is the addition of twenty flogs to the [prescribed] eighty flogs for false accusation [of fornication].²⁶ But [in this case] the separation of this addition is not like separating fasting and prayer; nor is their

²⁵Ghazâlî here uses the term '*ziyâda*,' meaning *addition* or *more*. Because of its vagueness, what is *more* could be one, two, three, four, etc. In the case of prayer, performing three *rak'as* then separately performing one is *not* equivalent to the prescribed four; therefore it is insufficient.

²⁶For the definition of '*qadhf*' (false accusation of fornication) and its details, see al-Zahîlî, *al-Fiqh al-Islâmî wa Adillatuhu*, 6:69-91.

connection similar to the connection between the *rak'as*.

Abû Hanîfa, رَحْمَةُ اللهِ عَلَيْهِ، said that it is abrogation. But this is not correct. Rather, it resembles separation because the obligatoriness and sufficiency of the eighty lashes per se was annulled. But an addition to it was made an obligation simultaneously with the continuance [of the eighty]. Thus the hundred [lashes] is eighty and more. /1:118/ Because of this, the sufficiency of the eighty is not annulled by adding on to them, contrary to [the case of] prayer. The issue, with us, is used to permit the establishment of the punishment [of expulsion] based on a solitary report, and prohibiting it according to them [Hanifites].²⁷ For the Qur'ân cannot be abrogated by a solitary report.

If it is said: The eighty [lashes] was considered complete punishment, and, therefore, abrogating the quality of being complete is necessarily an elimination of its rule.

We shall say: It is elimination, but this is not intended to be a *Shari'a* rule. Rather, what is intended is its existence and sufficiency. Indeed, it remained as it was. So, if one establishes that it is intended to be a *Shari'a* rule, then its abrogation would be impossible by way of a solitary report. Rather, it is as if the *Shari'a* obligates only prayer. So whoever performs it, he would be fully executing the entirety of what Allâh, تَعَالَى، has obliged him to do. If

²⁷For more details about the Hanafite and the Shâfi'ite opinions on whether or not the punishment of *taghrîb* (expulsion) should be added to flogging, see al-Zahîlî, *al-Fiqh al-Islâmî wa Adillatuhu*, 6:38-40.

He then makes fasting an obligation, prayer would not be considered the entirety of obligations. But this is not an intended rule.

If it is said: It is abrogation because of the obligatoriness of limiting [the punishment] to eighty [lashes], since obligating eighty prevents excessiveness.

We shall say: The prevention of excess is not in an explicit [statement], but rather an implicit one. In any case, they do not hold this [here]; nor do we. Furthermore, the elimination of what is implied is similar to specifying a general case because it is eliminating a part of what the expression requires. So it is possible based on a solitary report. Moreover, this can be considered sound only if it is established that the implied rule has come and been fixed, and then [the punishment] of expulsion came afterward. Yet there is no way of knowing this. Rather, it may have come in explanation for eliminating the implied [expression] attached or close to it.

If it is said: The pronouncing of [someone] as unrighteous and the rejection of [a person's] testimony is related to the eighty [lashes]. But when the [lashes] are exceeded, the attachment [of the rule] to it is eliminated.

We shall say: Pronouncing [someone] unrighteous and rejecting testimony is related to false accusation, not to the [*Shari'a*] punishment. Were we to concede, then this would be a rule adherent to the punishment, not the intended one. It would be like

the lawfulness of marriage after an elapse of four months and ten days, as pertaining to the *'idda* of death [for the widdow], and the disposition of the *Shari'a* toward *'idda* in reducing it from one year to four months and ten days. This is not disposing of the lawfulness of marriage, but rather the *'idda* itself. For marriage is dependent [upon it].

If it is said: If it is commanded generally to pray, then the condition of ritual purity is added, is this then an abrogation?

We shall say: Yes. For the standing rule of the first [command] was that prayer is sufficient without ritual purity; then its sufficiency was abrogated and was commanded with ritual purity.

If it is said: Then it is incumbent upon you to hold that circumambulation [around the Ka'ba] by one who is not ritually pure is sufficient because He, ﷺ, said, "... And let them circumambulate the Ancient House."²⁸ But He did not require ritual purity, while al-Shâfi'i, رحمه الله, prohibited its sufficiency due to his saying, ﷺ, "Circumambulating the House is [like] prayer."²⁹ Yet this is a solitary report. Abû Hanîfah, رحمه الله, concluded that this report effects the obligatoriness of ritual purity. As for voiding circumambulation and its sufficiency, which is

²⁸Qur'ân, 22:29.

²⁹For the various sources and versions of this *ḥadīth*, see Wensinck, *Concordance*, 4:50-51.

known by the Book, it does not [void it].

We shall say: If the general intent in the Book is fixed and it requires the sufficiency of circumambulating without ritual purity or with ritual purity, then requiring ritual purity is elimination and abrogation, which is not allowed based on a solitary report.

However, His statement, ضَعَايَ, "... *And let them circumambulate the Ancient House,*" is possible to be a command for the basis of circumambulation. However, clarifying its conditions was left to the Messenger, عَلَيْهِ السَّلَام. Thus his statement is regarded as an explanation and specification of the general [case], not an abrogation. For it is an omission of the text, not an addition to it because the generality [of the text] necessitates sufficiency of circumambulation, with ritual purity or without it.

So a /1:119/ solitary report has excluded one of the two implications of the expressions of the Qur'ân. Thus, it is an omission from the text, not an addition to it. Yet it is possible for it to be an elimination, if the general [command] is decisively fixed, or an explanation, if it is not fixed. But there is no sense to claim that it is fixed arbitrarily

This is similar to His statement, ضَعَايَ, "... *And let him free a slave . . .*,"³⁰ for it includes the believer and the unbeliever. So it is possible to specify the general since the verse may have been intended to relate the basis of atonement, and it would be a command on the basis of atonement without its restrictions and conditions. Therefore, if the [command's] generality becomes fixed

³⁰See Qur'ân, 58:3. In 4:92, *slave* is qualified as a believer.

and decisiveness accrues indicating that the generality is intended, then its abrogation and elimination would be impossible through *qiyâs* or by solitary report.

If it is said: What do you say concerning the permissibility of wiping over one's *khuff*?³¹ Is it an abrogation of washing the two feet?

We shall say: It is not an abrogation of its sufficiency, nor of its obligatoriness. But it is an abrogation of the restrictiveness of its obligatoriness, thus specifying it and making it one of the two obligations. It is possible for it to be established based on a solitary report.

If it is said: The Book has obligated washing both feet, restrictively.

We shall say: Its restrictiveness remains on the part of he who did not wear *khuffs* in ritual purity, and excluded from its generality he who wore *khuffs* in ritual purity, that is, for the duration of three days, or a day and a night.

If it is said: His saying, *وَأْتُوا الشَّاهِدَيْنِ*, "... And call to witness from among your men, two witnesses . . ." ³² The verse requires the arrest of judgement [contingent] upon two witnesses. So when one

³¹A pair of shoes, slippers of light leather without heels; pl. *akhfâff*.

³²*Qur'ân*, 2:282.

judges based on a witness and an oath established by a solitary report, then the arrest of judgement is lifted. Is this, then, abrogation?

We shall say: It is not like this, for the verse does not necessitate other than the two witnesses for evidence and the permissibility of judging based on their statement. As for disallowing judgement by other evidence, it is not in the verse. Rather, it is like judgement based on confession. Furthermore, the mention of one bit of evidence does not prevent the existence of another bit of evidence.

Their statement that the apparent meaning of the verse is that there is no evidence other than [the two witnesses] is not so because this is not the literal meaning of the text. According to them, there is no proof in what is implicit. Even if there were, then the removal of what is implied is removing part of what the expression requires. But all of this [may be so], if the implied is fixed and [what is] established is conceded. Also, the report of a witness with an oath has occurred after it. But all of this is not conceded.

IV. DISCUSSION: It is not a condition of abrogation to establish a substitute for what is abrogated. Some people have said that this is impossible.

So we shall ask: Is this impossible on rational grounds or [according to] revealed authority?

Its possibility is not rationally inconceivable, since if it were impossible, its impossibility would be due to either its form,

opposition to the public's welfare, or some underlying reason. Yet it is not impossible due to form, for He may say, "I have made fighting obligatory for you"; and [then] "I have abrogated it for you, returning you to what was before, concerning the original rule."

Nor is it impossible on the basis of public benefit, for the *Shari'a* is not founded on this. But even if it is so founded, it is not unlikely that the public benefit is in eliminating the [rule] without establishing a substitute.

Now, if they disallow its possibility on the basis of revealed authority, this, then, would be arbitrary. Yet the prohibition from saving the meat of sacrificed animals was abrogated, and the requirement of paying charity before having private counsel [with the Prophet] was abrogated—and it had no substitute. However, the *qibla* was abrogated by a substitute and the testament of [granting possessions] to relatives was [abrogated] by a substitute, and there are other examples.

The essence of abrogation is solely elimination. As for His saying, *أَمْضَىٰ*, "*For whatever verse We abrogate or cause to be forgotten, We shall bring the better or the like of it.*" If they adhere to this as [evidence], this can be answered in several ways.

First, this does not bar the possibility [of abrogation without substitue] even though it denies its existence, even to whoever holds the general case [to be fixed]. But for those who do not adhere to this, it does not oblige them at all. But even for those who hold this position, it does not necessarily follow that it [abrogation] is only possible with a substitute in all situations.

/1:120/ Rather, [the general case] is subject to specifications based

on the proofs of the sacrificial animals and [giving] alms before private counsel [with the Prophet].

Furthermore, it appears [from the verse] that He meant that abrogating a verse by a similar verse does not imply that abrogation means only the elimination of the abrogated. It could mean other things in conjunction with this. All of this is possible.

V. DISCUSSION: Some people have said that abrogation is possible only by [a rule] that is less burdensome but not by one that would be more burdensome.

We shall say: With reference to the impossibility of abrogation by that which is more burdensome, do you know this on the basis of reason or *Shari'a*? For it is not rationally impossible, since it is neither deniable per se nor deniable based on public welfare. For we deny it.³³ Even if we accept it [the argument of public good], why is it not possible that the public good be [pursued] in the upgrading and elevation of what is less burdensome to what is more burdensome, as was so with the public good at the beginning of the divine obligation and the elimination the original state of rules.

If it is said: Allâh, ﷻ, is gracious and merciful to His creatures and rigidity is not suitable for Him.

We shall say: It follows necessarily, then, that initiating

³³Ghazâlî disputes the validity of *istiṣlâḥ* (public good) as a source of law. See his discussion in *al-Mustasfâ*, 1:284-315.

divine obligation or afflicting illness, poverty, and various sufferings upon people is not suitable for Him.

If it is said: It is impossible on the basis of revealed authority according to His saying, *لَا إِلَهَ إِلَّا اللَّهُ*, "*Allâh desires ease for you and desires not hardship for you*,"³⁴ and His statement, *لَا إِلَهَ إِلَّا اللَّهُ*, "*And Allâh desires to lighten things for you*."³⁵

We shall say: It necessarily follows, then, that He must leave them [in a state] of permission to do [or not to do]; for there is ease in this. Moreover, He must not abrogate [anything] with its like, for there is no ease in this, since there is only ease in eliminating [a rule] either without substitute or with what is easier.

On the contrary, these verses were [revealed] for special cases intended to ease. There is nothing in them that prevents the intention of [establishing] what is burdensome and rigid.

If it is said: He has said, "*And whatever verse We abrogate or caused to be forgotten, We bring one better or its like . . .*" This *better* is universal, and good is what is beneficial to us. Otherwise, the entire Qur'ân is good. But what is good for us is what is less burdensome.

We shall say: This is not the case. Rather, *better* is what is more rewarding and more beneficial to us in the Hereafter,

³⁴Qur'ân, 2:185.

³⁵Qur'ân, 4:28.

although it is more burdensome in the present condition.

If it is said: This is not impossible rationally; but it is so on the basis of revealed authority, for abrogation by that which is more burdensome is not found in the *Sharî'a*.

We shall say: This is not so because the Companions were commanded to abandon fighting and avoid it at first, then [were commanded] with a declaration to fight, along with hardship, [such as] requiring one to stand firm against ten. Similarly, the choice between fasting or compensation with food was abrogated by specifying fasting, which is a restriction. Alcohol, temporary marriage, and [eating] domesticated asses³⁶ were prohibited 'after' they had been unrestricted. Again, the permissibility of delaying prayer out of fear was abrogated and then mandated during fighting. In addition, fasting the tenth day [of *Muharram*] was [abrogated] by the fasting of *Ramadhân*. Prayer, according to some people, was two *rak'as* and was then abrogated by four when one is at home.

VI. DISCUSSION: They disputed abrogation with regard to a person who has not received [its] report.

Some people have said that abrogation has occurred with respect to him though he is unaware of it. Others have said that what has not reached a person is not an abrogation for him.

³⁶For various *fiqhî* opinions on the lawful and unlawful animals, see al-Zahîlî, *al-Fiqh al-Islâmî wa Adillatuhu*, 3:506-513.

The preferred opinion is that abrogation has an essence, that is, obliterating the previous rule. It has an effect, namely, the obligatoriness of *qadâ'* [belated performance of an obligation] and the nullification of what used to be sufficient for the previous act.

As for its essence, which is eliminating the command, it is not established for anyone whom it did not reach. For whosoever was commanded to face Jerusalem [should have done so]; but when the abrogation to [face] Mecca [was revealed], the [previous] command was not immediately void for one who was, say, in Yemen. In fact, he would be commanded to hold to the previous command. /1:121/ If he abandons it, he would be sinning even though it is discovered that it was abrogated. He is not obliged to face the Ka'ba. Indeed, if he had faced it, he would be sinning. There is no way for this to be disputed.

As for the necessity of *qadâ'* for prayer when abrogation is known, this is acknowledged by either the proof of the text or *qiyâs*. Also, it may be that an act of *qadâ'* becomes obligatory, where an act of *adâ'* [timely performance] is not obliged. Such is the case with a menstruating woman; if she fasts, she is sinning, though *qadâ'* is obligatory for her.

Similarly, it is permissible to say about a person that if he faces the Ka'ba, he is sinning; and in his act of *qadâ'*, he is obligated to face it, just as we say, concerning a person who is sleeping or unconscious [while an obligation is revealed], when they are awake and alert they are obligated to perform *qadâ'* for what was not obligatory for them [previously]. For one who cannot discern is not addressable.

If it is said: When he knows of the abrogation, does he abandon the *qibla* on the basis of abrogation or on the basis of his knowledge of the abrogation? For mere cognition has no effect; thus indicating that the rule has been terminated by the revelation of the abrogating [command]. Although he was unaware of it, he is in error; yet he is excused.

We shall say: The abrogating [command] is the eliminator; but knowledge is a condition. Upon the occurrence of the condition, the abrogating [command] is referred to. However, there is no abrogation before the existence of the condition, for the abrogating [command] is an address. Yet it cannot become so for those whom it did not reach.

Their statement, "He is in error," is absurd because the term *error* is applied to whoever seeks something but misses it or to whoever is obligated to seek something but neglects it. But nothing of this is substantiated in the domain of controversy.

CHAPTER TWO: THE ESSENTIAL CONSTITUENTS OF THE DOCTRINE OF ABROGATION AND ITS CONDITIONS

This comprises an introduction which deals with the comprehensive, essential constituents and conditions. It further comprises certain discussions which follow from the rules of abrogation. As for the introduction, know that the essential constituents of abrogation are four: The abrogation, the

abrogator,³⁷ the abrogated, and those who something is abrogated for.

Since the essence of abrogation is the elimination of a rule, the Abrogator, then, is Allâh, سُبْحَانَهُ, Himself, for it is He who is the Eliminator of the rule. That which is abrogated is the eliminated rule, and those from whom it is eliminated are the worshippers, the loci of obligation. Abrogation resides in His statement indicating the elimination of the standing rule.

However, the text [*dalil*] may be called, figuratively, an 'abrogator.' Thus, it is said, " 'This' verse abrogates 'that' one." Thus, the *hukm*, may also be figuratively called an 'abrogator.' Therefore, it can be said that the fasting of *Ramadhân* abrogates the fasting of the tenth day of *Muharram*. But the actual meaning is the previous one because abrogation is elimination, and Allâh, سُبْحَانَهُ, is the Eliminator for establishing the proof that indicates obliteration and through His statement which manifests it.

As for the comprehensive conditions [of abrogation], they are four:

First, that which is abrogated should be a *Shari'a* rule, not an originally rational rule; for example, the original freedom of man is eliminated by the imposition of the rites of worship.³⁸

³⁷The term *abrogator* may refer to Allâh—since He is the one actually sanctioning the abrogation—or to the verse or *hadith* removing and replacing the prior rule. Here, if the abrogator is used in reference to Allah, A shall be in upper case. Otherwise, abrogator should be assumed to mean the verse or *hadith*, i.e., the abrogating rule.

³⁸*Bara'at al-Agliya*

Second, abrogation should occur through an address. Thus the obliteration of a rule caused by the death of the locus of obligation is not called abrogation, for that which eliminates, in this case, is not an address eliminating the rule of a previous address. Rather, it is said in the first place, "This rule is imposed upon you as long as you are alive." Therefore, the imposition of a rule is confined to the life [of a person], so it does not need elimination.

Third, the rule of the removed address should not be restricted to a time whose entrance requires the removal of the rule, as in the saying of Allâh, ضَعَلَى , "... *Then complete your fast until night . . .*"³⁹

Fourth, the abrogating address should occur after the first one, not as in the statement of Allâh, ضَعَلَى , "... *Do not approach them until they are clean . . .*";⁴⁰ and His saying, "... *Until they pay jizya [pole tax] from their hands [and are] subdued.*"⁴¹

The following nine conditions are not required for abrogation:

First, it is not required to replace something with something else identical to it, but only with what eliminates it.

Second, it is not required that abrogation occur after the time when the abrogated [rule] has come. Rather, it is permissible

³⁹Qur'ân, 2:187.

⁴⁰Qur'ân, 2:222.

⁴¹Qur'ân, 9:29.

before the time of its arrival.

Third, it is not required that the abrogated [rule] be affected by exceptions and specifications. Rather, the arrival of abrogation is permissible upon a lone command to do a single action at one time.

Fourth, it is not required that the Qur'ân be abrogated by the Qur'ân and the *Sunna* by the *Sunna*. Therefore, belonging to the same genre is not required. It is enough that it be something capable of sound abrogation.

Fifth, it is not required that they [the abrogating and abrogated texts] be clearly decisive texts; for it is permissible to abrogate a solitary transmission through a similar or *mutawâtir* transmission, even though it is not permissible to abrogate a *mutawâtir* transmission with a solitary one.

Sixth, it is not required for the abrogating [text] to be transmitted in words similar to those of the abrogated one. Rather, it can be established by any means, for facing Jerusalem [during prayer] has not been transmitted to us through either the Qur'ân or the *Sunna*, but its abrogator is an explicit text in the Qur'ân.

Similarly, a rule that has been expressly stated [in *Shari'a*] may be abrogated by the *ijtihâd* of the Prophet, ﷺ, or his own *qiyâs*, even if they have not been established through a text that has a mood and form, which would require transmission.

Seventh, it is not required for the abrogating [text] to be contrary to the abrogated, such that a command could not be abrogated except by a prohibition, nor a prohibition except by a command. Rather, it is possible that both be abrogated by, say, a

[text] of permission . Also [not required] is that a time-restricted obligation not be abrogated except by an obligation with latitude. What is required is that the abrogator eliminates a rule arising from that which is abrogated in whatever way possible.

Eighth, it is not required that the two [the abrogated and abrogator] be established [that is, in sequence] only through a text. Rather, it can be done by the implied, assumed, or literal meaning of a statement in whatever way possible. The proof of this is when the Prophet, ﷺ, clarified that the verse stipulating bequest in favor of near relatives was abrogated by his statement, "Allâh, ﷻ, has given each deserving person a due right in inheritance. So, beware that there is no bequest in favor of an inheritor." Although it is possible to combine both bequest and inheritance, they are not mutually contradictory.

Ninth, it is not required that a rule be abrogated only by its substitute or by that which is less burdensome than it.

Now, we shall discuss certain questions which arise out of the consideration of the two basic elements [the abrogated and the abrogating text]: Two concern the abrogated and four are in reference to that which abrogates.

I. DISCUSSION: There is no *Shari'a* rule but it is abrogatable.

This is contrary to the view of the Mu'tazilites, who state that some acts have intrinsic characteristics that necessitate their 'goodness' or 'badness.' Therefore, their abrogation is not possible. For example, the knowledge that Allâh, ﷻ, is just, or that there

must be gratefulness to the bestower of favors; these obligations cannot be abrogated. Furthermore, the prohibition against acts of disbelief, injustice, and lying cannot be abrogated .

Now, they built this doctrine upon their theory that reason is capable of ruling upon things as 'good' or 'bad,' and that it is 'necessary' /1:23/ for Allâh, ﷻ, to do always the most salutary thing to His creatures. For this reason they laid restrictions on Allâh, ﷻ, with regard to His commands and prohibitions. At times they raise this [doctrine] in [the position that] the Islam of a minor is lawfully sound, for it is necessitated by reason. Therefore, to exempt the minor from these obligations are impossible.

These are doctrines that we have refuted, and we have shown that merely entertaining the imposition of obligation upon Allâh, ﷻ, is not possible—whether or not the salutariness of His servants lies in it. Of course, after Allâh has bestowed obligations upon His servants, then it is not possible to abrogate all obligations, for a person cannot know abrogation if he does not know the Abrogator, that is, Allâh, ﷻ. It is necessary for the locus of obligation to know the abrogating [text] and the proof that has been established for abrogation, therefore to know this is an obligation that necessarily remains.

We concede, however, that it is not so that Allâh bestow upon them an obligation not to know Him or forbid them from knowing Him, for His statement, "I oblige you not to know Me," would in itself contain the idea of knowledge. In other words, it means "Know Me because I have made it obligatory upon you not to know Me," which is absurd. Therefore, this kind of obligation cannot be

established according to those people who do not allow for the creation of an obligation which is impossible to bear. Similarly, it is not possible that someone be obliged to know something from among the contingencies in a way that is contrary to reality, for this is impossible. And, therefore, it is neither conceivable to do nor abandon.

II. DISCUSSION: When a verse contains a rule, it is possible to abrogate its wording, even if its rule remains, just as it is possible to abrogate its rule while its wording remains. Thus, it is possible that both be abrogated.

A group of people think of this as impossible. But we say that it is possible rationally and has actually occurred in the *Shari'a*. As for its rational permissibility, the recitation and writing of it in the Qur'ân, as well as its validation of prayer, all are its rules, just as its prohibitions or permissions, which are understood from its wording, are also its rule. These rules are then capable of being abrogated because every rule is capable of being abrogated.

Some people say that the abrogation of the recitation is essentially impossible. For if what is thereby intended is the rule, it would have been mentioned at the tongue of the Prophet, *صلى الله عليه وسلم*. Moreover, Allâh, *سبحانه*, has not sent this down upon him except for the reason of its recitation and reward. So how can this be abrogated?

We shall say: What difficulty is there in the intention being simply the [imparted] rule and not the actual recitation. Indeed, it

was sent to Allâh's Prophet, **حَسْبِيَ اللَّهُ عَلَيْهِ تَوَكَّلْتُ**, through definite wording.

If it is said: If [recitation's] abrogation is permissible, then its rule may also be abrogated, for rule follows recitation. Can what is derived remain while the original source is abrogated?

We shall say: No, since recitation has its rule. To establish prayer on its basis is another rule. Therefore, the recitation is not the original source; rather, its indicativeness is. Nor does it consist in the abrogation of its recitation.

Now, ruling that prayers are not established on its basis is an abrogation. In fact, it is an abrogation of its indicativeness, for how many proofs are there which are not recited and on the basis of which prayers are not established? This verse, then, is proof by its revelation and descent [from Allâh] for its being recited in the Qur'ân. But abrogation cannot remove its revelation and descent [from Allâh]. Nor does it render it as though it were never revealed. Rather, it brings it into a category which has been revealed but not recited. This must be so, since it is permissible that a proof may perish, while that which it proved remains; for a proof is a sign, not a cause. Once it has demonstrated the proof, then there is no harm in it perishing.

Why should it not be so, while that which necessitates rule is the eternal speech of Allâh, **قَوْلِي**, which does not perish and whose elimination and abrogation cannot be conceived? So when we say that a certain verse is abrogated, we mean thereby that its connection with /1:124/ the servant has been terminated and its indication and rule is eliminated, but not its essence.

If it is said: The abrogation of a rule while the recitation of its words remain is self contradictory, for in that case the proof remains and that which it indicates is obliterated.

We shall say: It becomes a proof only when it is severed from that which eliminates it from being a rule. When a new address comes which abrogates the rule, then the condition of being a proof is eliminated. What validates its occurrence in revealed authority is the saying of the Exalted: “. . . *And upon those who can afford it, is the feeding of one poor person. . .*” Now, while the recitation of this verse remains, its rule was abrogated when fasting became decidedly obligatory.

Also, when rendering a will in favor of one's parents or near relatives remains recited in the Qur'ân, its rule has been abrogated by [his] statement, *حَلَّيْهُ اسْمُ عَلِيٍّ وَاسْمُ*, “There is no bequest in favor of an inheritor.” In addition, before having a private audience [with the Prophet] one was to give some charity. This rule has been abrogated even though the recitation remains. Again, for a widow to wait for one year before remarrying has been abrogated, and imprisonment and punishment of those women who commit obscenities has been replaced by the punishment of flogging and lapidation, though its recitation remains [as well].

As for the abrogation of recitation, the reports are overwhelming that the recitation of the verse concerning lapidation has been abrogated though its rule remains. And this is the saying of the Exalted: “*The adult man and adult woman, when they commit adultery, stone them as a punishment from Allâh. And*

Allâh is mighty and wise." It is widely reported, on the authority of 'A'isha, رَضِيَ اللهُ عَنْهَا, that she said, "Suckling ten [times] was originally revealed as making marriage unlawful. Then they were abrogated with five. But none of these are in the Book."

III. DISCUSSION: It is permissible that the Qur'ân be abrogated by the *Sunna* and the *Sunna* by the Qur'ân because both of them come from Allâh, مَزُوجِل. So what prevents it? Also, why is being of the same genre not required, even though reason does not render it impossible? How is it that the traditional argument actually indicating facing Jerusalem [during prayers] is not mentioned in the Qur'ân but is in the *Sunna*, while its abrogator is in the Qur'ân? Similarly, the saying of the Exalted, "*So therefore, now have sex with them,*" abrogates banning sex during [the nights] of fasting. But that which made it unlawful is not in the Qur'ân. Similar [to this] is the abrogation of the fasting of 'Ashûrâ' [the tenth day of *Muharram*] with the fasting of *Ramadân*, while [fasting] 'Ashûrâ' was established on the basis of *Sunna*. Also, the prayer of fear [in war] occurred in the Qur'ân as abrogating that which was established earlier on the basis of the *Sunna*, namely that prayer [during war] could be delayed until the fighting has finished, to the extent that the [Prophet], ﷺ, said on the day of *khandaq* [of the battle of the ditch], when he had actually delayed the prayer, "May Allâh fill their [the enemy's] graves with fire," because they kept him from praying on time. And so it is with the saying of the Exalted, "*Do not return these [women] to the unbelievers [i.e., the Meccans].*" This is an abrogation of what the

[the Prophet], عَلَيْهِ السَّلَام, established in the treaty [with the Meccans].

The fact that the Qur'ân can be abrogated by the *Sunna* [is illustrated] in the abrogation of rendering a will in favor of one's parents and near relatives by the the saying [of the Prophet], *حَدَّثَنَا اللَّهُ عَلَيْهِ وَسَلَّمَ*, "No. There is no will in favor of the inheritor." For the verse of inheritance itself does not render it impossible to make a will in favor of ones parents or near relatives, for it is possible to combine them.

Similarly, he, *حَدَّثَنَا اللَّهُ عَلَيْهِ وَسَلَّمَ*, said, "Now Allâh has opened a way for them. [When] a virgin [commits obscenity] with a virgin, [punishment] is one hundred lashings and exile for a year; and the married with the married is one hundred lashes and lapidation."⁴² Now, this abrogated [the rule] confining women to their homes. This is something which is subject to discussion because he, *حَدَّثَنَا اللَّهُ عَلَيْهِ وَسَلَّمَ*, made it clear that the verse of inheritance abrogated the verse of the will. But he, *حَدَّثَنَا اللَّهُ عَلَيْهِ وَسَلَّمَ*, did not abrogate it himself. He also made it clear that Allâh, *ذُكِّرَ*, has made a [alternative] way for such women, which is what He had promised earlier when He said, ". . . Or Allâh will show another way for them."

If it is said: Al-Shâfi'î, *رُجِمَهُ اللَّهُ*, has said that it is not permissible to abrogate the *Sunna* by the Qur'ân, as it is not

⁴²The Prophet said this in response to a verse of the Qur'ân abrogating the punishment for adultery from permanent confinement in-home to lashes or lapidation or exile. For a complete account of the *ḥadīth*, see al-Ṭabarī, *Tafsīr*, pp. 291-294.

permissible to abrogate the Qur'ân by the *Sunna*. Certainly he is above not knowing the types of abrogation. In addition, he says it as though the *Sunna* can only annul the *Sunna* because the Prophet, *صلى الله عليه وسلم*, [can abrogate] a *Sunna* with a *Sunna* and can clarify his own speech and the Qur'ân, while the Qur'ân cannot clarify the *Sunna*. If this is not to be found, it is because it has not been transmitted to him [the Prophet]. Otherwise, abrogation cannot take place except in this way.

We shall say: If this relates to its permissibility on the basis of reason, then it is not difficult to perceive that it is understood from the Qur'ân that the direction [during prayer] toward the Ka'ba is necessitated [by the Qur'ân], even though facing Jerusalem was established by the *Sunna*. Hence, its reverse is possible, although he used to say that this has not actually occurred. Yet we have related that it has actually occurred. Thus, we do not need to recourse to a supposition of a hidden *Sunna* which has been obliterated, for on this supposition you do not need this. But to say that this [type of abrogation] has not occurred is pure dogma. In fact, most say that this has occurred—and that is undisputed.

Our opponents use the saying of the Exalted, "*Those people who do not expect to meet Us, they say [to the Prophet], 'Bring another Qur'ân different than this or change this one.' Say, 'It is not possible for me to change it myself. I only follow that which is revealed to me.'"* This [they say] indicates that the Qur'ân cannot be abrogated by the *Sunna*.

We shall say: It is undisputed that he [the Prophet] could not

abrogate on his own. Rather, only by inspiration revealed to him [could he do so]. But it is not necessary that it should be in the text of the Qur'ân. Even though we allow that abrogation can occur by the *ijtihad* [of the Prophet] also, the permission of *ijtihad* comes only from Allâh, عز وجل.

Therefore, the essence of the matter is that the Abrogator is He, Allâh, عز وجل, through the tongue of the Messenger, صلى الله عليه وسلم. The point here is that it is not a condition that a rule of the Qur'ân be abrogated [only] by the Qur'ân. Rather, it can be done at the tongue of the Messenger, صلى الله عليه وسلم, through revelation that is not Qur'ânic. The speech of Allâh, تبارك وتعالى, is one. It itself is the abrogator in one sense and is the abrogated in another sense. But He does not have two speeches, one being the Qur'ân, and the other not the Qur'ân. The difference being only in the expression. Perhaps He indicates His speech in a systematic text by which He orders us to recite; wherefore it is called the Qur'ân. Perhaps He may indicate it without any recited text; whence it is called *Sunna*. And all of this is heard from the Messenger, صلى الله عليه وسلم. But the Abrogator, in any case, is Allâh, تبارك وتعالى.

When they [the unbelievers] demanded [from the Prophet] "*a Qur'ân like this Qur'ân*," he replied, "I am not capable of doing it myself." And they did not request anything else. So what relevance does this have with the abrogation of the Qur'ân by the *Sunna* and its possibility?

They [the opponents] also argue on the basis of the saying of the Exalted, "*Whatever verse We abrogate, We bring one better than it or one similar to it.*" This [verse] made it clear that a verse

cannot be abrogated except by one similar to it or one better than it. However, *Sunna* is not like this. Then He praised Himself and said, "*Do you not know that Allâh has power over all things.*" This made it clear that no one has power [of abrogation] other than He.

We shall say: We have established that Allâh, *خَلَّاهُ*, is the Abrogator, and that it is He Who manifests it at the tongue of the Messenger, *صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ*. It is He Who causes us to understand the intermediacy [of the Prophet] in the abrogation of His Book—and there is none else who can do it. Also, if Allâh, *خَلَّاهُ*, abrogates a verse by way of the tongue of the Messenger, *صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ*, and then brings another verse like it, [He] then has fulfilled His promise. But He did not make it a condition that the other verse be an abrogator of the first. So, we say that the intention is not to bring another Qur'ân better than it, for the Qur'ân cannot be described as [having a] part of it being better than another part. However you conceive [of Allâh's speech], eternal or created, it means, instead, that He would bring an act better than the earlier one because either it would be lighter than the earlier one or its reward would be greater. /1:126/

IV. DISCUSSION: *Ijmâ'* cannot be used to abrogate because there can be no abrogation after revelation was terminated. But what has been abrogated by *ijmâ'* can be indicated by consensus itself as an abrogating factor present at the time of the revelation of either the Book or the *Sunna*.

As for the *Sunna*, a *mutawâtir* report can abrogate a *mutawâtir* report, and a solitary report, a solitary report. As for

the abrogation of a *mutawâtir* report by a solitary report, they differ among themselves as to whether it has actually occurred in revealed authority or is rationally permissible.

Some people said that in revealed authority it has actually occurred because the people of the mosque of *Qubâ'* turned toward the *Ka'ba* on the word of one person who informed them [about this]. This has been established in a decisive manner. They accepted its abrogation [on the basis] of a solitary report. The preferable view, however, is that it should be regarded as permissible on the basis of reason if it is a means to worship and if it has actually occurred in the time of the Messenger of Allâh, ﷺ. This is based on the the proof of the story of *Qubâ'*, and also on the proof of [the prophet's] delegating individual governors to various places, for they used to convey both the abrogating and the abrogated [rules]. But this [the latter] is impossible after [the Prophet's] death. The proof of this is the consensus of the Companions that the Qur'ân and the known *mutawâtir* [reports] cannot be eliminated by solitary report[s]. Therefore, none among the earlier generations, nor among the later ones, has held this to be permissible.

Religious practices on the basis of a solitary report have been accepted by the Companions in areas where it does not eliminate a decisive [rule]. The *Kharajites*, in fact, have held the view that the Qur'ân cannot be abrogated by a *mutawâtir* report, to the extent that they said the lapidation of Mâ'iz, although a *mutawâtir* report, is not suitable for abrogating the Qur'ân. Al-Shâfi'î, رحمته الله, said that it is not permissible for the Qur'ân to be abrogated by the *Sunna*,

even if it is a *mutawâtir* report. This is not absurd because it is possible to say, "We cast a duty upon you to abrogate on the basis of a solitary report at the time of revelation, but we make it unlawful thereafter."

If it is said: How is it permissible on the basis of reason, when a decisive [proof] is being obliterated by a conjectural one? As for the report about *Qubâ'*, it is possible that circumstantial evidence accumulated and [thus] imparted necessary knowledge.

We shall say: The assumption of indicative circumstantial evidences necessitates the annulment of solitary reports. This is like taking the practice of the Companions to be based on awareness of circumstantial evidences. But there is no way to establish what has not been transmitted.

As for their contention that this would constitute removal of something decisive by something subject to error, this is false. For if that were the case, we would have to definitely decide that the transmitter is lying. But we cannot decisively do so. Rather, we allow that he can be truthful. This is decisive proof, then, on the condition that there exists no report that can abrogate it. For if one is in the original state of freedom, this is something that is decisively known and can be removed by a solitary report, since this yields decisiveness—provided that there does not exist any solitary report.

If it is said: Why do you object to one who says decisively that such a transmitter is a liar, for the Messenger, *صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ*,

promulgated the rules, and if its abrogation had been established, then it would have been incumbent [upon the Prophet] to promulgate it also?

We shall say: Why is it impossible that he should promulgate its rule but entrust its abrogation to individuals, like specifications [of a generally promulgated rule] to a particular person?

V. DISCUSSION: It is not permissible to abrogate a decisive, *mutawâtir* text on the basis of *qiyâs* or *ijtihâd*, which are known through conjecture, regardless of its rank, manifest or hidden. This has been the decisive position of the majority [of legists], except for an isolated number, who say that that which permits specifications also permits abrogation.

But this is refuted on the grounds of reason, *ijmâ'*, and solitary reports, for through all of these, specification is possible, but not abrogation. Then how can the two be equal, while specification is an explanation and abrogation is elimination? Also, explanation is elaboration, while elimination is nullification.

Some of the companions of al-Shâfi'i said that abrogation is permissible on the basis of obvious *qiyâs*.

We say that the term *obvious* is ambiguous. If they mean decisive proof, then they are correct. But if it means something conjectural, then they are not.

That which is thought to have decisive proof has three ranks:

First, that which has the same force as the texts, or is more explicit than them, as the saying of the Exalted, "And do not say to them [your parents] even fye." Thus, the unlawfulness of striking

[your parents] is *a fortiori* [understood] from it. If a clear text arrived permitting the striking [of one's parents], then it would be capable of abrogating, for then it would preponderate over that which is already in [the text]. In the same rank is the saying of the Exalted, "*Whosoever does an atom's weight of good shall see it.*" This proves *a fortiori* that this is also true for that which is more than an atom. And so it is with the saying of the Exalted, "*When parents inherit [from their child], the mother receives one-third.*" Included in this is [the understanding that] the father receives two-thirds.

The second rank is such that if there were a text stating that emancipation has no effect on a female slave and then comes his statement, *حَتَّىٰ إِنْ أَسْلَمَ عَيْنُهُ وَوَسَّعَ*, "Whosoever emancipates his own share in a slave is obligated to appraise the remaining share." Thus, we would conclude that emancipation does have an effect on the female slave, for her case would be made analogous to the male slave due to the explicitness of [the male's case], since it is known decisively that the intent of the *Sharî'a* was aimed at the male slave because he is subservient.

The third rank is if there were a text, for example, allowing the consumption of *nabîdh*, but then the Lawgiver said that alcohol has been made unlawful because of its intoxication. The permissibility of *nabîdh* would then be abrogated based on its being analogous to alcohol, if we are obliged by the *Sharî'a* to accept *qiyâs*.

Some say that even if we are not obliged by the *Sharî'a* to [accept] *qiyâs*, we would still abrogate it. There is no difference

between his statement, "I have made all *nabîdh* unlawful," and his clear statement, "I have made alcohol unlawful because of its intoxication." It is for this reason that al-Nazzâm admitted to there being an '*illa* [underlying cause] in the text, though he denied the basis of *qiyâs*.

We must make it clear that if we were not obligated by the *Sharî'a* to use *qiyâs*, then his [the Prophet's] saying, "I have made unlawful alcohol upn you because of its intoxication," would not be conclusive proof for the prohibition of *nabîdh*. Rather, it is permissible that the '*illa* of prohibition be particularly the intoxication of the alcohol, just as the '*illa* of lapidation of an adulterer is particularly [the state of] being married. In summary, something decisive cannot be eliminated by something conjectural, but by [what is] decisive.

If it is said: Is the impossibility of it being eliminated by conjecture based on reason or revealed authority?

We shall say: The correct [answer] is revealed authority. But it is not impossible to say on a rational basis that we have laid a *Sharî'a* obligation upon you to abrogate one text on the basis of *qiyâs*, which is based on another text. Of course, it is impossible that we be obligated by the *Sharî'a* to abrogate a text on the basis of *qiyâs*, which is deduced from that very text itself, since this would lead to self contradiction. Thus, it would be an obligation to act and a prohibition to act [at the same time], according to [the text].

If it said: What about the proof of its impossibility based on revealed authority?

We shall say: It is proved by *ijmâ'* that every *qiyâs* which contradicts a clear text is void. Furthermore, Mu'âdh, رَضِيَ اللهُ عَنْهُ, said, "When I cannot find a clear text, I will exert my own opinion." And the Messenger of Allâh, صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ, approved of the statement. Also, there is the *ijmâ'* of the Companions to abandon *qiyâs* based on a solitary report. So what about a decisive *mutawâtir* text and the well-known fact of their statement, upon hearing a solitary report, "But for this report we would have decided by our opinion."

Moreover, the probity or indicativeness of the text is a decisive proof of whatever it is a text for. If the proof of the principle regarding a minor is conjecture, how then can the stronger be abandoned for the weaker? This is the basis for the Companions' *ijmâ'* in their rejecting *qiyâs* when it contradicts a text.

If it is said: When two decisive proofs are mutually contradictory and the later one is difficult, can the delay of the establishment of one of them on the basis of a solitary report [be permissible] so that it can be considered as the abrogating [text]?

We shall say: It is possible, for if it is the establishment of marriage, it requires the word of two [witnesses] and to establish adultery requires four. This shows that the caution necessary for the condition is not sufficient for that which is itself the condition. It is also possible to say that if the abrogation is established on the basis of a later event, while the abrogated [text] is something

decisive, then it is not sufficient for the abrogating [text] to be reported by a solitary report, for then this would be the proper occasion for *ijtihâd*. What is obvious should be accepted, since in this case one of the two texts is definitely abrogated. This is the objective of its acceptance of the specification.

VI. DISCUSSION: A rule cannot be abrogated by a Companion saying, "Such and such rule has been abrogated," if he has not stated, "I have heard the Messenger of Allâh, *صلى الله عليه وسلم*, say, 'I have abrogated such and such rule.' " If he says this, then the rule will be considered. If it [the rule] is established on the basis of a solitary report, then it is abrogated based on his statement. But if it is a decisive [rule], then it is not. As for his [the Companion's] statement, "such and such rule," it cannot be given decisive meaning because he may have considered what is not abrogation as abrogation.

Some consider an addition to a text as abrogation, which has been [reviewed] in other discussions.

Other people say that should the Companion relate to us what he holds to be abrogating, we would not follow him. However, we shall look into it. But if he categorically states this, then we accept it. He would not be categorical except on the basis of decisive knowledge.

But this [argument] is corrupt. Rather, the correct position is that if he mentions the abrogator, we shall consider it and decide upon it by our opinions. But if he does not actually mention [the abrogator], then we will not follow him. We may allow that he

could be saying this on the basis of his own *ijtihâd* alone. This is what al-Qâdî [Abû Bakr al-Bâqillânî], رَجَمَهُ اللهُ، has mentioned. But in our view, the more correct position is to accept it as a statement of a Companion, when [for example] the Companion says, "[the Prophet] commanded 'this' and prohibited 'that,' " for this kind of statement is acceptable, as it will be discussed in the Book of Reports. There is no difference between the forms.

If it is said: 'A'isha, رَضِيَ اللهُ عَنْهَا، said, "The Messenger of Allâh, صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ، did not die without releasing [the forbiddenness] of those women who were unlawful to him by the saying of the Exalted, '*We have made your wives lawful to you.*' "43 This [statement by 'A'isha] is then accepted.

We shall say: This is not satisfactory with us. Moreover, those who accept it, accept this as having an abrogating proof and is suitable for abrogation. But they do not follow her position.

CONCLUSION TO THE BOOK [OF ABROGATION]: REGARDING THAT WHICH INDICATES THE TIMING OF THE ABROGATING RULE

KNOW that when two texts are mutually contradictory the abrogating one is the latter and its delay cannot be known through the proof of reason or *qiyâs* from the *Sharî'a*, but solely on the authority of revealed authority. This can be done in several ways.

The first is when the expression itself indicates it, as in his

⁴³Qur'ân, 33:50. 'A'isha's position here, which is not adhered to by Ghazâlî, lifts the restriction imposed on the Prophet in Qur'ân, 33:52.

saying, **عَلَيْكُمْ السَّلَام**, "I had previously prohibited you from storing the meat of sacrificial animals, now store them," and like in his saying, "I have forbidden you from visiting the graves, now visit them."

The second is the *ijmâ'* of the *ummah* regarding rules that are abrogated, with the abrogating [text] being the latter.

The third is when the transmitter mentions the date—for example, when he says, "I heard it during the Year of the Trench or the conquest of Mecca," while the abrogated has been known to be before it. There is no difference as to whether the abrogator or abrogated is transmitted by the same reporter or by two reporters.

There are [six] ways in which dating cannot be established.

The first is when a Companion states, "This was a rule laid upon us; then it was abrogated."

For it is possible that he may have said this on the basis of *ijtihad*.

The second [way in which dating cannot be established] is for one of the [texts] to be established in the Qur'ân.

For the *sûras* and verses are not set in the chronology of their revelation. Rather, the later ones may have come first.

The third [way in which dating cannot be established] is for the transmitter to be one of the younger Companions.

For a minor may have transmitted from someone whose Companionship is more senior, and at times senior [Companions] transmitted from the younger.

The fourth [way in which dating cannot be established] is if the transmitter became a Muslim in the year of the conquest of Mecca and does not say, "I heard it in the year of conquest."

For he may have heard it as an unbeliever and transmitted it after becoming a Muslim; or perhaps he heard it from someone who preceded [him] in Islam.

The fifth [way in which dating cannot be established] is the possibility that the transmitter's Companionship was severed. Thus, it may be that his report is of an earlier date than the report of someone whose Companionship endured.

Although [the one of severed Companionship] may be suspect, it does not necessarily follow that the report of the one whose Companionship endured occurred after the time when the other's Companionship was severed.

The sixth [way in which dating cannot be established] is that one of the two reports should be in accordance with the judgment of reason and the original [state] of freedom, for it would seem to have come earlier.

But, it is not necessarily so, as found in his saying, *حَدَّثَنَا اللَّهُ عَلَيْهِ وَسَلَّمَ*, "Ablution is not required after eating that which contacts fire." This does not necessarily precede the obligatoriness of making ablution [after eating] that which has contacted fire, for it is possible that it used to be obligatory but was then abrogated.

Allâh knows best. We have now finished the first of the four principles, namely the Book. This is followed by an account of the *Sunna* of the Messenger of Allâh, *حَدَّثَنَا اللَّهُ عَلَيْهِ وَسَلَّمَ*.

THE UNIVERSITY OF CHICAGO

ABŪ ḤĀMID AL-GHAZĀLĪ'S JURISTIC DOCTRINE
IN *AL-MUSTAṢFĀ MIN 'ILM AL-UṢŪL* WITH A TRANSLATION OF
VOLUME ONE OF *AL-MUSTAṢFĀ MIN 'ILM AL-UṢŪL*
VOLUME THREE

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THE SECOND PRINCIPLE OF THE SHARI'A SOURCES

THE SUNNA OF THE MESSENGER OF ALLAH

صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ

The statements of the Messenger of Allāh, صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ, are proofs, for his truth has been proven by miracles and by the command of Allāh, فَخَاتَى, to follow him. He did not speak on caprice. It was but revelation revealed to him.¹ But a part of the revelation is recited, and is therefore called the Book, and a part is not recited, and this is the *Sunna*.²

The statements of the Messenger of Allāh, صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ, are proof for whosoever heard him verbally. As for us, his statement cannot reach except at the tongue of transmitters, either via *tawâtur* or *ahâd* reports. Thus, the discourse on this principle comprises an exordium, a division on *mutawâtir* reports and one on

¹Ghazâlî is referring to the Qur'ân, 53:4-5.

²For more discussion on the concept of *Sunna*, see Rahman's extensive chapter in *Islam*, pp. 43-71; 'Azamî, *Dirâsât fî al-Ḥadîth al-Nabawî*, pp. 1-20; Ignaz Goldziher, *Muslim Studies*, tr. M. Stern, 2: *passim*; Shawkânî, *Irshâd al-Fuḥûl*, pp.33-69; Āmidî, *Iḥkâm*, 1:247; al-Shâfi'î, *Risâla*, pp. 64-117 and 369-401; Shîrâzî, *al-Tabṣira fî Uṣûl al-Fiqh*, pp. 289-348; and compare with Ghazâlî's earlier treatment of *Sunna* in *al-Mankhûl*, pp. 235-87.

ahâd reports. Each division is comprised of several chapters.

As for the Exordium, it is an explanation of the terms of the Companions, رَضِيَ اللهُ عَنْهُمْ, in transmitting reports from the Messenger of Allâh, صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ. This has five ranks.

The first, which is the strongest of them, is when a Companion states, "I *heard* the Messenger of Allâh, صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ, saying" such and such; "he has informed me"; "has told me"; or "has verbally told me." This [form] is impenetrable to doubt. Therefore, this is the basis of transmission and conveyance. For he said, صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ, "May Allâh make prosperous he who hears my speech, retains it, and then delivers it as he has heard it. . . ."³

The second is when [a Companion] says that the Messenger of Allâh, صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ, "said" such and such or "informed" or "told." This has the appearance of being a transmission when it issues from a Companion, but it is not a decisive textual [statement]. For one of us may say that the Messenger of Allâh, صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ, "said . . .," relying on what has been related to him, though not [actually] hearing it from him. /1:130/ Therefore, it is not impossible for a Companion to say this relying on a *tawâtur* report or the tongue of one he trusts. Evidence that doubt enters [this type] is in Abû Hurayra's report that the Messenger of Allâh, صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ, has said, "Whosoever wakes up in the state of *janâba* [ritual impurity from sexual intercourse] should not fast." But when he [Abû Hurayra]

³Wensinck, *Concordance et Indices de la Tradition Musulmane*, 6:472, makes reference to this *hadîth* as being reported by Abû Dawûd, Tirmidhî, b. Mâjah, Dârimî, and b. Hanbal.

was questioned further, he said, "It was related to me by al-Faḍl b. 'Abbās." In the first case, he related the report but did not explicitly [link it to the Prophet].

Similarly, his statement, *حَدَّثَنَا اللَّهُ عَلَيْهِ وَسَلَّمَ*, "Ribâ [usury] is only in a loan," was reported by b. 'Abbās, *رَضِيَ اللَّهُ عَنْهُمَا*.⁴ But when asked about it, he reported that he had heard it from Usâma b. Zayd. Although this [form] may be liable to doubt, it is, nevertheless, unlikely. Indeed, more unlikely [in this rank] is when a Companion says, "The Messenger of Allâh, *حَدَّثَنَا اللَّهُ عَلَيْهِ وَسَلَّمَ*, said . . ." He would not say this unless he had actually heard Allâh's Messenger, *حَدَّثَنَا اللَّهُ عَلَيْهِ وَسَلَّمَ*. This differs from someone who was not a contemporary [of the Prophet] and who then says, "The Messenger of Allâh, *حَدَّثَنَا اللَّهُ عَلَيْهِ وَسَلَّمَ*, said . . ."; for the evidence of his circumstance indicates that he did not hear it, and his claim of hearing it is not deluding, unlike the [case] of the Companion, because his statement, "The Messenger of Allâh, *حَدَّثَنَا اللَّهُ عَلَيْهِ وَسَلَّمَ*, said . . .," suggests hearing. Thus he would not proceed except upon hearing. This is evident.

All reports have been transmitted [to us] this way. For it is [commonly] said, "Abû Bakr has said that the Messenger of Allâh, *حَدَّثَنَا اللَّهُ عَلَيْهِ وَسَلَّمَ*, said"; or " 'Umar has stated that the Messenger of Allâh, *حَدَّثَنَا اللَّهُ عَلَيْهِ وَسَلَّمَ*, said." Thus, we can only understand from this that [it was] heard.

The third [rank] is when a Companion says that the

⁴In referring to 'Abd Allâh b. 'Abbās, the phrase *raḍiya Allâhu 'anhu* becomes *'anhumâ* to include his father.

Messenger of Allâh, **صلى الله عليه وسلم**, "commanded" such and such, or "prohibited" such and such. This is liable to two interpretations.

One of them is that it was actually heard, just as it is said, "[The Prophet] said." The second, concerning a command, is that [the Companion] may have considered that which is not a command to be a command, for people have differed regarding the [Prophet's] saying "do," as to whether it is a command [or not].

Hence, some of the **Zâhirites** have said that there is no [*Sharî'a*] proof in this if the [actual] words are not stated. However, the truth is that it is inconceivable that a Companion would unconditionally [state] this unless he decisively knew [the Prophet] commanded it and unless he heard him say, "I command you to do this" or "do this," along with circumstantial evidence expressing that it is a command or giving the necessary understanding that he intended it to be a command.

As for the possibility that it may have been mistakenly taken as a command and is presumptuous, this we cannot necessarily attribute to a Companion. Rather, the apparent meanings of their statements and actions should be taken as they are. And because of this, if he said, "The Messenger of Allâh, **صلى الله عليه وسلم**, said" such and such, but laid a condition and specified a time, it then becomes incumbent upon us to follow him; and it is not permissible for us to say that perhaps [the Companion] misunderstood the condition and the timing, and considered what is not a condition to be one.

Hence, it is obligatory to accept the statement of a Companion that some rule has been abrogated. Otherwise, there is no distinction between a statement of abrogation or a statement of

command.

Thus, 'Alī, رَضِيَ اللهُ عَنْهُ, unconditionally stated, "I have been commanded to fight those pact breakers, rebels, and transgressors." It is inconceivable that someone like him would say "I have been commanded" unless he had a compelling basis requiring it to be a command.

However, this is liable to a third interpretation, with reference to its generality or specificity, such that some have assumed that when [a statement] is made unconditionally, it is necessarily a command for the entire community. The truth is that despite those who say that it has a general meaning /1:131/, one must suspend [judgment] on this because it is possible that what he [the Companion] heard could have been a command for the *ummah*, for a group, or for a specific individual. All of this makes it permissible for him to say it is a command. Therefore, one should suspend [judgment] for the proof.

However, one proof for this is that [the Prophet's] command to one is a command to everyone unless it concerns a particular situation, like travelling or being resident. If this is so, the Companion would explicitly state it, like his statement, "We were given the order that when on a journey we were permitted to not take off our shoes for three days and nights." Of course, if he had said, "We were commanded" such and such—and it is known from the practice of the Companions that one would not unconditionally state this unless it was a command for the *ummah*—then it is to be taken as is. Otherwise, it could be a command for the *ummah*, for him, or for a group.

The fourth [rank] is when it is said, "We are commanded" such and such or "prohibited" from such and such. This is liable to the previous three interpretations plus a fourth one, which concerns the commander, for it cannot be known whether he is the Messenger of Allâh, ﷺ, or one other than him, such as from among the *imâms* or scholars. Thus a group has said that this [report] does not embody proof because of its many interpretations. But most maintain that it cannot be interpreted except as being a command from Allâh, ﷻ, or a command from His Messenger, ﷺ, for he intends either to establish a *Shar'î a* [rule] or raise a proof. Thus, it should not be interpreted to be a statement by someone whose word has no authority.

Similar to this is [the Companion's] statement that "part of the *Sunna*" is such and such or that the "*Sunna* has continued to be" such and such. Thus, the obvious meaning is that he did not intend this to indicate other than the '*Sunna*' of Allâh's Messenger, ﷺ, which must be followed; not the *sunna* of someone else to whom obedience is not mandatory. Furthermore, it makes no difference whether the Companion says this during the lifetime of the Messenger of Allâh, ﷺ, or after his death.

As for the Successor, when he says, "We are commanded," this may be taken as the command of Allâh's Messenger, ﷺ, or the command of [anyone in] the entire *ummah*. The proof for this is established by its [form]. It is also possible that it is a command of the Companions. But it does not behoove a scholar to state this unconditionally unless he intends it to come from one whose obedience is mandatory. Still, the liability of a

second interpretation is more likely in the statement of a Successor than in the words of a Companion.

The fifth [rank] is saying, "They used to do" such and such. If this refers to those of the time of the Messenger, عَلَيْهِ السَّلَام, then this is proof that the said action was permitted; for mentioning this in the context of [establishing] a proof indicates that his intended meaning was that the Messenger of Allâh, صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ, knew of and kept silent about it, meaning that it was permissible—excluding what did not reach him.

An example of this is the statement of Ibn 'Umar, رَضِيَ اللهُ عَنْهُ, "During the time of Allâh's Messenger, صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ, we used to confer and say that the best of the people after the Messenger of Allâh, صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ, were Abû Bakr, then 'Umar, then 'Uthmân. When this reached Allâh's Messenger, صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ, he did not object to it."

He also said, "We used to practice sharecropping during the time of the Messenger of Allâh, صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ, and for forty years after him until Râfi' b. Khadij informed us of the *hadîth* [against sharecropping]."

Also, Abû Sa'id said, "During the time of the Messenger of Allâh, صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ, we used to give one *sa'a*⁵ of wheat for *zakât al-fitr*."⁶

⁵ A measure of quantity equaling 3,261.5 grams according to the Hanifites. Others take it be 2,172 grams, Qal'ajî, *Mu'jam Lughat al-Fuqahâ'*, p. 270.

⁶ Alms given in *Ramadân*.

Similarly, 'A'isha, رَضِيَ اللهُ عَنْهَا, said, "They used to amputate [the hand of] a thief for [stealing] something insignificant."

As for the statement of a Successor that "They used to do" such and such, this does not indicate the entire *ummah*. Rather, it indicates [the actions] of some. Therefore, this does not constitute proof unless he explicitly reports that it is from the people of *Ijmâ'*. \1:132\ In that case, it would be merely reporting *ijmâ'*—and a discussion will follow concerning the validity of this when based on a solitary report.

So, from this Exordium it should have become clear which report can be taken as originating from the Messenger of Allâh, صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ, and which is not to be taken as reported from him. Now let us explain the avenues by which reports reach us, that is, through *tawâtur* or *ahâd* [channels].

DIVISION ONE OF THIS PRINCIPLE: A DISCOURSE ON *TAWÂTUR* Consisting of [Three] Chapters

Chapter One: Tawâtur Establishes Certain Knowledge

Before this [discourse], however, we should define '*khavar*.' This is a statement which is liable to be true or false; or, it is a statement which either truth *or* falsehood may enter. This definition is better than when they say ". . . Truth *and* falsehood enter," for one report cannot be characterized by both. Indeed the speech of Allâh, قُلْ, cannot by any means be characterized by falsehood. Nor can reports of impossible things be characterized by any means as truth.

A report is one of the types of speech which inheres in the mind. As for its expression, this consists of segmented sounds which have a form, like in saying, "Zayd⁷ is standing or hitting [someone]." This is not a report per se; rather, it becomes a report by the issuer's intention to express by it what is in his mind. For this reason, what issues from a sleeping or insane person is not a report. As for the speech of the mind, it is a report per se by its very genus; for if it is found, it is immutable by the intention of the intender.

As for establishing that *tawâtur* indicates certainty, this is obvious and is contrary to what the *Sumaniyyah*⁸ say, for they restrict knowledge to the senses and therefore deny this. Their restriction is false because we necessarily know that a thousand is greater than one, or the impossibility of one and the same thing being [both] eternal and originated, or other things that require other than sense perceptions, which we have mentioned in *Madârik al-Yaqîn*.⁹

Rather, we say that their restriction of knowledge to the senses is *known* to them, and this in itself is something that is not

⁷In the text, Ghazâlî uses the name 'Zayd' generically.

⁸According to Tahânwî, *Kashshâf Istilâhât al-Funûn*, 1:702, 2:1390, they are idol worshippers who also believe in reincarnation and maintain that knowledge can only be apprehended only through the senses. See Ghazâlî, *al-Mankhûl*, p. 235. See also al-Juwaynî, *al-Burhân*, 1:124.

⁹Ghazâlî is most likely referring to his discussion in the introduction of *al-Mustasfâ*, p.11-12.

perceivable through the five senses. Furthermore, no sane person can doubt that there is a city in this world called Baghdad, even if he has never entered it; nor can he doubt the existence of prophets, nor the existence of al-Shâfi'î or Abû Hanîfa, may Allâh have mercy on them, nor the states and the great events.

If it is said: If these were necessarily known, then we would not differ with you.

We shall say: Anyone who differs with this, he only differs by his tongue, or through the malfunction of his reason, or through sheer obstinacy. This denial cannot issue from many people, for their denial is customarily impossible on the very basis of what they have known and their stubbornness. If we were to abandon what we necessarily know because of your view, then it should necessarily follow that you must abandon perceptibles because of the dispute of the Sophists.

As for the falsity of the opinion of al-Ka'bî, who holds that this kind of knowledge is discursive, we shall say that discursive knowledge is that in which it is possible for doubt to enter and for its conditions to change. So some people know it, but not others. /1:133/ Women and children do not know it; nor do those who are not discursive thinkers; and even those who deliberately abandon discursive thinking do not know it.

All discursive knowledge is such that a scholar [who has it] would find himself doubting it and then seeking [it]. But we do not find ourselves doubting the existence of Mecca, or the existence of al-Shâfi'î, رَحِمَهُ اللهُ, then seeking after them. If you mean by being