The Muʿtazila of Baghdād and the Eastern Ẓāhiriyya: A Scripturalist Alternative to al-Shāfiʿī's Vision of Islamic Law

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Most Sunnī legal theory serves al-Shāfiʿī's project of correlating revelation with existing law. This paper traces an alternative movement of legal theorists who agreed with al-Shāfiʿī that law should be grounded in revelation, but sought to reinvent that law from scratch, by applying revelation directly to each new legal problem, without extending revelation's reach through analogical reasoning, and without exploiting its ambiguity to justify existing laws.

This movement had its roots not in traditionism, as Goldziher suggested,[1] but in scripturalism – the conviction that law should be based only on the Qurʾān, not on traditions or reasoning by analogy.[2] For example, some Khārijiyya argued that the hand of every thief should be cut off, following the plain sense of a Qurʾānic verse (5:38),[3] whereas most jurists claimed that a prophetic tradition restricted that punishment to theft of a quarter of a Dinar or more.[4] Some also refused to condemn drunkenness caused by drinks other than grape wine, because

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[1] Goldziher, *Ẓāhirīs,* 24-27, 81-84, 108-109, 187.

[2] Cook, "ʿAnan and Islam," and Musa, "A Study of Early and Contemporary Muslim Attitudes toward *Ḥadīth* as Scripture," 22-24, refer only to scripturalist opposition to traditions. Opposition to analogy also seems to have been common among scripturalists to the extent that they were familiar with the device; on the Khārijiyya see van Ess, *Theologie und Gesellschaft,* 2:597, and on theologians see below.

[3] Cook, "ʿAnan and Islam," 168-169; al-Shāfiʿī, *al-Umm,* 8:41 / Būlāq 7:15.27-28.

[4] So the Shāfiʿiyya; other schools set different minimum amounts. See al-Shāfiʿī, *al-Umm,* 7:319 / Būlāq 6:115; al-Shāfiʿī, *al-Risāla,* 66-67 and 72-73 (¶¶223-224, 227, and 235); van Ess, "Ein unbekanntes Fragment des Naẓẓām," 194-195.

they refused to extend the Qurʾān's prohibition of wine to other intoxicants by analogy.[5] Elements of scripturalism may also be found among early theologians such as al-Ḥasan al-Baṣrī (d. 110/728),[6] Jahm ibn Ṣafwān (d. 128/746),[7] Wāṣil ibn ʿAṭāʾ (d. 131/748),[8] ʿAmr ibn ʿUbayd (d. 144/761),[9] and Ḍirār ibn ʿAmr (d. ca. 180/796).[10] al-Shāfiʿī, in his *Risāla,* sought to reconcile that scripturalist sentiment[11] with the aspirations of both traditionists and rationalist jurists, by presenting Prophetic traditions and analogy as mere elaborations of an essentially Qurʾānic law.[12]

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[5] van Ess, *Theologie und Gesellschaft,* 2:597.

[6] He may have claimed that the Qurʾān is the only valid source of (theological) doctrine. Cook, "ʿAnan and Islam," 166.

[7] He reportedly argued that the Qurʾān never ascribes a motivation or rationale to any of God's actions. Turki, *Polémiques,* 352. This theological position could lead very naturally to the narrower legal-theoretical proposition that there is no coherent moral rationale behind God's commands and prohibitions, from which additional laws might be extrapolated by human reasoning. Ibn Ḥazm *(al-Iḥkām,* 7:203) classed Jahm among supporters of reasoning by analogy, but this polemical list cannot be taken as clear historical evidence. Jahm was too early to be considered an advocate of formal *qiyās al-ʿilla,* and Ibn Ḥazm also listed al-Aṣamm, who did not uphold *qiyās al-ʿilla,* as we will see.

[8] He accepted as authoritative sources of revealed knowledge only unequivocal Qurʾānic verses and unquestionably authentic reports; but he too appears to have been assessing sources of theological rather than legal doctrine. ʿAbd al-Jabbār, *Faḍl al-iʿtizāl,* 234; van Ess, *Theologie und Gesellschaft,* 5:162. Wāṣil also discussed some terms that became important to legal theory, and he has consequently been held up as a founding figure of that discipline (e.g. Hasan, *Early Development,* 41, 58 n. 31); but his principles were designed primarily for theology rather than for law, as van Ess also noted *(Theologie und Gesellschaft,* 2:278-279).

[9] He rejected many traditions, including one that made exceptions to the Qurʾānic penalty for theft. Cook, "ʿAnan and Islam," 166-167. He also opposed reasoning by analogy unless the rationale of a rule was explicitly revealed. van Ess, *Theologie und Gesellschaft,* 2:301-302, 5:171-172.

[10] He has been accounted a scripturalist on account of his refusal to rely fully on either reason or traditions in theology. van Ess, *Theologie und Gesellschaft,* 3:51-55.

[11] He was well aware of scripturalism, which he identified with literalism. See Cook, "ʿAnan and Islam," 167-168; al-Shāfiʿī, *Ikhtilāf al-ḥadīth,* in *al-Umm,* 10:33 / Būlāq 7:46 (margin); al-Shāfiʿī, *Jimāʿ al-ʿilm,* in *al-Umm,* 9:5-6 / Būlāq 7:250.

[12] See Vishanoff, "Early Islamic Hermeneutics," 31-32. Like those scripturalists who advocated judgment by the Qurʾān alone, al-Shāfiʿī argued that the Qurʾān is the source of the entire law, at least in principle. Like traditionists who wished to answer every question by appeal to reports transmitted from earlier Muslims closer to the Prophet, he extended the Qurʾān's authority to traditions, or at least to Prophetic traditions. But rather than apply this revealed canon directly to specific cases, as scripturalists and traditionists wished to do, he accepted the jurists' vision of a comprehensive system of legal rules elaborated through human reasoning *(fiqh)*.

Scripturalism received fresh impetus from Muʿtazilī contemporaries of al-Shāfiʿī[13] such as al-Naẓẓām (d. 221/836), who despised the legal reasoning of jurists.[14] Since he could find no consistent moral logic in God's commands,[15] he argued that if one was going to follow those commands at all one would have to follow them to the letter, without any interpretation or elaboration.[16] For example, when the Qurʾān used the word *ṭalāq* in authorizing divorce, this established the effectiveness only of those divorce formulas that employ some form of the word *ṭalāq;* no other formula will do, even if it is intended to express the same idea, because following revelation means following the words of revelation, not some purported meaning that is thought

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[13] Cook ("ʿAnan and Islam," 167) refrained from identifying the theologians mentioned by al-Shāfiʿī in his discussion of scripturalism, but we will see that van Ess *(Kitāb al-nakṯ,* 137-138) was correct in identifying them as Muʿtazilī predecessors of al-Naẓẓām. al-Jaṣṣāṣ *(al-Fuṣūl,* 2:206) identified those who followed al-Naẓẓām's rejection of analogy as a group of Baghdād theologians.

[14] He rejected both analogy and *ijtihād.* al-Jaṣṣāṣ, *al-Fuṣūl,* 2:206; Sayyid Murtaḍā, *al-Dharīʿa,* 2:674; Abū Isḥāq al-Shīrāzī, *Sharḥ al-lumaʿ,* 2:760-761 ¶891; al-Bājī, *Iḥkām,* 531 ¶568; al-Zarkashī, *al-Baḥr al-muḥīṭ,* 5:16-20; Turki, *Polémiques,* 340; van Ess, *Theologie und Gesellschaft,* 3:387-388, 6:190-191. Some protested that al-Naẓẓām employed analogy without admitting it; see e.g. al-Zarkashī, *al-Baḥr al-muḥīṭ,* 5:19; van Ess ("Ein unbekanntes Fragment des Naẓẓām," 194. van Ess himself concluded ("Ein unbekanntes Fragment des Naẓẓām," 186; *Kitāb al-nakṯ,* 138; *Theologie und Gesellschaft,* 3:390) that he did allow for logical deduction in law, but the one example he cited was intended by al-Naẓẓām as a simple application of revealed language, not as an inference (see note 18). He also rejected the notion of a binding consensus, at least as it was usually conceived, whether among the Prophet's Companions or later generations of scholars. See Abū Yaʿlā, *al-ʿUdda,* 4:1064; Abū Isḥāq al-Shīrāzī, *Sharḥ al-lumaʿ,* 2:666 ¶774; al-Zarkashī, *al-Baḥr al-muḥīṭ,* 4:440; van Ess, "Ein unbekanntes Fragment des Naẓẓām," 185-187; van Ess, *Kitāb al-nakṯ,* 11, 112-118; van Ess, *Theologie und Gesellschaft,* 3:384-386, 6:180-182. al-Ashʿarī's implication *(Maqālāt,* 1:336 / ed. Ritter 276-277) that he allowed particularization by both consensus and traditions seems incompatible with his radical critique of these two sources, and may reflect the way the debate over particularization was framed in the 4th/10th century rather than al-Naẓẓām's own views. Statements of his view on the same topic by fellow Muʿtazila do not mention consensus or traditions (ʿAbd al-Jabbār, *al-Mughnī,* 17:72; Abū al-Ḥusayn al-Baṣrī, *al-Muʿtamad,* 1:331; Sayyid Murtaḍā, *al-Dharīʿa,* 1:391). Alternatively, al-Ashʿarī may be alluding to al-Naẓẓām's reported view that a tradition can have some authority in a dispute when it is combined with a consensus as to its authenticity (see van Ess, *Theologie und Gesellschaft,* 6:176).

[15] al-Nātiq bi-l-Ḥaqq, *al-Mujzī,* 1:281-283; Abū Isḥāq al-Shīrāzī, *Sharḥ al-lumaʿ,* 1:189 ¶63, 2:767 ¶900, 896-897 ¶1039; van Ess, *Theologie und Gesellschaft,* 3:387, 6:190.

[16] van Ess *(EIr* s.v. "Abū Esḥāq al-Naẓẓām," 278) and Bernand ("Le savoir," 39) both suggested that al-Naẓẓām thought language could be understood intuitively, without any rational process of interpretation; this seems plausible, but the passage from which they gathered this (translated by Bernand on p. 28) only affirms the human ability to grasp intuitively that a certain utterance is directed at oneself; it says nothing about grasping its meaning.

to lie behind them.[17] Humans have no divine warrant to go figuring out the purpose behind God's regulations. Even when God has stated a rationale, it cannot be used as a basis for analogy. If God said sugar was prohibited, only sugar would thereby become prohibited. If God said sugar was prohibited because it was sweet, then all sweet things would be prohibited – not because of an analogy, but because God's statement would be equivalent to an explicit general statement that all sweet things are prohibited; this would still be a direct application of revealed language, not an exercise of human reason.[18] Such views implied a complete rejection of the constructs of the jurists in favor of a literalist scripturalism – an almost purely Qurʾānic scripturalism, since al-Naẓẓām was extremely skeptical of traditions.[19] His critique had nothing to do with religious pietism or traditionalism; it was a rationalist theologian's repudiation of the jurists' claim that their laws were derived from revelation.[20] Muslim jurists, he complained,

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[17] Likewise when the Qurʾān speaks of foreswearing one's wife by *ẓihār* (saying "you are to me as my mother's back," *ẓahr,* in other words, you are forbidden to me) it is regulating only those utterances that actually use the word *ẓahr,* and implies nothing about utterances that mention some other part of the body. Ibn Qutayba, *Taʾwīl mukhtalif al-ḥadīth,* 47; van Ess, "Ein unbekanntes Fragment des Naẓẓām," 192; van Ess, *Theologie und Gesellschaft,* 3:388-389, 6:195.

[18] ʿAbd al-Jabbār, *al-Mughnī,* 17:310, on which see van Ess, "Ein unbekanntes Fragment des Naẓẓām," 186, and van Ess, *Theologie und Gesellschaft,* 3:390, 6:177. Also al-Jaṣṣāṣ, *al-Fuṣūl,* 2:299, on which see Shehaby, "*ʿIlla* and *Qiyās,*" 36. Also al-Nātiq bi-l-Ḥaqq, *al-Mujzī,* 2:5-6; Abū Yaʿlā, *al-ʿUdda,* 4:1372; Abū Isḥāq al-Shīrāzī, *Sharḥ al-lumaʿ,* 2:788 ¶921; al-Zarkashī, *al-Baḥr al-muḥīṭ,* 5:31 (but cf. the conflicting report on 5:19). ʿAbd al-Jabbār contended that applying the text to unmentioned cases required reliance on analogy; van Ess said it required only deduction; Shehaby correctly grasped al-Naẓẓām's stance that every case with the same *ʿilla* is linguistically encompassed by the statement of the *ʿilla*.

[19] He would accept even a multiply transmitted report only if some rational or sensory evidence corroborated it. See al-Ṣaymarī, *Masāʾil al-khilāf,* 139a; Abū Yaʿlā, *al-ʿUdda,* 3:901, 905-906; Abū Isḥāq al-Shīrāzī, *Sharḥ al-lumaʿ,* 2:580 ¶671, 582-583 ¶675; van Ess, "Ein unbekanntes Fragment des Naẓẓām," *passim,* especially 171-172 and 185; van Ess, *Theologie und Gesellschaft,* 3:383-384, 6:178-180, 182-187; Zysow, "Economy," 20.

[20] Cf. van Ess's estimation *(Kitāb al-nakṯ,* 137-138; van Ess, "Ein unbekanntes Fragment des Naẓẓām," 194) that al-Naẓẓām did believe in the possibility of constructing law on the basis of revelation, without the chaos and uncertainty introduced by analogy and Prophetic traditions, by applying logic to the prescriptions of the Qurʾān. I am less willing to presume that al-Naẓẓām's had such a positive legal program.

were no better than the Jews and the Christians, who, having in their hands a decisive text from God, turned it to their own purposes through dubious legal reasoning.[21]

al-Aṣamm[22] (d. 201/816) and his two pupils Ibn ʿUlayya[23] (d. 218/833) and Bishr al-Marīsī[24] (d. 218/833) went beyond critique to develop a positive scripturalist vision of law. They argued that the human intellect can reliably interpret and apply revelation by classifying human actions according to their formal, external properties.[25] They had such confidence in this human ability that they declared it a sin to err in one's interpretations. They said erroneous judgments could be detected and should be rescinded.[26] They saw no need for the dubious evidence of Prophetic traditions to assist in interpreting the Qurʾān.[27]

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[21] See van Ess, *Kitāb al-nakt,* 20-21.

[22] Much of what follows regarding al-Aṣamm is based on van Ess, *Theologie und Gesellschaft,* 2:396-397, 407, 414-418, 5:209-211.

[23] See van Ess, *Theologie und Gesellschaft,* 2:418-421.

[24] See van Ess, *Theologie und Gesellschaft,* 3:175-188.

[25] The idea was apparently to assign each act the same legal value as some act with similar formal properties that happened to be mentioned in revelation. This has been called analogy, but it was based on purely external considerations, not on some supposed rationale behind God's commands. For al-Aṣamm see al-Juwaynī [?], *al-Kāfiya fī al-jadal,* 315. al-Jaṣṣāṣ *(al-Fuṣūl,* 2:377, see also 2:212) attributed a common position on *qiyās* to al-Aṣamm, Ibn ʿUlayya, and Bishr al-Marīsī; Shehaby ("*ʿIlla* and *Qiyās,*" 30-31) understood this position to be that they accepted *qiyās al-ʿilla* but believed each human act was bound to a single known case with a single knowable *ʿilla.* This may well be how al-Jaṣṣāṣ understood their position, but van Ess *(Theologie und Gesellschaft,* 2:416), adducing principally *al-Kāfiya fī al-jadal,* concluded that al-Aṣamm was not advocating *qiyās al-ʿilla* but only *qiyās al-ṣūra:* an act that is formally identical to another act shares it legal value; for example, since the first act of sitting during the prayer is not obligatory, the second cannot be either, since they have the same form. (This may sound harmless enough, but the author of *al-Kāfiya fī al-jadal* dismissed it as unbelief because it went against the consensus of the community.) This explanation of their position on analogy explains how al-Aṣamm and Bishr al-Marīsī could make the unusual claim that reason itself requires that law be established by means of analogy (al-Bājī, *Iḥkām,* 2:547 ¶584). Bishr al-Marīsī also allowed *qiyās al-ʿilla* when the *ʿilla* was known with certainty, as for instance when it was stated in revelation or affirmed by consensus; see al-Zarkashī, *al-Baḥr al-muḥīṭ,* 5:77; van Ess, *Theologie und Gesellschaft,* 3:187, 5:365.

[26] See al-Jaṣṣāṣ, *al-Fuṣūl,* 2:377; al-Nātiq bi-l-Ḥaqq, *al-Mujzī,* 2:235; the sometimes conflicting reports preserved in al-Zarkashī, *al-Baḥr al-muḥīṭ,* 6:240, 244-245, 247, 249-250, 253-254, 256; and the passages translated in van Ess, *Theologie und Gesellschaft,* 5:209-210.

[27] They were decidedly skeptical of individually transmitted reports, and Ibn ʿUlayya held a written debate on this point with al-Shāfiʿī. van Ess, *Theologie und Gesellschaft,* 2:420-421. For al-Aṣamm see Turki, *Polémiques,* 100-101; and the passages translated in van Ess, *Theologie und Gesellschaft,* 5:211. For al-Marīsī, see Bedir, "An Early Response to Shāfiʿī," 291; he did however show considerable interest in traditions (see van Ess, *Theologie und Gesellschaft,* 3:182, 5:354ff.).

Jaʿfar ibn Ḥarb (d. 236/850) argued that even a prohibition of sugar "because it is sweet" only applies to sugar itself.[28] He had a typically scripturalist confidence that every rational being is able to understand and apply God's commands to his or her own situation. Jurists may aid nonspecialists in that task, but they are not to develop a system of preformulated rules – a body of *fiqh* – for others to follow.[29]

Jaʿfar ibn Mubashshir (d. 234/848) shared a similar outlook,[30] but also recognized individually transmitted Prophetic traditions as a source of law.[31] In principle, then, he admitted the revealed canon advocated by al-Shāfiʿī; but he did not accept the flexible hermeneutic al-Shāfiʿī used to resolve conflicts within that canon. For example, al-Shāfiʿī had argued that the Qurʾān's enumeration of the women a man may not marry (Q 4:23-24) should be expanded based on the Prophetic report that a man may not be married to a woman and her aunt at the

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[28] al-Nātiq bi-l-Ḥaqq, *al-Mujzī,* 2:7; al-Zarkashī, *al-Baḥr al-muḥīṭ,* 5:31. He certainly rejected analogy (al-Nātiq bi-l-Ḥaqq, *al-Mujzī,* 1:281; al-Zarkashī, *al-Baḥr al-muḥīṭ,* 5:17), but why he did so remains uncertain. He apparently argued that God could have required reasoning by analogy, but in fact did not. The reports on this point are confused, and the position that makes the most sense, given the view just cited, is that reason does not require the use of analogy, but it would have been possible for God to require it through revelation. The Ḥanbalī Abū Yaʿlā *(al-ʿUdda,* 4:1282-1283) appears to have misunderstood this view, or distorted it to fit into his discussion of whether the permissibility (or requirement) of reasoning by analogy is known by reason and/or by revelation, which he combined with the question of whether it is rationally possible for God to require the use of analogy. As a result he attributed to Jaʿfar ibn Ḥarb and several others the view that "the requirement to use analogy (or perhaps just the use of analogy) is not rationally possible (or permissible), but it is possible (or permissible) according to revelation" (لا يجوز التعبد به من جهة العقل ويجوز من جهة الشرع) – which is either nonsensical, or inconsistent in its use of terms, or flatly opposed to the well-known report that al-Naẓẓām and company denied the validity of analogy (which he must have known, especially since he cites one of al-Naẓẓām's arguments on 4:1288). al-Kalwadhānī *(al-Tamhīd,* 3:366-367) more or less reproduced Abū Yaʿlā's confusion; Ibn ʿAqīl *(al-Wāḍiḥ,* 5:282-283) saw the problem and tried to fix it by guessing that Jaʿfar must have regarded analogy as impermissible according to both reason and revelation (which makes nonsense of the texts cited above); Ibn Taymiyya (Ibn Taymiyya, et al., *al-Musawwada,* 2:710-711) quoted both versions but offered no resolution.

[29] al-Nātiq bi-l-Ḥaqq, *al-Mujzī,* 2:303; cf. al-Zarkashī, *al-Baḥr al-muḥīṭ,* 6:284, where the reference to *ʿilla* must stem from someone who forgot that Jaʿfar denied *qiyās al-ʿilla*.

[30] The references given above for Jaʿfar ibn Ḥarb apply equally to Ibn Mubashshir; see also van Ess, *Theologie und Gesellschaft,* 4:65-66, 6:283-284; al-Shahrastānī, *al-Milal wa-l-niḥal,* 1:78-79 / trans. Kazi and Flynn 53; van Ess, "Ein unbekanntes Fragment des Naẓẓām," 196.

[31] van Ess, *Theologie und Gesellschaft,* 4:66.

same time;[32] but Jaʿfar ibn Mubashshir ignored the report, and stuck to the Qurʾān's list[33] – which, after all, declares itself to be an exhaustive list. The fact that one of his students was remembered for issuing legal opinions according to his views[34] shows that his scripturalism was no mere critique, but a real alternative approach to law. Elements of this scripturalism were shared by other Baghdād Muʿtazila,[35] but the more successful Baṣra branch sided with the mainstream Shāfiʿī approach to law, and scripturalism soon died out among the Muʿtazila.

Jaʿfar ibn Mubashshir's version of scripturalism was kept alive, however, by Dāʾūd al-Ẓāhirī (d. 270/884).[36] He accepted the legal authority of the Qurʾān and Prophetic traditions,[37] but dismissed the authority of legal scholars[38] and reasoning by analogy – even when the

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[32] al-Shāfiʿī, *al-Risāla,* 226-229 ¶627-635.

[33] van Ess, *Theologie und Gesellschaft,* 4:65.

[34] Abū Mujālid (d. 268/882). See van Ess, *Theologie und Gesellschaft,* 4:94.

[35] Bishr ibn al-Muʿtamir (d. 210/825), considered the founder of the Baghdād Muʿtazila, may have rejected analogy, and is credited with works that may suggest a scripturalist attitude in law (van Ess, *Theologie und Gesellschaft,* 3:142, 4:65; but cf. Ibn Ḥazm, *al-Iḥkām,* 7:203-204). His student Thumāma ibn Ashras (d. 213/828?) did not trust analogy, consensus, or the self-serving interpretive maneuvers of the jurists, but limited law to explicit revealed provisions; for example, he allowed a form of homosexual contact not prohibited in any text, which others forbade by analogy to anal intercourse (van Ess, *Theologie und Gesellschaft,* 3:169-171). Bishr's leading disciple, ʿĪsā al-Murdār (d. 226/841), likewise offered rationalist and scripturalist objections to analogy and *ijtihād* (van Ess, *Theologie und Gesellschaft,* 3:141-142; *idem,* "Ein unbekanntes Fragment des Naẓẓām," 196); it was he who instructed the two Jaʿfars. al-Iskāfī (d. 240/854), a disciple of Jaʿfar ibn Ḥarb, likewise rejected analogy (Ibn Ḥazm, *al-Iḥkām,* 7:203; al-Zarkashī, *al-Baḥr al-muḥīṭ,* 5:17), but on the other hand he took the important step of formally recognizing the ambiguity of some Qurʾānic language, in terms similar to al-Shāfiʿī's (al-Ashʿarī, *Maqālāt,* 1:294 / ed. Ritter 224). For scripturalist tenets of the Baghdād Muʿtazila as a group, see also Abū Isḥāq al-Shīrāzī, *Sharḥ al-lumaʿ,* 2:760-761 ¶891; al-Bājī, *Iḥkām,* 531 ¶568, 707 ¶768. They are probably also to be identified with the theologians mentioned by Abū al-Ṭayyib al-Ṭabarī (cited in al-Zarkashī, *al-Baḥr al-muḥīṭ,* 4:374) as holding the Ẓāhirī view that for the Prophet's command to be binding it must be transmitted in its original imperative form.

[36] This was noted by van Ess, *Theologie und Gesellschaft,* 224.

[37] Ibn Ḥazm, *al-Iḥkām,* 1:119; al-Zarkashī, *al-Baḥr al-muḥīṭ,* 4:262; Turki, *Polémiques,* 14.

[38] The only kind of consensus he recognized as a binding source of legal rulings was the explicit agreement of all the Prophet's Companions (al-Zarkashī, *al-Baḥr al-muḥīṭ,* 4:482, 495; Goldziher, *Ẓāhirīs,* 33; Melchert, *Formation,* 180); he accepted the consensus of scholars only on basic factual information such as the location of the Kaʿba (al-Qāḍī al-Nuʿmān, *Ikhtilāf uṣūl al-madhāhib,* 123-124; Stewart, "Muḥammad b. Dāʾūd," 138-139). He also wrote a book, or a chapter in a book on legal theory, against *taqlīd* (Ibn al-Nadīm, *al-Fihrist* (ed. Tajaddud), 272; Stewart, "Muḥammad b. Dāʾūd," 109-112).

rationale for a command was explicitly revealed.[39] He limited himself so closely to the words of revelation that according to some reports, he would not admit that "do not insult your parents" implies "do not beat them,"[40] or that "do not kill your children out of fear of poverty" prohibits killing them for other reasons. This rather dramatic minimalism was said to stem from his principle that it is only the text that matters, not the meaning behind it.[41] The "argument from evidence" that he reportedly employed at times seems to have been a kind of syllogistic rational deduction, or perhaps a kind of analogy akin to al-Aṣamm's formal categorization of actions,[42] but it can hardly have been true analogical reasoning, as some of his critics charged.[43] There were plenty of ways of finding legal values without appealing to analogy – if nothing else he could appeal to the default value of permissibility that God established when he declared that he had "created for you everything that is on earth" (Q 2:29).[44] Once a legal value was established

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[39] On analogy, see especially al-Zarkashī, *al-Baḥr al-muḥīṭ,* 5:17-21; also al-Nātiq bi-l-Ḥaqq, *al-Mujzī,* 1:284; Abū Isḥāq al-Shīrāzī, *Sharḥ al-lumaʿ,* 2:761 ¶891; al-Bājī, *Iḥkām,* 531 ¶568; Shehaby, "*ʿIlla* and *Qiyās,*" 29; Turki, *Polémiques,* 340-341. On Dāʾūd's view of the sources of law generally, see Goldziher, *Ẓāhirīs,* 30; Melchert, *Formation,* 179-180.

[40] Dāʾūd's stance on positive implication is disputed (as noted by Zysow, "Economy," 161): some reported that he denied it (al-Nātiq bi-l-Ḥaqq, *al-Mujzī,* 2:213, 216; Abū Yaʿlā, *al-ʿUdda,* 2:481-482); others that he affirmed it (al-Zarkashī, *al-Baḥr al-muḥīṭ,* 5:17, 20). Probably the notion of positive implication had not been formalized in classical terms during Dāʾūd's lifetime, though it had been discussed (al-Shāfiʿī considered it an instance of reasoning by analogy). Most later thinkers would consider it part of the implied verbal meaning of the text, and some scholars apparently thought it must therefore have been accepted by Dāʾūd; but the contrary reports seem more consistent with his other views, including the one mentioned next.

[41] al-Zarkashī, *al-Baḥr al-muḥīṭ,* 4:23. This illustration was given in a polemical discussion of negative implication, which Dāʾūd is generally said to have accepted (Abū Yaʿlā, *al-ʿUdda,* 2:453; al-Zarkashī, *al-Baḥr al-muḥīṭ,* 4:25, 30, 41; Zysow, "Economy," 169). But it seems doubtful that Dāʾūd would have affirmed that doctrine in the classical sense that the unmentioned situation must have a legal value opposite that of the situation mentioned. More likely he simply insisted that the text did not apply to any but the situation mentioned, and left any other situations up to other evidence, or applied to them the default legal value of permission.

[42] Shehaby ("*ʿIlla* and *Qiyās,*" 30-31) considered both possibilities, and dismissed the second only because he was unaware that figures like al-Aṣamm were precisely the kind of thinkers Dāʾūd was likely to agree with.

[43] See Goldziher, *Ẓāhirīs,* 35, 206; Shehaby, "*ʿIlla* and *Qiyās,*" 29.

[44] al-Bājī, *Iḥkām,* 259 ¶181. Cf. al-Zarkashī, *al-Baḥr al-muḥīṭ,* 5:17. Another means of extending the law without appeal to analogy was to cite a general agreement that two things have the same legal value – even if people disagree about what that legal value is – as evidence that one's own judgment about the first can be extended to the

in this or some other way, Dāʾūd required evidentiary certainty before modifying it.[45] This led him to revive legal views that had been voiced early in Muslim history, but had been abandoned by the emerging Sunnī orthodoxy.[46]

Dāʾūd's hermeneutic was quite similar to that of Jaʿfar ibn Mubashshir, but he did not share Jaʿfar's rationalist confidence in humans' ability to interpret God's words, or the critical rationalist spirit of al-Naẓẓām.[47] He reportedly said that reason has no place in law.[48] He received some highly traditionalist training,[49] held "semi-rationalist" theological views,[50] rejected figurative interpretation,[51] and he may have accepted individually transmitted reports as sources of knowledge.[52] He was a devoted admirer of al-Shāfiʿī,[53] and shared some of his key hermeneutical ideas,[54] although Dāʾūd's less flexible hermeneutic[55] often forced him to reject

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second. One of Dāʾūd's opponents complained that this was just analogy in disguise (al-Zarkashī, *al-Baḥr al-muḥīṭ,* 4:546).

[45] al-Zarkashī, *al-Baḥr al-muḥīṭ,* 4:537. Since this principle of *istiṣḥāb* extended a known legal value to a new situation, it could fulfill the same function as analogy, as one of his opponents complained (al-Zarkashī, *al-Baḥr al-muḥīṭ,* 6:22).

[46] This was often the case with Ẓāhirī views, some of which were probably affirmed by Dāʾūd himself; see Goldziher, *Ẓāhirīs,* 38, 43-44, 51, 62, 73.

[47] Rather, every well-intentioned interpretation, even by a nonspecialist, is deemed correct. al-Zarkashī, *al-Baḥr al-muḥīṭ,* 6:263. This is not a rationalist optimism, but a concession to the limitations of human interpretation.

[48] al-Jaṣṣāṣ, *al-Fuṣūl,* 2:177, and presumably also 206-207.

[49] This was emphasized by Goldziher, *Ẓāhirīs,* 27.

[50] Melchert, *Formation,* 75, 182-184; van Ess, *Theologie und Gesellschaft,* 4:223-224. He did not consider reason adequate to establish any legal values in the absence of revelation, but depended for the basic permissibility of all things upon God's having declared them so. al-Bājī, *Iḥkām,* 259 ¶181; al-Zarkashī, *al-Baḥr al-muḥīṭ,* 1:161.

[51] al-Bājī, *Iḥkām,* 187 ¶36; Ibn Taymiyya, *al-Īmān,* 76; al-Zarkashī, *al-Baḥr al-muḥīṭ,* 2:182-183.

[52] Ibn Ḥazm, *al-Iḥkām,* 1:119; al-Zarkashī, *al-Baḥr al-muḥīṭ,* 4:262; Melchert, *Formation,* 180; but see note 87.

[53] See Goldziher, *Ẓāhirīs,* 27-28; Melchert, *Formation,* 146, 179.

[54] This included al-Shāfiʿī's notion that Qurʾānic language is often ambiguous and can be modified by a well-established Prophetic tradition. Together, he said, the Qurʾān and Sunna can address all conceivable legal questions. See al-Zarkashī, *al-Baḥr al-muḥīṭ,* 5:17, recalling that the consensus Dāʾūd accepted was too narrowly defined to play a very significant role as a source of law (see note 38). He also adopted some of al-Shāfiʿī's

difficult traditions rather than finding ways to reinterpret them.[56] Perhaps he was faithfully developing the earlier ideas al-Shāfiʿī had taught in Baghdād.[57] I think, therefore, that although Dāʾūd was largely in agreement with the Muʿtazilī scripturalists, he was himself motivated not by rationalism, but by a pious desire to actually carry out al-Shāfiʿī's idea of grounding law in the Qurʾān and Sunna – not by reinterpreting revelation to match existing law, as al-Shāfiʿī did, but by reinventing law from scratch on a case by case basis.

Dāʾūd's followers, however, were much more philosophically inclined. Nifṭawayh (d. 323/935), the eccentric poet and grammarian who first led the Ẓāhirī movement after Dāʾūd's death,[58] gave scripturalism a linguistic turn. He claimed that no word in the Arabic language is

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hermeneutical vocabulary, writing on topics such as summarized and elaborated speech, and general and particular expressions. Ibn al-Nadīm, *al-Fihrist* (ed. Tajaddud), 272.

[55] He denied that Prophetic traditions could themselves be ambiguous and thus susceptible to modification by other evidence – since the role of the Sunna, after all, was to clarify the Qurʾān. al-Zarkashī, *al-Baḥr al-muḥīṭ,* 3:455; Zysow, "Economy," 155-156. He may have even held that a tradition cannot particularize another tradition; see Abū Isḥāq al-Shīrāzī, *al-Lumaʿ,* 33 / trans. Chaumont, 109.

[56] If two traditions appeared contradictory, and neither was known to abrogate the other, he would simply select the one that made the act in question permissible, since this was the default value that could not be departed from without evidentiary certainty. See al-Bājī, *Iḥkām,* 258-260 ¶¶179-182. The possibility of particularization mentioned in ¶182 probably did not apply to two conflicting traditions; see note 55.

[57] Dāʾūd presumably learned of al-Shāfiʿī's earlier Iraqi teachings first, from Abū ʿAbd al-Raḥmān al-Shāfiʿī. We may venture to guess that these teachings were not as developed as the hermeneutics reflected in his Egyptian *Risāla*. Indeed the first part of the *Risāla*, which may represent the Iraqi stage of his thought, seems more compatible with Dāʾūd's tenets than the later parts of the *Risāla*, which deal with reconciliation within the corpus of traditions, and discuss true analogical reasoning rather than the simple reasoning from natural evidence defended in the first part (see Vishanoff, "Early Islamic Hermeneutics," Appendix 2). Some of al-Shāfiʿī's other works also indicate that he had some reservations about analogical reasoning at some stage; see al-Shāfiʿī, *Jimāʿ al-ʿilm,* in *al-Umm,* 9:42-43 / Būlāq 7:262, which excludes *qiyās* entirely (but cf. 9:14-16 / 7:253, which recalls the early part of the *Risāla*). al-Zarkashī *(al-Baḥr al-muḥīṭ,* 6:55) cited a passage in which al-Shāfiʿī placed *qiyās* below the opinion of a Companion, which is the opposite of his position in the last part of his *Risāla,* 597-598 ¶¶1807-1811. He also related the story of someone who found that al-Shāfiʿī's *Kitāb ibṭāl al-istiḥsān* constituted a convincing refutation of *qiyās* (al-Zarkashī, *al-Baḥr al-muḥīṭ,* 6:92-93).

Dāʾūd's teacher Abū ʿAbd al-Raḥmān al-Shāfiʿī (d. after 230/845) was a Muʿtazilī student of Abū al-Hudhayl and knew the thought of al-Naẓẓām, but he was also an early student of al-Shāfiʿī, and was remembered as the foremost defender of the legal and hermeneutical views that al-Shāfiʿī propounded during his years in Iraq. See van Ess, *Theologie und Gesellschaft,* 3:292-294; Melchert, *Formation,* 78. Little is known of his own specific hermeneutical principles, but to judge from his criterion for the authenticity of traditions (on which see van Ess, *ibid.,* and al-Bājī, *Iḥkām,* 328 ¶296), it appears that he tried to chart a middle course between Abū al-Hudhayl and al-Shāfiʿī.

[58] Raven, "Ibn Dâwûd al-Iṣbahânî," 4, 28-32.

derived from any other. The individuals designated by the noun "thief" do not share a common quality of "theft" that is somehow expressed by the word "thief" and other words from the same root. "Thief" is just a label arbitrarily assigned to a certain set of individuals.[59] The revealed punishment for thieves, therefore, is not based on some quality they share, such that a jurist might extend that punishment to, say, grave robbers because they have that same quality.[60] The punishment applies only to those individuals to whom the name "thief" applies in established Arabic usage. This nominalist view of language came to be associated with the Ẓāhiriyya because it provided a simple philosophical explanation of why a jurist must apply God's speech directly, rather than seeking to discern and implement God's intent.

Muḥammad Ibn Dāʾūd (d. 297/910)[61] seems to have combined his father's scrupulous piety with the cultural refinement and intellectual sophistication of Baghdād's elite.[62] Unlike his father, he shared the theologians' optimism about the human ability to discern the true meaning of revealed language[63] without appeal to legal specialists.[64] He reportedly denied the authority

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[59] al-Zarkashī, *al-Baḥr al-muḥīṭ,* 2:71-72.

[60] A few legal theorists even argued, by a kind of linguistic analogy, that grave robbers are actually included in the linguistic denotation of thief, or that date wine *(nabīdh)* is linguistically included in the denotation of wine *(khamr)* because both intoxicate *(yukhāmiru al-ʿaql,* a term derived – *mushtaqq* – from *khamr)*. They thus avoided the use of legal analogy altogether in such cases. See al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 1:361-366; Ibn al-Qaṣṣār, *al-Muqaddima,* 194-197; al-Ṣaymarī, *Masāʾil al-khilāf,* 75b-76a; al-Ghazālī, *al-Mankhūl,* 132-133; Weiss, "Language in Orthodox Muslim Thought," 70-71. The Ẓāhirī denial of "derivation" *(ishtiqāq)* undercuts both linguistic and legal analogy.

[61] He was only a teenager when his father died, but soon came to lead the movement. Raven, "Ibn Dâwûd al-Iṣbahânî," 4.

[62] See Raven, "Ibn Dâwûd al-Iṣbahânî," 27, 30, 54, 192, and *passim*.

[63] See al-Qāḍī al-Nuʿmān, *Ikhtilāf uṣūl al-madhāhib,* 205; this passage is translated and identified as part of Ibn Dāʾūd's *al-Wuṣūl ilā maʿrifat al-uṣūl* in Stewart, "Muḥammad b. Dāʾūd," 157.

[64] Since he seems to have shared Dāʾūd's views on consensus (according to some of the sources cited in note 38, as well as Raven, "Ibn Dâwûd al-Iṣbahânî," 17, but cf. al-Juwaynī, *al-Burhān,* 1:40 / ed. al-Dīb, 1:162 ¶73), and thus rejected the authority of the scholarly community, he presumably also shared Dāʾūd's disapproval of *taqlīd,* and probably wrote against it in his *al-Wuṣūl ilā maʿrifat al-uṣūl* (see Stewart, "Muḥammad b. Dāʾūd," 125-126).

of individually transmitted traditions.[65] And though he denied analogy in law,[66] he was a rationalist in other respects: he recognized that actions do have intrinsically harmful or beneficial characteristics – wine is harmful, for instance[67] – and that things really do share common qualities that allow us to draw analogies between them in non-legal matters.[68] Yet he could still be a literalist in law because he held that human actions are good or bad not by virtue of their intrinsic qualities, but by virtue of obligations established by utterances.[69] The legal value of an action is determined only by its name, to which a legal value is attached by God's speech.

As Ibn Dāʾūd brought the Ẓāhirī movement into greater accord with the rationalism of its Muʿtazilī antecedents, he also distanced it from rival schools, particularly the Shāfiʿiyya.[70] He sharply criticized al-Shāfiʿī's hermeneutics.[71] He did accept al-Shāfiʿī's view that Qurʾānic law is elaborated with the help of the Sunna; and unlike his father, he even admitted that the Sunna itself might contain some ambiguity that requires clarification. He called such clarification *istidlāl,* and his critics charged that he was using analogy under a different name, though he was

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[65] Abū Isḥāq al-Shīrāzī, *Sharḥ al-lumaʿ,* 2:583-584 ¶676.

[66] See *inter alia* the quotations on this subject from his *al-Wuṣūl ilā maʿrifat al-uṣūl* identified and translated in Stewart, "Muḥammad b. Dāʾūd," 139-150; also Raven, "Ibn Dâwûd al-Iṣbahânî," 48.

[67] Raven, "Ibn Dâwûd al-Iṣbahânî," 16, 190.

[68] Some opponents claimed (e.g. al-Zarkashī, *al-Baḥr al-muḥīṭ,* 5:16) that he rejected analogy in rational as well as revealed matters, but he rebutted this charge in his *al-Wuṣūl ilā maʿrifat al-uṣūl* (quoted in al-Qāḍī al-Nuʿmān, *Ikhtilāf uṣūl al-madhāhib,* 183; Stewart, "Muḥammad b. Dāʾūd," 149-150).

[69] al-Qāḍī al-Nuʿmān, *Ikhtilāf uṣūl al-madhāhib,* 190-191; Stewart, "Muḥammad b. Dāʾūd," 151-152; on human morality cf. Raven, "Ibn Dâwûd al-Iṣbahânî," 157.

[70] His debates with Ibn Surayj (d. 306/918), who was then formalizing a Shāfiʿī legal hermeneutic, became legendary. Raven, "Ibn Dâwûd al-Iṣbahânî," 18, 40, 50ff.; Melchert, *Formation,* 109, 114, 184. He also wrote against the great historian and exegete al-Tabarī (d. 310/923), who was then attempting to establish a legal school of his own. Ibn al-Nadīm, *al-Fihrist* (ed. Tajaddud), 272.

[71] He criticized among other things al-Shāfiʿī's famous "definition" of *bayān*. Abū Yaʿlā, *al-ʿUdda,* 1:103; al-Juwaynī, *al-Burhān,* 1:40 / ed. al-Dīb, 1:162 ¶73; al-Zarkashī, *al-Baḥr al-muḥīṭ,* 3:479. He also attacked his analysis of general expressions (see al-Zarkashī, *al-Baḥr al-muḥīṭ,* 3:246), and al-Shāfiʿī's view on the minimum number that can constitute a group (al-Zarkashī, *al-Baḥr al-muḥīṭ,* 3:96).

merely applying al-Shāfiʿī's idea that summarized speech requires elaboration on the basis of additional evidence.[72] But he curtailed the free-wheeling flexibility of al-Shāfiʿī's hermeneutic,[73] refusing, for example, to let later texts modify or even particularize earlier texts, something which his father had allowed.[74]

Ibn Dāʾūd represented the high point of theoretical consistency in Ẓāhirī hermeneutics. Such consistency proved difficult to sustain. Directly implementing the words of revelation challenged the practices and legal doctrines of the increasingly homogeneous Sunnī legal establishment. For instance, the Ẓāhiriyya argued that a full washing before Friday prayer was strictly obligatory, following the plain sense of a tradition that mainstream jurists had reinterpreted to make the washing optional.[75] And while most jurists forbade usurious gain in all kinds of transactions, the Ẓāhiriyya disallowed it only in exchanges of gold, silver, wheat, barley, dates, and raisins, since those were the only commodities for which the Prophet had explicitly prohibited it.[76] Ultimately such challenges to the status quo proved too radical, and Ẓāhirī legal theorists began to find ways to go beyond the letter of revelation so they would not have to defend embarrassing legal opinions. Ibn al-Mughallis (d. 324/936), who succeeded Ibn Dāʾūd as leader of the movement, took the modest step of affirming that negative implication should be

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[72] al-Qāḍī al-Nuʿmān, *Ikhtilāf uṣūl al-madhāhib,* 193-194; translated in Stewart, "Muḥammad b. Dāʾūd," 153-154. This passage shows that for Ibn Dāʾūd *istidlāl* involved appeal to additional revealed evidence to clarify a summarized text; it may also have involved a kind of rational deduction, but it certainly did not involve *qiyās* or *istiḥsān* as his critics (including al-Qāḍī al-Nuʿmān) claimed (see Stewart, "Muḥammad b. Dāʾūd," 120).

[73] He held that commands entail immediate obligations. See Ibn Ḥazm, *al-Iḥkām,* 3:49; al-Zarkashī, *al-Baḥr al-muḥīṭ,* 1:220-221; Zysow, "Economy," 154. He also insisted that both the Qurʾān and Sunna must be interpreted literally – neither contains any figurative language. Abū Isḥāq al-Shīrāzī, *Sharḥ al-lumaʿ,* 1:169-170 ¶31; al-Zarkashī, *al-Baḥr al-muḥīṭ,* 2:182-184; Zysow, "Economy," 154-155, 191 n. 196. He also put restrictions on how exceptions can work. al-Zarkashī, *al-Baḥr al-muḥīṭ,* 3:279.

[74] al-Bāqillānī, *al-Taqrīb wa-l-irshād,* 3:387; al-Zarkashī, *al-Baḥr al-muḥīṭ,* 3:495.

[75] Goldziher, *Ẓāhirīs,* 60-62.

[76] Goldziher, *Ẓāhirīs,* 40-41.

considered part of the verbal meaning of a text: "tax is due on free-grazing animals" means no tax is due on stable-fed livestock.[77] Ibn Bayān al-Qaṣṣār (fl. ca. 400/1010?) loosened the school's attachment to the verbal form of revelation by accepting third person reports that "the Prophet commanded such and such" in place of reports of the Prophet's actual words.[78] Abū Saʿīd al-Nahrawānī (fl. ca. 300/913)[79] diluted Ẓāhirī principles even further, though he did not admit it. He departed from Nifṭawayh's strict nominalism by arguing that the legal value that revelation assigns to something whose name is derived from a certain root applies to everything that shares that root's meaning; for example, the penalty for "thieves" applies to all who are characterized by "theft." He also allowed that "sugar is forbidden because it is sweet" implies all sweet things are forbidden. And he inferred from evidence about what to do with lard into which a mouse has fallen, that one should do the same when a cat gets into it. He said that the prohibition against urinating in standing water also applies to collecting urine in a cup and then dumping it in water. He insisted that he was only affirming what one would customarily understand or what one could readily deduce *(istidlāl)* from the language used in revelation, but his critics charged he was engaging in the very thing he claimed to oppose: analogical

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[77] Zysow, "Economy," 174.

[78] al-Zarkashī, *al-Baḥr al-muḥīṭ,* 4:374; Abū Yaʿlā, *al-ʿUdda,* 3:1001; cf. Ibn ʿAqīl, *al-Wāḍiḥ,* 3:219.

[79] Also called al-Nahrabānī and al-Nahrabīnī. His date of death is unknown, but he was quoted by Abū Bakr al-Ṣayrafī (d. 330/942) (al-Zarkashī, *al-Baḥr al-muḥīṭ,* 5:19).

reasoning.[80] Other Ẓāhiriyya made similar concessions,[81] and one of them, the strict Qurʾān-only scripturalist[82] Abū Bakr al-Qāshānī (fl. ca. 300/913), eventually converted to the Shāfiʿī school.[83]

Despite such concessions, the Ẓāhiriyya never achieved the status of an orthodox legal guild. This was partly because they resisted developing a coherent body of legal doctrine around which to establish a curriculum of instruction. More fundamentally, they failed because they embraced only the first half of al-Shāfiʿī's project: they agreed that Islamic law must be grounded entirely in revelation, but they refused to justify existing laws by reinterpreting revealed language to match them. They therefore petered out in the East,[84] and survived for a time in the West only as a small and vaguely delimited movement, intermingling with the Mālikī guild and known mainly for an emphasis on traditions.[85] Even Ibn Ḥazm (d. 456/1064) relied more heavily on individually transmitted reports[86] than his Eastern predecessors had,[87] and he

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[80] al-Zarkashī, *al-Baḥr al-muḥīṭ,* 5:17-21; al-Nātiq bi-l-Ḥaqq, *al-Mujzī,* 2:5-6; Abū Yaʿlā, *al-ʿUdda,* 4:1372-1373; al-Bājī, *Iḥkām,* 619 ¶649; al-Juwaynī, *al-Burhān,* 2:17-18 / ed. al-Dīb, 2:774-775 ¶723-724.

[81] The sources on al-Nahrawānī cited in note 80 list al-Qāshānī and sometimes al-Maghribī in the same breath. The latter (on whom see also al-Nātiq bi-l-Ḥaqq, *al-Muẓī,* 2:17-18) remains otherwise unidentified, but he too must have lived around 300/913, since he was quoted by Abū Bakr al-Ṣayrafī (d. 330/942) (al-Zarkashī, *al-Baḥr al-muḥīṭ,* 5:19).

[82] He entirely rejected the authority of individually transmitted reports. Abū Isḥāq al-Shīrāzī, *Sharḥ al-lumaʿ,* 2:583-584 ¶676; al-Bājī, *Iḥkām,* 330 ¶299, 334 ¶304. His scripturalism is also reflected in al-Zarkashī, *al-Baḥr al-muḥīṭ,* 5:22, where he emphasizes the sufficiency of the Qurʾān.

[83] Ibn al-Nadīm, *al-Fihrist* (ed. Tajaddud), 266, 267.

[84] See Melchert *(Formation,* ch. 9), who stressed their unorthodoxy, their failure to institutionalize the transmission of their views, and their lack of continuing patronage as reasons for their decline in the East. Goldziher *(Ẓāhirīs,* 104-107) presented the Eastern Ẓāhiriyya as a wide-spread and coherent religious party, but did not claim that it formed an institutionalized *madhhab* in Melchert's sense.

[85] See the series of articles on the Andalusian Ẓāhiriyya by Camilla Adang: "The Beginnings of the Zahiri Madhhab in al-Andalus," "The Spread of Ẓāhirism in Post-Caliphal al-Andalus," and "Ẓāhirīs of Almohad Times."

[86] See Turki, *Polémiques,* 92-105.

[87] Although they accepted some role for Prophetic reports, they were generally lukewarm about them, and quick to dismiss them as unreliable. See al-Zarkashī, *al-Baḥr al-muḥīṭ,* 4:374; Goldziher, *Ẓāhirīs,* 45. Some reportedly questioned the binding nature of individually transmitted reports altogether. Abū Isḥāq al-Shīrāzī, *Sharḥ al-lumaʿ,* 2:583-584 ¶676; al-Bājī, *Iḥkām,* 330 ¶299, 334 ¶304. Cf. Ibn Ḥazm, *al-Iḥkām,* 1:119; al-Zarkashī, *al-Baḥr al-muḥīṭ,* 4:262; and Turki, *Polémiques,* 100; but this latter evidence all comes through Ibn Ḥazm, who may be distorting the views of Dāʾūd and the Ẓāhiriyya in favor of his own favorable outlook on traditions.

embraced many features of the powerful and flexible hermeneutic shared by the other Sunnī schools.[88] Thanks to Ibn Ḥazm (and Goldziher), it is this late Western form of Ẓāhirī thought that has become most widely known, with the result that even the Eastern Ẓāhiriyya have sometimes been associated with traditionism. I hope I have shown that they are better understood as a failed attempt – doomed perhaps from the outset – to preserve a kind of rationalist scripturalism that had flourished first among the Muʿtazila of Baghdād.

[88] For example, where his Ẓāhirī predecessors had preferred to eliminate or disregard conflicting pieces of evidence, he provided much of the interpretive flexibility that al-Shāfiʿī had found necessary for reconciling texts. See Ibn Ḥazm, *al-Iḥkām,* 2:161-178; Turki, *Polémiques,* 93-96. He made ample allowance for particularization. See Ibn Ḥazm, *al-Iḥkām,* 2:162-163; Turki, *Polémiques,* 85-86. He was also the first Ẓāhirī to allow delayed clarification. Ibn Ḥazm, *al-Iḥkām,* 1:83. Zysow ("Economy," 153-154) already noted that Ibn Ḥazm's hermeneutics seemed unexceptional by comparison with mainstream jurisprudence, whereas that of earlier Ẓāhiriyya was more distinctive.

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