الباب 38: إبطال القياس

Chapter 38: Refutation of Legal Analogy

Ibn Ḥazm · Arabic–English parallel edition

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[Chapter Thirty-Eight: On Invalidating Analogy in the Rulings of Religion]

L2910

L2911–2913 Abu Muhammed ʿAli ibn Ahmad, may Allah be pleased with him, said: Groups among the later scholars who issue legal opinions adopted the use of analogy in religion. They stated that questions and newly arising cases occur which are not mentioned in the explicit text of the speech of Allah Most High or in the Sunnah of the Messenger of Allah—may Allah bless him and grant him peace ﷺ—and concerning which people have reached no consensus. They said: "We therefore examine what resembles them among the matters mentioned in the Quran or in the Sunnah of the Messenger of Allah—may Allah bless him and grant him peace ﷺ—and rule concerning a matter for which there is neither an explicit text nor consensus by applying the same ruling as that given for its counterpart in the explicit text and consensus."

Thus analogy, according to them, is to rule concerning a matter for which there is neither an explicit text nor consensus by applying the same ruling as applies to a matter for which there is an explicit text or consensus, because the two share the operative cause that is the sign of the ruling. This is the position of all the proficient proponents of analogy: all the followers of al-Shafiʿi and groups among the Hanafis and Malikis. Other groups among the Hanafis and Malikis said: "Because the two share merely some kind of resemblance."

One of the later scholars who understands neither analogy nor jurisprudence, namely Muhammed ibn al-Tayyib al-Baqillani, said: "Analogy is assimilating one of two known things to the other in establishing certain rulings for them or removing such a ruling from them, through bringing them together by a matter or by an aspect in which they have been brought together."

ʿAli said: This is unintelligible speech, more like the speech of the deranged than that of anyone else. All of it is floundering and confusion. Then, even if anything could be extracted from it—and nothing can be extracted—it would be a false claim without demonstration. The most amusing thing is his expression, "one of two known things." Would that I knew what these two known things are, and who knows them! Then he mentioned imposing

[الباب الثامن والثلاثون في إبطال القياس في أحكام الدين]

قال أبو محمد علي بن أحمد رضوان الله عليه: ذهب طوائف من المتأخرين من أهل الفتيا إلى القول بالقياس في الدين، وذكروا أن مسائل ونوازل ترد لا ذكر لها في نص كلام الله تعالى ولا في سنة رسول الله صلى الله عليه وسلم ولا أجمع الناس عليها قالوا فننظر إلى ما يشبهها مما ذكر في القرآن أو في سنة رسول الله صلى الله عليه وسلم فنحكم فيما لا نص فيه ولا إجماع بمثل الحكم الوارد في نظيره في النص والإجماع، فالقياس عندهم هو أن يحكم لما لا نص فيه ولا إجماع، بمثل الحكم فيما فيه نص أو إجماع، لاتفاقهما في العلة التي هي علامة الحكم، هذا قول جميع حذاق أصحاب القياس وهم جميع أصحاب الشافعي وطوائف من الحنفيين والمالكيين، وقالت طوائف من الحنفيين والمالكيين: لاتفاقهما في نوع من الشبه فقط. وقال بعض من لا يدري، ما القياس ولا الفقه من المتأخرين، وهو محمد بن الطيب الباقلاني: القياس هو حمل أحد المعلومين على الآخر في إيجاب بعض الأحكام لهما أو إسقاطه عنهما من جمع بينهما بأمر أو بوجه جمع بينهما فيه. قال علي: وهذا كلام لا يعقل، وهو أشبه بكلام المرورين منه بكلام غيرهم، وكله خبط وتخليط، ثم لو تحصل منه شيء، وهو لا يتحصل، لكان دعوى كاذبة بلا برهان، وأطرف شيء قوله: أحد المعلومين فليت شعري، ما هذان المعلومان ومن علمهما؟ ثم ذكر إيجاب بعض الأحكام أو إسقاطه وهما ضدان، ثم قال: من جمع بينهما بأمر أو بوجه جمع بينهما فيه وهذه لكنه وعي وتخليط ونسأل الله السلامة، وإنما أوردناه ليقف على تخليطه كل من له أدنى فهم، ثم نعود إلى ما يتحصل منه معنى يفهم، وإن كان باطلا من أقوال سائر أهل القياس وبالله تعالى التوفيق. وقال أبو حنيفة الخبر المرسل والضعيف عن رسول الله صلى الله عليه وسلم أولى من القياس ولا يحل القياس مع وجوده قال: والرواية عن الصاحب الذي لا يعرف له مخالف

certain rulings or removing them, which are opposites. Then he said, "by bringing the two together through some matter or in some respect in which he brings them together." This is stammering, inarticulacy, and confusion. We ask Allah for safety. We have quoted it only so that everyone with even the slightest understanding may recognize his confusion. We now return to those statements of the other proponents of analogy from which an intelligible meaning can be extracted, even though it is false. Through Allah Most High comes success. Abu Hanifah said: "A report from the Messenger of Allah ﷺ whose transmission chain omits the Companion, and a weak report from him, take precedence over analogy, and resorting to analogy is unlawful when such a report exists." He said: "And a report from a Companion who is not known to have any opponent among them takes precedence over analogy." He said: "Rulings may not be reached by analogy concerning expiations, prescribed penalties, or legally fixed quantities." Al-Shafi'i said: "Analogy is impermissible in the presence of a Qur'anic text or an authentic report with a connected transmission chain—these alone. When neither exists, however, analogy is obligatory in every ruling." Abu al-Faraj the judge and Abu Bakr al-Abhari, the two Malikis, said: "Analogy takes precedence over an individually transmitted report, whether its transmission chain is connected or omits the Companion." We know of no Muslim before these two who held that individually transmitted reports should be accepted and expressed this opinion. They divided analogy into three categories. One is the category of greater resemblance and stronger entitlement. This consists in their saying: "If such-and-such a ruling is given concerning a certain matter, then another matter has a stronger claim to that ruling." An example is the statement of al-Shafi'i's followers: "If expiation is obligatory for accidental killing and for an oath that is not a knowingly false oath, then an intentional killer and someone who swears a knowingly false oath have a stronger claim to that and a greater need for expiation." Another is the statement of the Maliki and the Shafi'i: "If a man and his wife are separated because of the absence of intercourse, then separating them because of the absence of maintenance, which is more pressing than intercourse, is more appropriate and more obligatory." Another is the statement of the Hanafi, the Shafi'i, and the Maliki: "If expiation is incumbent upon someone who

منهم، أولى القياس: قال: ولا يجوز الحكم بالقياس في الكفارات، ولا في الحدود، ولا في المقدرات. وقال الشافعي: لا يجوز القياس مع نص قرآن، أو خبر صحيح مسند فقط، وأما عند عدمهما فإن القياس واجب في كل حكم، وقال أبو الفرج القاضي، وأبو بكر الأبهري المالكيان: القياس أولى من خبر الواحد المسند والمرسل، وما نعلم هذا القول عن مسلم، يرى قبول خبر الواحد قبلهما. وقسموا القياس بثلاثة أقسام: فقسم هو قسم الأشبه والأولى، وهو إن قالوا: إذا حكم في أمر كذا بحكم كذا، فأمر كذا أولى بذلك الحكم، وذلك نحو قول أصحاب الشافعي: إذا كانت الكفارة واجبة في قتل الخطأ وفي اليمين التي ليست غموسا، فقاتل العمد وحالف اليمين الغموس أولى بذلك وأحوج إلى الكفارة، وكقول المالكي والشافعي: إذا فرق بين الرجل وامرأته لعدم الجماع، فالفرقة بينهم العدم النفقة التي هي أوكد من الجماع أولى وأوجب، وكقول الحنفي والشافعي والمالكي: إذا لزمت المظاهر بظهر الأم الكفارة، فالمظاهر بفرج أمه أولى.

declares his wife to be like his mother's back, then someone who declares her to be like his mother's genitals has a stronger claim to it."[1][2][3]

L2914–2918 A second category is the category of equivalence. An example is the statement of Abu Hanifah and Malik: "If someone who deliberately has intercourse during the daytime in Ramadan is liable to expiation, then someone who deliberately eats is equivalent to him in this respect. And if the man is liable to expiation for that, then the woman who willingly and deliberately submits to intercourse is equivalent to the man in being liable to expiation." Another is the statement of some of the Successors and those after them: "If a man's declaration that his wife is like his mother's back makes expiation incumbent upon him, then a woman who makes the corresponding declaration concerning her husband is equivalent to the man in being liable to expiation." Another is al-Shafi'i's statement: "If a vessel must be washed seven times because a dog has lapped from it, the same applies to a pig." Another is the Malikis' statement: "If someone who commits unlawful sexual intercourse without having the status of a previously consummated lawful marriage must receive one hundred lashes and a year's banishment, then an intentional killer whose life has been spared by pardon is equivalent to him." Another is al-Hasan's statement: "If a woman divorced three times during her husband's

وقسم ثان وهو قسم المثل، وهو نحو قول أبي حنيفة ومالك: إذا كان الواطىء في نهار رمضان عمدا تلزمه الكفارة، فالمتعمد للأكل مثله في ذلك، وإذا كان الرجل يلزمه في ذلك الكفارة فالمرأة، الموطوءة باختيارها عامدة، في وجوب الكفارة عليها مثل الرجل، وكقول من قال من التابعين ومن بعدهم: إذا كان ظهار الرجل من امرأته يوجب عليه الكفارة فالمرأة المظاهرة من زوجها في وجوب الكفارة عليها مثل الرجل. وكقول الشافعي: إذا وجب غسل الإناء من ولوغ الكلب فيه سبعا فهو من الخنزير كذلك. وكقول المالكيين: إذا وجب على الزاني الذي ليس محصنا جلد مائة وتغريب عام، فقاتل العمد إذا عفي له عن دمه مثله، وكقول الحسن: إذا ورثت المطلقة ثلاثا في المرض، فهو في وجوب الميراث له منها إن ماتت كذلك أيضا. والقسم الثالث قسم الأدنى، وهو نحو قول مالك وأبي حنيفة: إذا وجب القطع في مقدار ما في السرقة، وهو عضو يستباح، فالصداق في النكاح مثله، وكقول أبي حنيفة: إذا كان خروج البول والغائط وهما نجسان ينقض الوضوء فخروج الدم وهو نجس متى خرج من الجسد أيضا كذلك، وكقول الشافعي: إذا كان مس الذكر ينقض الوضوء فمس الدبر الذي هو عورة مثله كذلك، وكقول المالكي: إذا كان قول: أف عمدا في الصلاة يبطلها، فالنفخ فيها عمدا كذلك. قال أبو محمد: فهذه أقسام القياس عند المتحذلقين القائلين به. وذهب أصحاب الظاهر إلى إبطال القول بالقياس في الدين جملة، وقالوا: لا يجوز الحكم البتة في شيء من الأشياء كلها، إلا بنص كلام الله تعالى أو نص كلام النبي صلى الله عليه وسلم أو بما صح عنه صلى الله عليه وسلم من فعل أو إقرار أو إجماع من جميع علماء الأمة كلها، متيقن أنه قاله كل واحد منهم، دون مخالف من أحد منهم، أو بدليل من النص أو من الإجماع المذكور الذي لا يحتمل إلا وجها واحدا، والإجماع عند هؤلاء راجع إلى توقيف من رسول الله صلى الله عليه وسلم ولا بد من

[1] **Translator's note (L2911):** The honorific "may Allah be pleased with him" appears in the introductory attribution to Abu Muhammed and belongs to a transmitting or editorial voice rather than necessarily to the author's own words. Al-Baqillani's definition is syntactically awkward as supplied, particularly من جمع بينهما; the translation preserves its uncertain construction without silently rewriting it.

[2] **Translator's note (L2912):** The opening completes an expression begun in the preceding segment: "Would that I knew." The wording rendered "stammering, inarticulacy" is awkwardly transcribed but appears to represent two disparaging descriptions of the quoted definition. The description of a report whose chain omits the Companion renders the technical term mursal; "weak" renders the distinct term da'if.

[3] **Translator's note (L2913):** The opening comparison lacks the expected Arabic preposition meaning "over" or "than"; the translation reflects the evident comparison and records the omission here. The wording concerning separation for lack of maintenance is grammatically damaged in the transcription, but its intended comparison is clear. The final example concerns the repudiatory declaration known technically as zihar. The distinction between comparison with the mother's back and with her genitals is retained.

illness inherits, then the same also applies to him: he is entitled to inherit from her if she dies." The third category is the category of the lesser. An example is the statement of Malik and Abu Hanifah: "If amputation becomes obligatory for a certain amount in theft, and a bodily member is thereby made lawful to take, then the marriage dower is equivalent to it." Another is Abu Hanifah's statement: "If the discharge of urine and feces, both of which are ritually impure, invalidates ablution, then the discharge of blood, which is ritually impure, likewise does so whenever it leaves the body." Another is al-Shafi'i's statement: "If touching the penis invalidates ablution, then touching the anus, which is likewise a private part, does so as well." Another is the Maliki's statement: "If deliberately saying 'Uff' during prayer invalidates it, then deliberately blowing during it does so as well." Abu Muhammed said: These are the categories of analogy according to the would-be experts who advocate it. The adherents of the apparent meaning of texts held that recourse to analogy in religion must be rejected altogether. They said: "It is absolutely impermissible to give a ruling concerning anything whatsoever except through the explicit wording of Allah Most High's speech, the explicit wording of the Prophet's ﷺ speech, an act or tacit approval authentically established from him ﷺ, or a consensus of all the scholars of the entire community, of which it is certain that every single one expressed it among them, without any one of them dissenting, or through an inference from the text or from the aforementioned consensus that admits of only one interpretation." According to these scholars, consensus necessarily derives from instruction by the Messenger of Allah ﷺ; no other possibility is admissible at all. This is our position, by which we practice our religion before Allah. We ask Him, mighty and majestic, through His favor and mercy, to keep us steadfast in it and cause us to die adhering to it. Amen. The proponents of analogy raised specious objections through which they sought to obscure the matter. Allah Most High willing, we shall refute everything they have adduced as evidence, formulate on their behalf every possible objection they might raise, and explain, through Allah Most High's power and strength, the invalidity of their reliance on everything upon which they have relied in this matter. Then, with the help of Allah, mighty and majestic, we shall begin presenting the clear, necessary demonstrations invalidating analogy. There is

لا يجوز غير ذلك أصلا وهذا هو قولنا الذي ندين الله به، ونسأله عز وجل أن يثبتنا فيه، ويميتنا عليه بمنه ورحمته. آمين. وشغب أصحاب القول بالقياس بأشياء موهوا بها، ونحن إن شاء الله تعالى ننقض كل ما احتجوا به، ونحتج لهم بكل ما يمكن أن يعترضوا به، ونبين بحول الله تعالى وقوته بطلان تعلقهم بكل ما تعلقوا به في ذلك، ثم نبتدىء بعون الله عز وجل بإيراد البراهين الواضحة الضرورية على إبطال القياس، ولا حول ولا قوة إلا بالله العلي العظيم. فما شغبوا به أن قالوا: قال الله عز وجل {وقضى ربك ألا تعبدوا إلا إياه وبالوالدين إحسانا إما يبلغن عندك لكبر أحدهما أو كلاهما فلا تقل لهما أف ولا تنهرهما وقل لهما قولا كريما} فوجب إذ منع من قول: {لهما} للوالدين أن يكون ضربهما أو قتلهما ممنوع، لأنهما أولى من قول {أف} وقال تعالى {وإذ قال موسى لقومه ياقوم ذكروا نعمة الله عليكم إذ جعل فيكم أنبيآء وجعلكم ملوكا وآتاكم ما لم يؤت أحدا من لعالمين} قالوا فوجب أن ما فوق القنطار وما دونه داخل كل ذلك في حكم القنطار في المنع من أخذه وقال تعالى {ونضع لموازين لقسط ليوم لقيامة فلا تظلم نفس شيئا وإن كان مثقال حبة من خردل أتينا بها وكفى بنا حاسبين} قالوا: فعلمنا أن ما دون مثقال حبة وما فوقها داخلان في حكم مثقال حبة الخردل، أنه تعالى يأتي بها، وقال تعالى: {فمن يعمل مثقال ذرة خيرا يره * ومن يعمل مثقال ذرة شرا يره} قالوا: فعلمنا أن ما فوق مثقال الذرة وما دونها يرى أيضا وقال تعالى {ومن أهل لكتاب من إن تأمنه بقنطار يؤده إليك ومنهم من إن تأمنه بدينار لا يؤده إليك إلا ما دمت عليه قآئما ذلك بأنهم قالوا ليس علينا في لأميين سبيل ويقولون على الله لكذب وهم يعلمون}

no power and no strength except through Allah, the Most High, the Magnificent. Among their specious objections was their saying: Allah, mighty and majestic, said, "Your Lord has decreed that you worship none but Him, and show kindness to parents. If either or both of them reach old age with you, do not say 'Uff' to them both, nor rebuke them, but speak gracious words to them." Thus, since saying "to them both" to one's parents is prohibited, it necessarily follows that beating or killing them is prohibited, because these two acts have a stronger claim to prohibition than saying "Uff." And He Most High said: "And when Moses said to his people, 'My people, remember Allah's favor upon you, when He placed prophets among you, made you kings, and gave you what He had not given anyone among all peoples.'" They said: "It necessarily follows that everything above a hundredweight and below it is included under the ruling concerning a hundredweight, in that taking it is prohibited." And He Most High said: "We shall set up the just balances for the Day of Resurrection, so that no soul will be wronged in anything. Even if it is the weight of a mustard seed, We shall bring it, and sufficient are We as reckoners." They said: "We thus know that what is below the weight of a seed and what is above it are both included under the ruling concerning the weight of a mustard seed: that He Most High will bring it." And He Most High said: "Whoever does an atom's weight of good will see it; and whoever does an atom's weight of evil will see it." They said: "We thus know that what is above an atom's weight and what is below it will also be seen." And He Most High said: "Among the People of the Scripture is one who, if you entrust him with a hundredweight, will return it to you; and among them is one who, if you entrust him with a dinar, will not return it to you unless you keep standing over him. That is because they say, 'We are under no

obligation concerning the unlettered,' and they knowingly speak falsehood against Allah."[4][5][6][7][8]

L2919–2924 They said: "We thus know that what is above a hundredweight and a dinar, and what is below them, falls under the ruling concerning a hundredweight and a dinar." And He Most High said: "Do not consume your wealth among yourselves wrongfully, nor offer it to the judges so that you may knowingly consume a portion of people's wealth sinfully." They said: "We thus know that uses other than eating, such as clothing and other things, are forbidden when they are wrongful." And He Most High said: "Do not kill your children for fear of poverty. We provide for them and for you. Surely killing them is a great sin." We thus know that killing them for reasons other than poverty is forbidden, just as it is when done for fear of poverty. They said: And when people say, "Do not give so-and-so a single grain," it is understood that whatever is greater than a grain and whatever is less than it are all included in the ruling concerning the grain. They said: Whoever claims to

قالوا فعلمنا أن ما فوق القنطار والدينار وما دونهما في حكم القنطار والدينار وقال تعالى {ولا تأكلوا أموالكم بينكم بلباطل وتدلوا بها إلى لحكام لتأكلوا فريقا من أموال لناس بلإثم وأنتم تعلمون} قالوا فعلمنا أن ما عدا الأكل من اللباس وغيره حرام إذا كان بالباطل، وقال تعالى: {ولا تقتلوا أولادكم خشية إملاق نحن نرزقهم وإياكم إن قتلهم كان خطئا كبيرا} فعلمنا أن قتلهم لغير الإملاق حرام، كما هو خشية الإملاق، قالوا: وقول الناس: لا تعط فلانا حبة، فإنه مفهوم منه أن ما فوق الحبة وما دونها داخل كل ذلك في حكم الحبة، قالوا: ومن ادعى من هذه الآي فهم ما عدا ما فيها من غيرها فهو خارج عن المعقول وعن اللغة. قالوا: وأنتم توافقوننا في كل ما قلنا في هذه الآيات وهذا الفصل، وتقرون معنا بأن ما عدا هذه المنصوصات فإنه داخل في حكمها، قالوا: وهذا إقرار منكم بالقياس، وترك لمذهبكم في إبطاله. قال أبو محمد: قال الله عز وجل: {أم للإنسان ما تمنى} وكل ما ذكروا فلا حجة لهم فيه أصلا، بل هو أعظم حجة عليهم، لأنه ينعكس عليهم في القول بدليل الخطاب، فإنهم، على ما ذكرنا في بابه في هذا الديوان، يقولون: إن ما عدا المنصوص فهو مخالف للمنصوص، فيلزمهم على ذلك الأصل أن يقولوا ههنا: إن ما عدا {أف} فإنه مباح، وما عدا الدينار والقنطار، والأكل، ومثقال الخردلة والذرة، وخشية الإملاق، بخلاف حكم ذلك، فقد ظهر تناقضهم وهدم مذاهبهم بعضها لبعض، ثم نعود فنقول وبالله تعالى التوفيق: أما قول الله تعالى {وقضى ربك ألا تعبدوا إلا إياه وبلوالدين إحسانا إما يبلغن عندك لكبر أحدهما أو كلاهما فلا تقل لهما أف ولا تنهرهما وقل لهما قولا كريما * وخفض لهما جناح لذل من لرحمة وقل رب رحمهما كما ربياني صغيرا} فلو لم يرد غير هذه اللفظة لما كان فيها تحريم ضربهما ولا قتلهما. ولما كان فيها إلا تحريم قول {أف} فقط. ولكن

[4] **Translator's note (L2914):** The technical term muhsan in the unlawful-intercourse example denotes the legally relevant status arising from a consummated lawful marriage; the Arabic states the absence of that status. The phrase "a bodily member is thereby made lawful to take" is terse. It refers to the limb whose amputation is authorized; the ensuing comparison with the marriage dower is left as terse as the source. The source calls the final category simply "the lesser," without explicitly specifying the respect in which it is lesser.

[5] **Translator's note (L2916):** "Uff" is an expression of irritation or disgust; its particular utterance is material to the legal example. "The adherents of the apparent meaning of texts" renders the designation of the Zahiris.

[6] **Translator's note (L2917):** In the argument following the first Qur'anic quotation, the source quotes "to them both" where the reasoning evidently requires "Uff." The translation preserves the apparent quotation error. The second Qur'anic quotation concerns Moses addressing his people, but the ensuing argument concerns a hundredweight. The quotation and argument do not correspond in the supplied text; no replacement verse has been supplied. "Necessary demonstrations" renders the author's technical expression for demonstrations yielding necessary knowledge.

[7] **Translator's note (L2918):** "Hundredweight" renders qintar as a conventional term for a large weight or quantity of wealth, without assigning it a precise modern weight.

[8] **Qur'an references (L2914):** Qur'an 17:23 (Al-Isra); Qur'an 5:20 (Al-Ma'idah); Qur'an 21:47 (Al-Anbya); Qur'an 99:7 (Az-Zalzalah); Qur'an 99:8 (Az-Zalzalah); Qur'an 3:75 (Ali 'Imran).

understand from these verses anything beyond what they contain, by some other means, departs from reason and language. They said: You agree with us in everything we have said concerning these verses and this discussion, and you acknowledge with us that whatever falls outside these expressly stated cases is included in their ruling. They said: This is an acknowledgment of analogy on your part and an abandonment of your doctrine invalidating it.

Abu Muhammed said: Allah, Mighty and Majestic, said: "Or shall man have whatever he wishes?" Nothing they have mentioned provides them with any proof whatsoever. Rather, it is the strongest proof against them, because it turns back against their position concerning the contrary implication of a statement. For, as we mentioned in its chapter in this work, they say that whatever falls outside the expressly stated case differs from the expressly stated case. On that principle, they must therefore say here that anything other than "Uff" is permissible, and that anything other than the dinar, the hundredweight, eating, the weight of a mustard seed, a speck, and fear of poverty has a different ruling from those things. Their contradiction has thus become apparent, as has the way their doctrines demolish one another.

We now return and say—and success comes through Allah Most High: As for Allah Most High's words, "Your Lord has decreed that you worship none but Him, and that you show kindness to parents. If either one or both of them reach old age with you, do not say 'Uff' to them, nor rebuke them, but speak to them noble words. And lower to them the wing of humility out of mercy, and say: 'My Lord, have mercy upon them, as they raised me when I was small'"—had nothing but this expression been revealed, it would not have contained a prohibition against striking them or killing them. It would have contained only a prohibition against saying "Uff." But since Allah Most High said in the very same verse, "Your Lord has decreed that you worship none but Him, and that you show kindness to parents. If either one or both of them reach old age with you, do not say 'Uff' to them, nor rebuke them, but speak to them noble words. And lower to them the wing of humility out of mercy, and say: 'My Lord, have mercy upon them, as they raised me when I was small'"— these expressions concerning kindness, noble speech, lowering the wing, humility and mercy toward them, and the prohibition against re-

لما قال الله تعالى في الآية نفسها {وقضى ربك ألا تعبدوا إلا إياه وبالوالدين إحسانا إما يبلغن عندك لكبر أحدهما أو كلاهما فلا تقل لهمآ أف ولا تنهرهما وقل لهما قولا كريما * وخفض لهما جناح لذل من لرحمة وقل رب رحمهما كما ربياني صغيرا} اقتضت هذه الألفاظ من الإحسان والقول الكريم وخفض الجناح والذل والرحمة لهما، والمنع من انتهارهما، وأوجبت أن يؤتى إليهما كل بر وكل خير وكل رفق، فبهذه الألفاظ وبالأحاديث الواردة في ذلك وجب بر الوالدين بكل وجه وبكل معنى، والمنع من كل ضرر وعقوق بأي وجه كان، لا بالنهي عن قول: {أف} وبالألفاظ التي ذكرنا وجب ضرورة أن من سبهما أو تبرم عليهما أو منعهما رفده في أي شيء كان من غير الحرام، فلم يحسن إليهما ولا خفض لهما جناح الذل من الرحمة. ولو كان النهي عن قول: {أف} مغنيا عما سواه من وجوه الأذى لما كان لذكر الله تعالى في الآية نفسها، مع النهي عن قول: {أف} النهي عن النهر والأمر بالإحسان، وخفض الجناح والذل لهما معنى، فلما لم يقتصر تعالى على ذكر الأف وحده، بطل قول من ادعى أن بذكر الأف علم ما عداه. وصح ضرورة أن لكل لفظة من الآية معنى غير سائر ألفاظها، ولكنهم جروا على عادة لهم ذميمة من الاقتصار على بعض الآية والإضراب عن سائرها، تمويها على من اغتر بهم، ومجاهرة لله تعالى بما لا يحل من التدليس في دينه. كما فعلوا في ذكرهم في الاستنباط قول الله تعالى {وإذا جآءهم أمر من لأمن أو لخوف أذاعوا به ولو ردوه إلى لرسول وإلى أولي لأمر منهم لعلمه لذين يستنبطونه منهم ولولا فضل لله عليكم ورحمته لاتبعتم لشيطان إلا قليلا} وأضربوا عن أول الآية في قوله تعالى {وإذا سمعوا مآ أنزل إلى لرسول ترى أعينهم تفيض من لدمع مما عرفوا من لحق يقولون ربنآ آمنا فكتبنا مع لشاهدين} وأول الآية مبطل للاستنباط وكما فعل من فعل منهم في قول الله تعالى {وإذا قرىء لقرآن فستمعوا له وأنصتوا لعلكم ترحمون}

وأضربوا عما بعدها من قوله تعالى {وذكر ربك في نفسك تضرعا وخيفة ودون لجهر من لقول بلغدو ولآصال ولا تكن من لغافلين}

buking them, entailed and required that every act of dutifulness, every good, and every kindness be extended to them. Through these expressions and the transmitted hadiths concerning this, dutifulness toward parents became obligatory in every respect and in every sense, and every harm and act of undutifulness, in whatever form, became forbidden—not through the prohibition against saying "Uff." Through the expressions we have mentioned, it necessarily follows that whoever insults them, expresses irritation with them, or withholds his assistance from them in any matter whatsoever that is not forbidden has neither shown kindness to them nor lowered to them the wing of humility out of mercy. If the prohibition against saying "Uff" sufficed to cover every other form of injury, there would be no meaning in Allah Most High's mentioning, in the very same verse alongside the prohibition against saying "Uff," the prohibition against rebuking them and the command to show kindness, lower the wing, and be humble toward them. Since He Most High did not confine Himself to mentioning "Uff" alone, the claim of anyone who maintains that mentioning "Uff" makes everything else known is invalidated. It is necessarily established that each expression in the verse has a meaning distinct from its other expressions.

But they have followed their own reprehensible habit of restricting themselves to part of a verse and disregarding the rest, misleading those taken in by them and openly defying Allah Most High through unlawful deception concerning His religion. This is what they did when, in discussing inference, they cited Allah Most High's words: "When a matter of security or fear comes to them, they broadcast it. Had they referred it to the Messenger and to those in authority among them, those among them who draw it out by inference would have known it. Were it not for Allah's favor toward you and His mercy, you would have followed Satan, except for a few." They disregarded the beginning of the verse in His words, Most High: "When they hear what has been sent down to the Messenger, you see their eyes overflowing with tears because of the truth they have recognized. They say: 'Our Lord, we believe, so record us among the witnesses.'" The beginning of the verse invalidates inference. Likewise, some of them cited Allah Most High's words, "When the Quran is recited, listen to it and be silent, so that

you may receive mercy," and disregarded what follows it in His words, Most High: "Remember your Lord within yourself, in supplication and fear, and with speech below a loud voice, in the mornings and the late afternoons, and do not be among the heedless."[9][10][11]

L2925–2927 Abu Muhammed said: Among the necessary demonstrations that Allah Most High's prohibition against a person's saying ['Uff'] to his parents is not a prohibition against striking, killing, or anything other than "Uff" is this: if someone reported that a person had killed another, or struck him until he broke his ribs, leveled accusations carrying prescribed penalties against him, and spat in his face, and someone who had witnessed all this testified against him, with the witness saying, "Zayd"—meaning the killer, accuser, or assailant—"said ['Uff'] to ʿAmr"—meaning the person killed, struck, or accused—then, by agreement between us and them, he would be a liar, a fabricator, a false witness, a slanderer whose testimony must be rejected. How, then, do these people want us to judge according to something they acknowledge to be a lie? How do they consider it permissible to attribute to Allah Most High a judgment according to something they themselves attest is a lie? We seek refuge in Allah the Magnificent from saying that Allah's—Mighty and Majestic—prohibition against saying ['Uff'] to one's parents is understood to prohibit striking them, killing them, or making defamatory accusations against them. What is beyond doubt for anyone with any knowledge of the Arabic language is that killing, striking, and defamatory accusation—none of these is called ['Uff']. Without doubt, then, every rational person knows that the prohibition against saying ['Uff'] is not a prohibition against killing, striking, or defamatory accusation; it is only a prohibition against saying ['Uff'].

قال أبو محمد ومن البرهان الضروري على أن نهي الله تعالى عن أن يقول المرء لوالديه: ليس نهيا عن الضرب ولا عن القتل ولا عما عدا الأف، أن من حدث عن إنسان قتل آخر أو ضربه حتى كسر أضلاعه وقذفه بالحدود، وبصق في وجهه، فشهد عليه من شهد ذلك كله، فقال الشاهد: إن زيدا، يعني القاتل أو القاذف أو الضارب، قال لعمرو: يعني المقتول أو المضروب أو المقذوف، لكان بإجماع منا ومنهم كاذبا آفكا شاهد زور مفتريا مردود الشهادة فكيف يريد هؤلاء القوم بنا أن نحكم بما يقرون أنه كذب؟. فكيف يستجيزون أن ينسبوا إلى الله تعالى الحكم بما يشهدون أنه كذب؟ ونحن نعوذ بالله العظيم من أن نقول: إن نهي الله عز وجل عن قول: للوالدين يفهم منه النهي عن الضرب لهما أو القتل أو القذف، فالذي لا شك فيه عند كل من له معرفة بشيء من اللغة العربية أن القتل والضرب والقذف لا يسمى شيء من ذلك فبلا شك يعلم كل ذي عقل أن النهي عن قول ليس نهيا عن القتل ولا عن الضرب ولا عن القذف، وأنه إنما هو نهي عن قول: فقط. وأما ذكره تعالى القنطار في آية الصداق وآية وفاء أهل الكتاب، فما فهمنا قط أن ما عدا القنطار فهو حكم القنطار من هاتين الآيتين لكن لما قال تعالى {لطلاق مرتان فإمساك بمعروف أو تسريح بإحسان ولا يحل لكم أن تأخذوا مما آتيتموهن شيئا إلا أن يخافا ألا يقيما حدود الله فإن خفتم ألا يقيما حدود الله فلا جناح عليهما فيما فتدت به تلك حدود الله فلا تعتدوها ومن يتعد حدود الله فأولئك هم لظالمون} قال أبو محمد فبهذه الآية حرم على الزوج أن يأخذ مما أعطى زوجته شيئا، وسواء قل أو كثر، إلا أن يخافا ألا يقيما حدود الله أو تطيب نفسها كما قال تعالى {وآتوا لنساء صدقاتهن نحلة فإن طبن لكم عن شيء منه

[9] **Translator's note (L2920):** "Uff" is an expression of irritation or impatience, approximately "Fie!" It is retained consistently because the author's argument concerns the precise expression prohibited.

[10] **Translator's note (L2923):** The quotation beginning "When they hear what has been sent down to the Messenger" is Quran 5:83. It is not the beginning of the preceding quotation, which is Quran 4:83. The supplied text's apparent quotation error has been preserved. "Inference" here renders istinbāṭ, the drawing out or derivation of a meaning or ruling; it is distinct from analogy.

[11] **Qur'an references (L2919):** Qur'an 17:31 (Al-Isra); Qur'an 53:24 (An-Najm); Qur'an 17:23 (Al-Isra); Qur'an 4:83 (An-Nisa); Qur'an 5:83 (Al-Ma'idah); Qur'an 7:205 (Al-A'raf).

As for His Most High's mentioning the hundredweight in the verse concerning the marriage payment and the verse concerning the People of the Book's fulfillment of trusts, we have never understood from these two verses that anything other than a hundredweight has the ruling of a hundredweight. Rather, when He Most High said, "Divorce is twice; then retention on honorable terms or release with kindness. It is not lawful for you to take anything of what you have given them, unless the two fear that they will not maintain Allah's limits. If you fear that they will not maintain Allah's limits, there is no blame upon either of them concerning that with which she ransoms herself. These are Allah's limits, so do not transgress them. Whoever transgresses Allah's limits—it is they who are the wrongdoers"—Abu Muhammed said: Through this verse, the husband was forbidden to take anything of what he had given his wife, whether little or much, unless the two fear that they will not maintain Allah's limits, or she willingly consents, as He Most High said: "Give women their marriage payments as a free gift. But if they willingly remit any part of it to you, then consume it with enjoyment and ease." Were it not for this verse and the other verses and hadiths with the same purport, which prohibit taking property generally and prohibit taking gifts back, the verse concerning the hundredweight would contain no prohibition concerning anything other than the hundredweight at all.[12][13][14]

L2928–2931 A demonstration concerning this is that, if two witnesses testified on Zayd's behalf that ʿAmr owed him a hundredweight, while they knew for certain that he owed him two hundredweights, or more than a hundredweight, or less than a qintar, they would both be false witnesses, liars and fabricators. We have never known anyone of human nature to understand the statement,

نفسا فكلوه هنيئا مريئا} لولا هذه الآية، وما في معناها من سائر الآيات والأحاديث التي فيها تحريم الأموال جملة وتحريم العود في الهبات، لما كان في آية القنطار مانع مما عدا القنطار أصلا.

وبرهان عن ذلك أنه لو شهد شاهدان لزيد: أن له على عمرو قنطارا، وكان في علمهما الصحيح أنه له عليه قنطارين أو أكثر من قنطار أو أقل من قنطار، لكانا شاهدي زور كذابين آفكين، وما علمنا في طبيعة بشر أحدا يفهم من قول القائل أخذ لي عمرو قنطارا، أنه آخذ له أكثر من قنطار، ومدعي هذا مفتر على اللغة ومكابر للحس، داخل في نصاب الموسوسين مبطل للحقائق، ويقال له: لعله تعالى إذا ذكر سبع سموات، إنما أراد بها خمس عشرة أو أكثر من ذلك، وهذا هو بطلان الحقائق، وفساد العقل على الحقيقة. وأما الآية التي فيها ذكر الدينار والقنطار في ائتمان أهل الكتاب فقد أخبرنا تعالى أنهم يقولون أو من قال منهم {ومن أهل الكتاب من إن تأمنه بقنطار يؤده إليك ومنهم من إن تأمنه بدينار لا يؤده إليك إلا ما دمت عليه قآئما ذلك بأنهم قالوا

[12] **Translator's note (L2925):** The supplied text omits the expression after "a person's saying … to his parents" and also omits what Zayd supposedly said to ʿAmr. "['Uff']" marks contextual supplements; neither occurrence is present in the supplied Arabic. The unusual wording translated "leveled accusations carrying prescribed penalties against him" is literally "accused him with the prescribed penalties." It appears to refer to accusations of offenses subject to such penalties.

[13] **Translator's note (L2926):** The supplied Arabic repeatedly omits the quoted expression after "saying" and after "is called." Each bracketed "['Uff']" explicitly marks a supplement supplied from the argument's context.

[14] **Qur'an references (L2925):** Qur'an 2:229 (Al-Baqarah); Qur'an 4:4 (An-Nisa).

"'Amr took a qintar for me," as meaning that he took more than a qintar for him. Anyone who claims this fabricates claims about the language, obstinately denies sensory perception, enters the ranks of the obsessional, and nullifies realities. He should be told: perhaps, when He, exalted is He, mentions seven heavens, He actually means fifteen or more! This truly is the nullification of realities and the corruption of reason. As for the verse mentioning the dinar and the qintar in connection with entrusting the People of the Book, He, exalted is He, has informed us that they say—or that those of them who said it say—"Among the People of the Book is someone who, if you entrust him with a qintar, will return it to you; and among them is someone who, if you entrust him with a dinar, will not return it to you unless you remain standing over him. That is because they say, 'We bear no liability concerning the unlettered,' and they knowingly tell lies about Allah." This states that the People of the Book consider it permissible to betray what we entrust to them, whether little or much. We know through the necessity of reason and through observation, and people knew before the revelation of this particular verse, that among the People of the Book and among Muslims there are trustworthy people who faithfully discharge trusts involving little or much, and treacherous people who betray trusts involving little or much, because these are human characteristics. Among people are those who faithfully discharge a small trust as a pretense, but betray a large one out of greed. Among them are those who betray a small trust out of baseness of soul and disregard, but faithfully discharge a large one for fear of notoriety or of losing their livelihood, if their only means of earning a living depends on people entrusting them. All this exists, is observed, and is known through the senses. If they say, "What, then, is the benefit of the verse?" they should be told—and success comes through Allah, exalted is He—that its benefit is immense. First comes the immense reward for reciting it and affirming that it comes from Allah, mighty and majestic. There is also its prompting us to reflect upon the greatness of His power in His ordering of human dispositions for us: among them are the trustworthy unbeliever and the treacherous unbeliever. There is also entrusting them with property, for that is permissible for us when we judge them to be trustworthy, and the invalidation of the position of anyone who prohibits appointing them to administer property

ليس علينا في لأميين سبيل ويقولون على الله لكذب وهم يعلمون} ففي هذا استجازة أهل الكتاب لخون أماناتنا، قلت أو كثرت، وقد علمنا بضرورة العقل والمشاهدة، وعلم الناس قبل نزول هذه الآية المذكورة، أن في أهل الكتاب وفي المسلمين أوفياء، يفون بالقليل والكثير، وغدرة يغدرون بالقليل والكثير، لأن هذا من صفات الناس، وإن في الناس من يفي بالقليل تصنعا ويخون الكثير رغبة، وأن فيهم من يغدر بالقليل خسة نفس واستهانة، ويفي بالكثير مخافة الشهرة أو انقطاع رزقه إن كان لا يعيش في مكسبة إلا بائتمان الناس إياه وهذا كله موجود مشاهد، معلوم بالحس. فإن قالوا: فما فائدة الآية إذن؟ قيل لهم وبالله تعالى التوفيق: الفائدة فيها عظيمة، فأول ذلك الأجر العظيم في تلاوتها في التصديق أنها من عند الله عز وجل. وأيضا فالتنبيه لنا على التفكر في عظيم القدرة في ترتيبه لنا طبائع الناس، فمنهم الوفي الكافر، والخائن الكافر، وأيضا فائتمانهم على المال فإن ذلك مباح لنا إذا قدرنا فيهم الأمانة، وإبطال قول من منع من الوصية إليهم بالمال وهذا مثل قوله تعالى {أفلا ينظرون إلى لإبل كيف خلقت} ومثل قوله تعالى {ونزلنا من لسمآء مآء مباركا فأنبتنا به جنات وحب لحصيد} وقد علمنا ذلك قبل نزول القرآن ولكنه تنبيه ووعظ وتحريك إلى اكتساب الأجر بالاعتبار والفكرة في قدرة الله عز وجل وذكره تعالى القنطار ههنا كذكره السبعين استغفارة في قوله تعالى {ستغفر لهم أو لا تستغفر لهم إن تستغفر لهم سبعين مرة فلن يغفر لله لهم ذلك بأنهم كفروا بلله ورسوله ولله لا يهدي لقوم لفاسقين}

by testament. This is like His saying, exalted is He, “Do they not look at the camels, how they were created?” And like His saying, exalted is He, “We sent down blessed water from the sky, and with it caused gardens and grain for harvesting to grow.” We knew this before the revelation of the Quran, but it is a reminder, an admonition, and an encouragement to acquire reward through taking heed and reflecting upon the power of Allah, mighty and majestic. And His—exalted is He—mention of the qintar here is like His mention of seeking forgiveness seventy times in His saying, exalted is He, “Seek forgiveness for them, or do not seek forgiveness for them: if you seek forgiveness for them seventy times, Allah will never forgive them. That is because they disbelieved in Allah and His Messenger, and Allah does not guide the defiantly disobedient people.”[15][16][17]

L2932–2937 It was already within the knowledge of Allah, exalted is He, that He would explain His intention in this: that He, exalted is He, does not accept his seeking forgiveness for them at all. We have said more than once that such a question is invalid, and that He, exalted is He, is not questioned about what He does, whereas we are questioned about everything we do and say. As for His saying, exalted is He, “We shall set up the just balances for the Day of Resurrection, and no soul shall be wronged in anything. Even if it be the weight of a mustard seed, We shall bring it forth; and sufficient are We as reckoners,” and His saying, exalted is He, “Whoever does a speck’s weight of good shall see it; and whoever does a speck’s weight of evil shall see it,” we know that all this applies generally to what is smaller than a speck and what is larger only from His saying, exalted is He, “The record shall be set down, and you shall see the criminals apprehensive about what it contains. They shall say, ‘Woe to us! What is the matter with this record? It leaves out

[15] **Translator’s note (L2928):** The supplied wording “a demonstration concerning this” uses the somewhat awkward preposition ʿan; the reference to the preceding argument is clear.

[16] **Translator’s note (L2929):** A qintar is a unit of weight or a substantial quantity of wealth; the passage does not specify its exact measure. The opening word completes the phrase “less than a qintar” in the preceding segment.

[17] **Qur’an references (L2928):** Qur’an 3:75 (Ali ’Imran); Qur’an 50:9 (Qaf); Qur’an 9:80 (At-Tawbah).

وقد سبق في علم الله تعالى أنه سيبين مراده من ذلك أنه تعالى لا يقبل استغفاره لهم أصلا، وقد قلنا غير مرة إن مثل هذا السؤال فاسد، وأنه تعالى لا يسأل عما يفعل، ونحن نسأل عن كل فعلنا وقولنا وأما قوله تعالى {ونضع لموازين لقسط ليوم لقيامة فلا تظلم نفس شيئا وإن كان مثقال حبة من خردل أتينا بها وكفى بنا حاسبين} وقوله تعالى: {فمن يعمل مثقال ذرة خيرا يره * ومن يعمل مثقال ذرة شرا يره} فإنما علمنا عموم ذلك كله فيما دون الذرة وما فوقها من قوله تعالى {ووضع لكتاب فترى لمجرمين مشفقين مما فيه ويقولون يويلتنا ما لهذا لكتاب لا يغادر صغيرة ولا كبيرة إلا أحصاها ووجدوا ما عملوا حاضرا ولا يظلم ربك أحدا} وبقوله تعالى {فستجاب لهم ربهم أني لا أضيع عمل عامل منكم من ذكر أو أنثى بعضكم من بعض فلذين هاجروا وأخرجوا من ديارهم وأوذوا في سبيلي وقاتلوا وقتلوا لأكفرن عنهم سيئاتهم ولأدخلنهم جنات تجري من تحتها لأنهار ثوابا من عند لله ولله عنده حسن لثواب} وبقوله تعالى {فكيف إذا جمعناهم ليوم لا ريب فيه ووفيت كل نفس ما كسبت وهم لا يظلمون} فهذه الآيات بينت أن ما فوق الذرة والخردلة وما دونها محسوب كل ذلك ومجازى به، وكذلك قوله تعالى: {يبني إنها إن تك مثقال حبة من خردل

nothing small or great without enumerating it.' They shall find whatever they did present, and your Lord wrongs no one"; and from His saying, exalted is He, "Their Lord answered them: 'I do not let the work of any worker among you go to waste, whether male or female; you are of one another. Those who emigrated, were driven from their homes, were harmed in My path, fought, and were killed—I shall assuredly expiate their evil deeds for them and assuredly admit them into gardens beneath which rivers flow, as a reward from Allah; and with Allah is the finest reward'"; and from His saying, exalted is He, "How, then, will it be when We gather them for a day about which there is no doubt, and every soul is paid in full for what it earned, and they are not wronged?" These verses make clear that whatever is larger than a speck or a mustard seed, and whatever is smaller, is all reckoned and recompensed. Likewise, concerning His saying, exalted is He, "My son, even if it be the weight of a mustard seed, and be within a rock, or in the heavens, or in the earth, Allah will bring it forth. Allah is subtle, all-aware," we know its general applicability only from the saying of Allah, exalted is He, "There is no creature on earth whose provision does not rest with Allah. He knows its dwelling place and its place of deposit; all is in a clear record." In this verse He, exalted is He, encompassed all the provisions of living creatures, so that what is smaller than a mustard seed and what is larger fall within it. Abu Bakr ibn Dawud answered this question by saying: "What is greater than a speck is a speck and a speck, and likewise whatever exceeds it, because it exceeds a speck by part of a speck. When that part is added to the parts of a speck, the result is the measure of a speck. As for what is less than a speck's weight, its ruling is taken from somewhere other than this passage." ʿAli said: This is a correct answer, necessarily so. What we rely upon generally throughout this entire topic is what we have just stated: in everything of this kind, recourse is to other texts, or to consensus known with certainty, or solely to what is necessarily established by observation through the senses and reason. If we find no text, no consensus, and no necessary evidence, we confine ourselves to what is conveyed by the text, and stop where it stops, adding nothing. Otherwise, His—exalted is He—mention of the quantities and circumstances He mentions in these verses is like His—exalted is He—relating accounts of certain prophets, peace be upon them, in one place, and

فتكن في صخرة أو في لسماوات أو في لأرض يأت بها لله إن لله لطيف خبير} فإنما علمنا العموم في ذلك من قول الله تعالى {وما من دآبة في لأرض إلا على لله رزقها ويعلم مستقرها ومستودعها كل في كتاب مبين} فشمل تعالى جميع أرزاق الحيوان في هذه الآية، فدخل في ذلك ما هو دون الخردلة وما فوقها. وقد أجاب أبو بكر بن داود عن هذا السؤال أن قال: إن الذي هو فوق الذرة ذرة وذرة وهكذا ما زاد لأنه زاد على الذرة بعض ذرة، فذاك البعض إذا أضيف إلى أبعاض الذرة جاء من ذلك مقدار الذرة، وأما ما دون مثقال الذرة فحكمه مأخوذ من غير هذا المكان. قال علي: وهذا جواب صحيح ضروري والذي نعتمد عليه عموما في جميع هذا الباب، فهو الذي قلنا آنفا، وأن المرجوع إليه في كل ما جرى هذا المجرى نصوص أخر، أو إجماع متيقن أو ضرورة المشاهد بالحواس والعقل فقط، فإن لم نجد نصا ولا إجماعا ولا ضرورة اقتصرنا على ما جاء به النص، وقفنا حيث وقف ولا مزيد وإلا فإن ذكره تعالى لما ذكر من هذه المقادير، وهذه الأحوال في هذه الآيات كذكره تعالى أخبار بعض الأنبياء عليهم السلام في مكان، وذكره تعالى لهم في مكان آخر بأكمل مما ذكرهم به في غيرها، ولا يسأل عما يفعل. وأما قوله عز وجل {ولا تأكلوا أموالكم بينكم بلباطل وتدلوا بها إلى لحكام لتأكلوا فريقا من أموال لناس بلإثم وأنتم تعلمون} فإنما علمنا أن ما عدا الأكل حرام بقول رسول الله صلى الله عليه وسلم في حجة الوداع دماؤكم وأموالكم وأعراضكم عليكم حرام وبآيات أخر وأحاديث أخر، فبالحديث المذكور حرم التصرف في أموال الناس بغير ما أمر الله تعالى به بالأكل وغير الأكل، ولو تركنا والآية المذكورة ما حرم بها شيء غير الأكل، ولكان ما عدا الأكل موقوفا على طلب الدليل فيه إما بمنع وإما إباحة من غيرها، ولما وجب أن تحكم فيما عدا الأكل من الآية لا بتحريم ولا بتحليل كما يقولون معنا: إن الله حرم الأكل على الصائم ولم يحل عليه تملك الطعام، ولا ما عدا الأكل من بيه وهبة وغير ذلك فأي فرق بين الأكل

His—exalted is He—mentioning them in another place more fully than He mentions them elsewhere. He is not questioned about what He does. As for His saying, mighty and majestic, "Do not eat up your property among yourselves wrongfully, and offer it to the judges so that you may knowingly eat up a portion of people's property sinfully," we know that things other than eating are prohibited only from the saying of the Messenger of Allah, may Allah bless him and grant him peace ﷺ, at the Farewell Pilgrimage, "Your blood, your property, and your honor are inviolable among you," and from other verses and other reports. Thus, by the aforementioned report, disposing of people's property in ways other than those Allah, exalted is He, has commanded is prohibited, whether through eating or otherwise. Had we been left with the aforementioned verse alone, nothing other than eating would have been prohibited by it. Anything other than eating would have remained pending the search elsewhere for evidence concerning it, whether prohibiting or permitting it. It would not have been incumbent to rule on the basis of that verse that anything other than eating was either prohibited or permitted. Similarly, they agree with us in saying that Allah prohibited eating for someone who is fasting, but did not make the ownership of food lawful for him, or anything other than eating, such as selling, giving as a gift, and so forth. What difference, then, is there between the eating prohibited for someone who is fasting and the eating prohibited for people with respect to their property? Likewise, since both they and we permit eating from the house of one's father, mother, friend, and the relatives expressly named in the text, why did they not permit taking whatever they find belonging to those relatives, apart from eating, by analogy with the eating that is permitted? Why did they not prohibit someone who is fasting from owning food and selling it, by analogy with the established prohibition on his eating, just as they claim that they prohibited acquiring property through injustice and falsehood only by analogy with Allah's—exalted is He—prohibition on eating it up wrongfully? Since they have not done this, they have abandoned the analogy they acknowledge to be true. Their inconsistency has thus become evident, and praise belongs to Allah, Lord of the worlds. Even if no clear text had been transmitted prohibiting violations of property altogether, consensus on their prohibition would have sufficed, and we would then have known

المحرم على الصائم، وبين الأكل المحرم على الناس في أموالهم؟ وكما أباحوا هم ونحن الأكل من بيت الأب والأم والصديق والأقارب المنصوصين، فهلا أباحوا أخذ ما وجدوا للأقارب ما عدا الأكل قياسا على الأكل المباح أهلا حرموا على الصائم تملك الطعام وبيعه قياسا على ما صح من تحريم الأكل عليه؟ كما زعموا أنهم إنما حرموا تملك الأموال بالظلم والباطل قياسا على تحريم الله تعالى أكلها بالباطل، فإذ لم يفعلوا ذلك، فقد تركوا القياس الذي يقرون أنه حق، فظهر تناقضهم والحمد لله رب العالمين. وحتى لو لم يرد نص جلي في تحريم الأموال جملة، لكان الإجماع على تحريمها كافيا، ولعلمنا حينئذ أن اسم الأكل موضوع على أخذ منقول عن موضوعه المختص له في اللغة كما تقول العرب، أكلتنا السنة أي أفنت أموالنا، وكما قال الشاعر: فإن قومي لم تأكلهم الضبع يريد لم تفنهم.

that the term “eating” is applied to taking, transferred from the meaning specifically assigned to it in the language, as the Arabs say, “The year ate us up,” meaning that it destroyed our property. And as the poet said, “For my people have not been eaten by the hyena,” meaning that it did not destroy them.[18][19][20][21][22]

L2938–2939 As for His saying, exalted is He, {Do not kill your children for fear of poverty. We provide for them and for you. Indeed, killing them is a great sin}, the prohibition against killing them generally, for reasons other than poverty, comes only from other verses, namely Allah’s saying, exalted is He, {Lost indeed are those who killed their children foolishly, without knowledge, and prohibited what Allah provided them, fabricating a lie against Allah. They have gone astray and were not rightly guided}; His saying, exalted is He, {Do not kill the soul that Allah has made inviolable, except with right. Whoever is killed wrongfully, We have given his heir authority; so let him not exceed bounds in killing. Indeed, he has been granted support}; His saying, exalted is He, {And when the girl buried alive is asked: For what sin was she killed?}; and the saying of the Messenger of Allah ﷺ, “Your blood, your property, your honor, and your skin are inviolable among you.” As for His saying, exalted is He, {He causes the night to enter the day and causes the day to

وأما قوله تعالى: {ولا تقتلوا أولادكم خشية إملاق نحن نرزقهم وإياكم إن قتلهم كان خطئا كبيرا} فإنما حرم قتلهم جملة لغير الإملاق من آيات أخر وهي قول الله تعالى {قد خسر لذين قتلوا أولادهم سفها بغير علم وحرموا ما رزقهم لله فترآء على لله قد ضلوا وما كانوا مهتدين} وبقوله تعالى {ولا تقتلوا لنفس لتي حرم لله إلا بلحق ومن قتل مظلوما فقد جعلنا لوليه سلطانا فلا يسرف في لقتل إنه كان منصورا} وبقوله تعالى {وإذا لموءودة سئلت * بأى ذنب قتلت} وبقول رسول الله صلى الله عليه وسلم إن دماءكم وأموالكم وأعراضكم وأبشاركم عليكم حرام وأما قوله تعالى {يولج لليل في لنهار ويولج لنهار في لليل وسخر لشمس ولقمر كل يجري لأجل مسمى ذلكم لله ربكم له لملك ولذين تدعون من دونه ما يملكون من قطمير} فإنما أخبر عز وجل في موضع آخر على أنها لا تضر ولا تنفع ولا تبصر ولا تسمع، وما كان هذا فبالضرورة نعلم أنها لا تملك شيئا. وهكذا الحكم في كل ما موهوا به، فإن الله تعالى قد بين لنا مراده، ولو لم يرد غير النصوص التي ذكرنا لوجب ألا نتعدى البتة إلى ما لم يذكر بها وللزم ألا نحكم بها أصلا إلا فيما وردت فيه، ومن تعدى هذا فإنه متعد لحدود الله تعالى {يأيها لنبي إذا طلقتم لنسآء فطلقوهن لعدتهن وأحصوا لعدة وتقوا لله ربكم لا تخرجوهن من بيوتهن ولا يخرجن إلا أن يأتين بفاحشة مبينة وتلك حدود لله ومن يتعد حدود لله فقد ظلم نفسه لا تدرى لعل لله يحدث بعد ذلك أمرا} نعوذ بالله من ذلك وأما قول الناس: لا تعط فلانا حبة، فإنما يعلم مراد القائل في ذلك، أمجدا قال ذلك أم هازلا أم مقتصرا على الحبة أم لأكثر منها، بما يشهده من حال الأمر في امتناعه وتسهله،

[18] **Translator’s note (L2932):** Abu Bakr ibn Dawud’s explanation moves awkwardly from whole specks to fractions of a speck. The supplied wording has been retained without reconstructing the argument.

[19] **Translator’s note (L2935):** The supplied wording ولم يحل عليه says “did not make … lawful for him,” although the argument appears to require “did not prohibit … for him.” The translation preserves the supplied reading. بيه appears to be a transcription error for بيع, “selling.” The supplied أهلا before the second rhetorical question appears corrupt; it has been understood as a question corresponding to the preceding فهلا, “why did they not.”

[20] **Translator’s note (L2936):** “The year ate us up” is an Arabic idiom referring to a year of drought or famine consuming people’s wealth. The explanation continues in the next segment.

[21] **Translator’s note (L2937):** “The hyena” can figuratively denote a devastating year or famine in classical Arabic; the line retains its literal animal imagery.

[22] **Qur’an references (L2932):** Qur’an 21:47 (Al-Anbya); Qur’an 99:7 (Az-Zalzalah); Qur’an 99:8 (Az-Zalzalah); Qur’an 18:49 (Al-Kahf); Qur’an 3:195 (Ali ’Imran); Qur’an 3:25 (Ali ’Imran); Qur’an 31:16 (Luqman); Qur’an 11:6 (Hud).

enter the night, and has subjected the sun and the moon, each running for an appointed term. That is Allah, your Lord; to Him belongs dominion. Those whom you invoke besides Him do not possess even the membrane of a date stone}, He, mighty and majestic, has stated elsewhere that they neither harm nor benefit, neither see nor hear. Whatever is like this, we know by necessity that it possesses nothing. The same ruling applies to everything with which they have obscured the matter: Allah, exalted is He, has explained His intent to us. Had nothing been transmitted other than the texts we have mentioned, we would have been obliged never to extend them to what they do not mention, and would have been bound to apply their rulings only to the matters concerning which they were revealed. Whoever goes beyond this transgresses the limits of Allah, exalted is He: {O Prophet, when you divorce women, divorce them with regard to their waiting period, and count the waiting period. Fear Allah, your Lord. Do not expel them from their houses, nor should they leave, unless they commit a manifest indecency. Those are Allah's limits. Whoever transgresses Allah's limits has wronged himself. You do not know: perhaps Allah will bring about something after that.} We seek refuge in Allah from that. As for people's saying, "Do not give so-and-so a grain," the speaker's intent—whether he said this seriously or in jest, whether he meant only the grain or more than it—is known only through what one witnesses of the circumstances of the matter, in his refusal and his willingness to relent and most of that. Such a statement from its speaker never occurs in isolation. He must necessarily say, "Do not give him anything at all, not even a grain." He may also add, "Neither a little nor a great deal." This is the familiar manner in which people address one another. Whoever claims otherwise brazenly attributes to reason something it does

وأكثر ذلك فهذا القول من قائله لا يتأتى مجردا البتة. ولا بد ضرورة من أن يقول: لا تعطه البتة شيئا ولا حبة، وربما زاد لا قليلا ولا كثيرا، فهذا هو المعهود من تخاطب الناس فيما بينهم، ومن ادعى غير هذا فهو مجاهر مدع على العقل ما ليس فيه، بل هو مخالف لموجب العقل ولمقتضى اللغة على الحقيقة، وبالله تعالى نعتصم

not contain; indeed, he contradicts what reason requires and what language actually entails. In Allah, exalted is He, we seek protection.[23][24][25]

L2940–2942 If they cite Allah's saying, exalted is He, {Or do they have a share in dominion? In that case they would not give people even the speck in a date stone}, He, exalted is He, has said in another verse, {Say: If you possessed the treasuries of my Lord's mercy, you would surely withhold for fear of spending. Man is ever miserly.} Thus He, exalted is He, expressly mentions withholding, and withholding in its generality encompasses the speck in a date stone and things other than the speck in a date stone, things smaller than it, and things greater than it. They also argued for this on the basis of Allah's saying, exalted is He, {You were the best community brought forth for mankind: you enjoin what is right, forbid what is wrong, and believe in Allah. Had the People of the Scripture believed, it would have been better for them. Among them are believers, but most of them are defiantly disobedient}; and His saying, exalted is He, {O you who believe, obey Allah, obey the Messenger, and those vested with authority among you. If you dispute over anything, refer it to Allah and the Messenger, if you believe in Allah and the Last Day. That is better and finer in outcome.} They said: Allah, exalted is He, did not distinguish between what those vested with authority among us say on the basis of instruction from the Prophet ﷺ and what they say by analogy. Abu Muhammed said: This argument of theirs combines outrageousness and sin. Allah, exalted is He, has never commanded those vested with authority among us to speak according to their opinions or their analogies, or to say whatever they wish. Allah, exalted is He, has only commanded them to say what they have heard, or to acquire understanding of the religion that Allah, exalted is He, sent down to His Prophet ﷺ, and to

فإن ذكروا قول الله تعالى {أم لهم نصيب من لملك فإذا لا يؤتون لناس نقيرا} فقد قال تعالى في آية أخرى {قل لو أنتم تملكون خزآئن رحمة ربي إذا لأمسكتم خشية لإنفاق وكان لإنسان قتورا} فنص تعالى على الإمساك والإمساك على عمومه يقتضي النقير وغير النقير، وأقل من النقير وأكثر منه. واحتجوا في ذلك أيضا بقول الله تعالى {كنتم خير أمة أخرجت للناس تأمرون بلمعروف وتنهون عن لمنكر وتؤمنون بلله ولو آمن أهل لكتاب لكان خيرا لهم منهم لمؤمنون وأكثرهم لفاسقون} وبقوله تعالى {يا أيها لذين آمنوا أطيعوا لله وأطيعوا لرسول وأولي لأمر منكم فإن تنازعتم في شيء فردوه إلى لله ولرسول إن كنتم تؤمنون بلله وليوم لآخر ذلك خير وأحسن تأويلا} قالوا فلم يخص الله تعالى ما قال أولو الأمر منا بتوقيف من النبي صلى الله عليه وسلم مما قالوه بقياس قال أبو محمد هذا الاحتجاج منهم جمع الشناعة والإثم لأن الله تعالى لم يأمر قط أولي الأمر منا أن يقولوا بآرائهم ولا بقياساتهم، ولا أن يقولوا ما شاؤوا، وإنما أمرهم الله تعالى أن يقولوا ما سمعوا، أو يتفقهوا في الدين الذي أنزله الله تعالى على نبيه صلى الله عليه وسلم وينذروا بذلك قومهم وهذا بين في قوله تعالى {وعتصموا بحبل لله جميعا ولا تفرقوا وذكروا نعمة لله عليكم إذ كنتم أعدآء فألف بين قلوبكم فأصبحتم بنعمته إخوانا وكنتم على شفا حفرة من لنار فأنقذكم منها كذلك يبين لله لكم آياته لعلكم تهتدون} وفي قوله تعالى {لطلاق مرتان فإمساك بمعروف أو تسريح بإحسان ولا يحل لكم أن تأخذوا مما آتيتموهن شيئا إلا أن يخافآ ألا يقيما حدود لله فإن خفتم ألا يقيما حدود لله فلا جناح عليهما فيما فتدت به تلك حدود لله فلا تعتدوها ومن يتعد حدود لله فأولئك هم لظالمون} وفي قوله تعالى {ولا تقف ما ليس لك به علم إن

[23] **Translator's note (L2938):** The final wording concerning the speaker's refusal and willingness to relent is awkward, and continues into the next unit; the translation preserves that unfinished construction.

[24] **Translator's note (L2939):** The opening words, "and most of that" (وأكثر ذلك), have an unclear connection to the preceding unit and may reflect a corrupt reading. They have been retained without repair.

[25] **Qur'an references (L2938):** Qur'an 17:31 (Al-Isra); Qur'an 6:140 (Al-An'am); Qur'an 17:33 (Al-Isra); Qur'an 81:9 (At-Takwir); Qur'an 35:13 (Fatir); Qur'an 65:1 (At-Talaq).

warn their people by means of it. This is clear in His saying, exalted is He, {Hold fast, all together, to Allah's rope, and do not divide. Remember Allah's favor upon you: when you were enemies, He brought your hearts together, and by His favor you became brothers. You were on the brink of a pit of fire, and He rescued you from it. Thus Allah makes His signs clear to you, so that you may be guided}; in His saying, exalted is He, {Divorce is twice; then retention with propriety or release with kindness. It is not lawful for you to take anything of what you have given them, unless the two fear that they cannot maintain Allah's limits. If you fear that the two cannot maintain Allah's limits, there is no blame upon either of them concerning that with which she ransoms herself. Those are Allah's limits, so do not transgress them. Whoever transgresses Allah's limits—those are the wrongdoers}; in His saying, exalted is He, {Do not pursue that of which you have no knowledge. Hearing, sight, and the heart—each of these will be questioned}; and in His saying, exalted is He, {He only commands you to evil and indecency, and to say about Allah what you do not know.} Abu Muhammed said: Whoever speaks on the basis of his own analogy has transgressed Allah's limits, pursued that of which he has no knowledge, and made assertions about Allah, exalted is He, concerning that which no one knows to be with Allah, exalted is He, except through a communication from Allah, exalted is He, to that effect; otherwise, it is false. We have already explained that Allah's saying, exalted is He, {O you who believe, obey Allah, obey the Messenger, and those vested with authority among you. If you dispute over anything, refer it to Allah and the Messenger, if you believe in Allah and the Last Day. That is better and finer in outcome}, refers only to all those vested with authority, not some of them. They have never reached consensus on holding analogy to be authoritative. How, then, could we be commanded to follow them in a matter over which they have differed?[26]

L2943–2946 This is contrary to Allah's command in the Quran. A conclusive demonstration is that Allah, exalted is He, said, {O Prophet, when you divorce women,

[26] **Qur'an references (L2940):** Qur'an 17:100 (Al-Isra); Qur'an 3:110 (Ali 'Imran); Qur'an 4:59 (An-Nisa); Qur'an 3:103 (Ali 'Imran); Qur'an 2:229 (Al-Baqarah); Qur'an 17:36 (Al-Isra).

لسمع ولبصر ولفؤاد كل أولئك كان عنه مسؤولا} وفي قوله تعالى {إنما يأمركم بلسوء ولفحشآء وأن تقولوا على الله ما لا تعلمون} قال أبو محمد ومن قال بقياسه فقد تعدى حدود الله، وقفا ما لا علم به، وأخبر عن الله تعالى بما لا يعلم أحد ما عند الله تعالى إلا بإخبار من الله تعالى بذلك، وإلا فهو باطل، وقد بينا فيما خلا أن قول الله تعالى {يا أيها لذين آمنوا أطيعوا لله وأطيعوا لرسول وأولي لأمر منكم فإن تنازعتم في شيء فردوه إلى لله ولرسول إن كنتم تؤمنون بلله وليوم لآخر ذلك خير وأحسن تأويلا} إنما هو جميع أولي الأمر لا بعضهم ولم يجمعوا قط على القول بالقياس، فكيف نكون نحن مأمورين باتباعهم فيما افترقوا فيه؟.

وهذا ضد أمر الله تعالى في القرآن وبرهان قاطع وهو أن الله تعالى قال {يأيها لنبي إذا طلقتم لنسآء فطلقوهن لعدتهن وأحصوا لعدة وتقوا لله ربكم لا تخرجوهن من بيوتهن ولا يخرجن إلا أن يأتين بفاحشة مبينة وتلك حدود لله ومن يتعد حدود لله فقد

divorce them with regard to their waiting period, and count the waiting period. Fear Allah, your Lord. Do not expel them from their houses, nor should they leave, unless they commit a manifest indecency. Those are Allah's limits. Whoever transgresses Allah's limits has wronged himself. You do not know: perhaps Allah will bring about something after that.} The limits of Allah, exalted is He, are everything He has delimited and explained. It is therefore established that no one may go beyond, in any matter of religion, what Allah, exalted is He, has delimited in the Quran and through the tongue of His Messenger—may Allah bless him and grant him peace—through revelation. It is therefore invalid to construe those vested with authority as transgressing the limits of Allah, exalted is He, because that is false, and we have agreed that they do not reach consensus upon falsehood. Everything that is not among the limits of Allah, exalted is He, and His revelation is necessarily from Allah; this is unavoidable. He, exalted is He, has said, {Do they not reflect upon the Quran? Had it been from other than Allah, they would have found much discrepancy in it.} This verse therefore establishes that there can never be consensus except upon what has come from Allah, exalted is He, through revelation, by which alone what is with Allah, exalted is He, can be known, and which ceased after the Messenger of Allah ﷺ. These texts thus establish with certainty the invalidity of their reaching consensus upon anything other than an authentic text. They argued on the basis of Allah's saying, exalted is He, in the verse concerning a person leaving neither parent nor child as heir: {They ask you for a ruling. Say: Allah gives you a ruling concerning a person leaving neither parent nor child as heir. If a man dies having no child, but having a sister, she shall have half of what he leaves; and he inherits from her if she has no child. If there are two sisters, they shall have two-thirds of what he leaves. If there are siblings, men and women, the male shall have the share of two females. Allah makes this clear to you lest you go astray. Allah knows all things.} They said: You maintain that inheritance here takes place only after debt and bequest. They said: This is not in the verse; you have said it only by analogy with the other verses on inheritance, which state that it takes place after bequest and debt. Abu Muhammed said: This is a tremendous error. We seek refuge in Allah, exalted is He, from establishing, by way of analogy, that inheritance in the case of siblings takes place after

ظلم نفسه لا تدرى لعل لله يحدث بعد ذلك أمرا} وحدود الله تعالى هي كل ما حد وبين فصح أنه ليس لأحد أن يتعدى في شيء من الدين ما حده الله تعالى في القرآن وعلى لسان رسوله صلى الله عليه وسلم بالوحي فبطل أن يحمل أولوا الأمر على تعدي حدود الله تعالى، لأنه باطل فقد اتفقنا أنهم لا يجمعون على باطل، وكل ما لم يكن من حدود الله تعالى، ووحيه فهو من عند الله ضرورة لا بد من ذلك وقد قال تعالى {أفلا يتدبرون لقرآن ولو كان من عند غير لله لوجدوا فيه ختلافا كثيرا} فصح بهذه الآية أنه لا يمكن أن يكون إجماع أبدا إلا على ما جاء من عند الله تعالى بالوحي الذي لا يعلم ما عند الله تعالى إلا به والذي قد انقطع بعد رسول الله صلى الله عليه وسلم فبطل بهذه النصوص يقينا أن يجمعوا على غير نص صحيح. واحتجوا بقول الله تعالى في آية الكلالة {يستفتونك قل لله يفتيكم في لكلالة إن مرؤ هلك ليس له ولد وله أخت فلها نصف ما ترك وهو يرثها إن لم يكن لها ولد فإن كانتا ثنتين فلهما لثلثان مما ترك وإن كانوا إخوة رجالا ونسآء فللذكر مثل حظ لأنثيين يبين لله لكم أن تضلوا ولله بكل شيء عليم} قالوا فأنتم تقولون إن الميراث ههنا إنما هو بعد الدين والوصية، قالوا: وليس هذا في الآية فإنما قلتموه قياسا على سائر آيات المواريث التي فيها أنها بعد الوصية والدين. قال أبو محمد: وهذا خطأ عظيم، ونعوذ بالله تعالى من أن نثبت الميراث في مواريث الإخوة بعد الوصية والدين من طريق القياس وما أثبتنا ذلك إلا بنص النبي صلى الله عليه وسلم إذ كان يقدم إلى الجنازة فيسأل صلى الله عليه وسلم أعليه دين فإن قيل له لا صلى عليه وإن قيل له نعم سأل صلى الله عليه وسلم أعليه وفاء فإن قيل له نعم صلى عليه وإن قالوا لا قال صلى الله عليه وسلم صلوا على صاحبكم ولم يصل هو عليه وبقوله صلى الله عليه وسلم إن الشهيد يغفر له كل شيء إلا الدين أو

bequest and debt. We have established this only through the explicit statement of the Prophet ﷺ: when he would be brought forward to a funeral, he ﷺ would ask, “Did he owe a debt?” If he was told no, he would pray over him. If he was told yes, he would ask—may blessings be Allah upon him and grant him peace—“Is there enough to discharge it?” If he was told yes, he would pray over him; if they said no, he ﷺ would say, “Pray over your companion,” and would not himself pray over him. And by his ﷺ saying, “The martyr is forgiven everything except debt,” or words to that effect; and his ﷺ saying, “Your companion is held in pledge for his debt”; and his ﷺ general command that anyone who has something concerning which to make a bequest should make a will; and his ﷺ command to bequeath one-third or less. And concerning bequeathing one-third and the prohibition against bequeathing more, he ﷺ said, “For you to leave your heirs wealthy is better than to leave them destitute,” or as he ﷺ said. Thus he ﷺ included all heirs generally, without singling out a brother or sister as distinct from anyone else. It is therefore necessarily established that no one receives an inheritance until after the debt, and then the bequest, have been discharged. Their obfuscation through citing the aforementioned verse thus falls away.[27][28][29]

L2947–2949 Then we turn this very same question back upon them and say to them: If you yourselves did this in the verse concerning collateral inheritance by analogy with the other inheritances, you must consequently require feeding as expiation for killing on the part of someone unable to fast or to free a slave, by analogy with the expiation for the declaration that one’s wife is like one’s mother’s back, and by analogy with the expiation for someone who has intercourse during the daytime in Ramadan. Do not distinguish between the

كلاما هذا معناه وقوله صلى الله عليه وسلم إن صاحبكم مرتهن بدينه وبأمره صلى الله عليه وسلم جملة بالوصية لمن عنده شيء يوصي فيه وبأمره صلى الله عليه وسلم بالوصية بالثلث فدون وقال صلى الله عليه وسلم في الوصية بالثلث والنهي عن الوصية بأكثر: إنك أن تذر ورثتك أغنياء خير من أن تتركهم عالة أو كما قال صلى الله عليه وسلم فعم صلى الله عليه وسلم الورثة كلهم ولم يخص أخا ولا أختا من غيرهما، فصح ضرورة ألا ميراث لأحد إلا بعد الدين ثم الوصية، فسقط تمويههم بذكر الآية المذكورة.

ثم نعكس عليهم هذا السؤال المذكور بعينه، فنقول لهم: إذا فعلتم أنتم ذلك في آية الكلالة قياسا على سائر المواريث، فيلزمكم أن توجبوا الإطعام في كفارة القتل لمن عجز عن الصيام والرقبة، قياسا على كفارة الظهار، وقياسا على كفارة الواطىء في نهار رمضان، ولا تفرقوا بين الأمرين، فقد ذكر الله تعالى في كلتا الآيتين عتق الرقبة ثم الصيام لشهرين متتابعين، ثم ذكر تعالى في أحدهما تعويض الإطعام من الصيام، فافعلوا ذلك في المسكوت عنه من الآية الأخرى، لا سيما وأنتم قد قستم، أو بعضكم، المسكوت عنه من دين الرقبة في الظهار على المنصوص عليه من أن تكون مؤمنة في قتل الخطأ، فما الذي جعل قياس الرقبة في الظهار على التعويض في القتل حقا وجعل قياس التعويض بالإطعام من الصيام في كفارة قتل الخطأ على التعويض بالإطعام من الصيام في كفارة الظهار، باطلا؟ ولولا التخليط والموق ونعوذ بالله من الخذلان.

[27] **Translator’s note (L2944):** The supplied text says, “Everything that is not among the limits of Allah … and His revelation is necessarily from Allah.” This contradicts the surrounding argument and apparently omits “other than” before “Allah.” The translation retains the supplied wording. “A person leaving neither parent nor child as heir” renders the technical inheritance term kalālah. The unit ends midway through the salutation, after صلى; its English fragment is left unfinished.

[28] **Translator’s note (L2945):** The opening words continue the salutation begun in the preceding segment; the fragment is retained without supplying the missing beginning.

[29] **Qur’an references (L2943):** Qur’an 65:1 (At-Talaq); Qur’an 4:82 (An-Nisa); Qur’an 4:176 (An-Nisa).

two cases. Allah Most High has mentioned in both verses the freeing of a slave, followed by fasting for two consecutive months; then, in one of them, He Most High mentioned substituting feeding for fasting. So apply this to what is left unmentioned in the other verse, especially since you—or some of you—have already reasoned by analogy from what is left unmentioned concerning the religion of the slave in the case of the declaration that one's wife is like one's mother's back to the explicit stipulation that the slave be a believer in the case of accidental killing. What, then, made drawing an analogy from the slave in the case of that declaration to the substitution in the case of killing correct, while making the analogy between substituting feeding for fasting in the expiation for accidental killing and substituting feeding for fasting in the expiation for that declaration invalid? Were it not for muddle and stupidity! We seek refuge in Allah from being forsaken.

Some of them argued by saying that the obligation for twenty of us to stand firm against two hundred unbelievers is abrogated by analogy with the abrogation of the obligation for one hundred of us to stand firm against one thousand unbelievers. Abu Muhammed said: This is muddle, falsehood, and the turning of one error back upon another. Neither the obligation for one hundred to stand firm against one thousand nor that for twenty to stand firm against two hundred has ever been abrogated. We have explained this question in the chapter discussing abrogation in this work of ours. In general, a Muslim may not assert that a verse or a hadith is abrogated except on the basis of an authentic explicit text, because obedience to Allah and obedience to His Messenger ﷺ are obligatory. If their words have been abrogated, the obligation upon us to obey them has fallen away. This is an error. Whoever claims that obedience to Allah Most High and obedience to His Prophet ﷺ have ceased to be obligatory at any point in the revealed law—his statement is discarded and rejected unless he produces an established explicit text demonstrating the soundness of his claim. If he produces it, then we hear and obey. If he does not produce it, he is a liar and a fabricator, unless he is someone against whom the authoritative proof has not been established; in that case, he is mistaken but excused on account of his independent effort to determine the ruling. Success comes through Allah Most High.

واحتج بعضهم بأن قال: إن ثبات العشرين منا للمائتين من الكفار منسوخ بالقياس على نسخ ثبات المائة منا للألف من الكفار. قال أبو محمد: وهذا تخليط وكذب، وعكس الخطأ على الخطأ، وما نسخ قط ثبات المائة للألف، ولا ثبات العشرين للمائتين، وقد بينا هذه المسألة في باب الكلام في النسخ من ديواننا هذا، وبالجملة لا يحل لمسلم أن يقول في آية ولا حديث بالنسخ إلا عن نص صحيح لأن طاعة الله وطاعة رسوله صلى الله عليه وسلم واجبة فإذا كان كلامهما منسوخا فقد سقطت طاعته عنا، وهذا خطأ، ومن ادعى سقوط طاعة الله تعالى وسقوط طاعة نبيه صلى الله عليه وسلم في مكان ما من الشريعة فقوله مطروح مردود، ما لم يأت على صحة دعواه بنص ثابت، فإن أتى به فسمعا وطاعة، وإن لم يأت به فهو كاذب مفتر، إلا أن يكون ممن لم تقم عليه الحجة، فهو مخطىء معذور باجتهاده، وبالله تعالى التوفيق واحتجوا أيضا بقول الله تعالى {يأيها لذين آمنوا لا تقتلوا لصيد وأنتم حرم ومن قتله منكم متعمدا فجزآء مثل ما قتل من لنعم يحكم به ذوا عدل منكم هديا بالغ لكعبة أو كفارة طعام مساكين أو عدل ذلك صياما ليذوق وبال أمره عفا لله عما سلف ومن عاد فينتقم لله منه ولله عزيز ذو نتقام} وهذا عمدة ما موهوا به في إثبات القياس مع آية الاعتبار ومع قوله تعالى {فقلنا ضربوه ببعضها كذلك يحيي لله لموتى ويريكم آياته لعلكم تعقلون}

They also argued from the saying of Allah Most High: "O you who believe, do not kill game while you are in a state of consecration. Whoever among you kills it deliberately, then the recompense is the like of what he killed, from livestock, as judged by two just men from among you, as an offering reaching the Kaaba; or an expiation consisting of feeding needy people; or the equivalent of that in fasting, so that he may taste the evil consequence of his deed. Allah has pardoned what is past, but whoever does it again, Allah will exact vengeance upon him. Allah is mighty, possessed of vengeance." This is the principal passage with which they have obscured the issue in establishing analogy, together with the verse concerning taking heed, and His Most High's saying: "Then We said, 'Strike him with part of it.' Thus Allah brings the dead to life and shows you His signs, so that you may understand."[30][31]

L2950–2952 Abu Muhammed said: This is among the most extraordinary of their contentious arguments: their audacity in using the words of Allah Most High to obscure the issue and putting them where they do not belong. This is exceedingly grave; we seek refuge in Allah from being forsaken. No one possessed of reason has ever understood analogy to have any entry, avenue, or connection whatsoever in this verse. This verse is simply a clear explicit text: He Most High commanded two just believers to adjudge, for the game killed, livestock resembling it. This is an explicit text, not analogy. It would only have been analogy if they had said: Just as He Most High commanded us, when we kill game that we are forbidden to kill, to compensate for it with its like from livestock, so too, when we kill livestock that we are forbidden to kill because someone else owns it, we must compensate for it with its like from game. Furthermore, just as they drew an analogy between Allah Most High's ownership of game and people's ownership, thereby requiring compensation from someone who kills it accidentally and contradicting the Quran in this respect, so, according to their corrupt principle, they must

[30] **Translator's note (L2947):** The phrase "to the substitution in the case of killing" translates على التعويض في القتل as supplied. In context, a reference to the slave's being a believer would be expected; the supplied wording has not been corrected. "Were it not for muddle and stupidity!" preserves an elliptical exclamation whose consequent is unstated in the Arabic.

[31] **Qur'an references (L2947):** Qur'an 5:95 (Al-Ma'idah).

قال أبو محمد: وهذا من أطرف ما شغبوا به من الجرأة على التمويه بكلام الله تعالى، ووضعه في غير موضعه، فهذا عظيم جدا نعوذ بالله من الخذلان، وما فهم أحد قط له عقل أن للقياس في هذه الآية مدخلا أو طريقا، أو نسبة بوجه من الوجوه، وما هذه الآية إلا نص جلي، أمر تعالى ذوي عدل من المؤمنين أن يحكما في الصيد المقتول بما يشبهه من النعم، فهذا نص لا قياس، وإنما كان يكون قياسا لو قالوا كما أمرنا تعالى إذا قتلنا الصيد المحرم علينا قتله أن نجزيه بمثله من النعم. فكذلك إذا قتلنا شيئا من النعم حراما علينا لملك غيرنا له، فواجب علينا أن نجزيه بمثله من الصيد، وأيضا فكما قاسوا ملك الله تعالى الصيود فأوجبوا الجزاء على قاتلها مخطئا، وخالفوا القرآن في ذلك قياسا على ملك الناس، فواجب عليهم على أصلهم الفاسد أن يقيسوا ملك الناس من النعم، ومن الصيد إذا قتله فيلزموه أن يجزيه بمثله، إن كان صيدا فمن النعم، وإن كان من النعم فمثله من الصيد. فهذا حقيقة القياس الذي إن قالوه كفروا، وإن تركوا القياس وتناقضوا ووفقوا في تركهم له، وأيضا فإن كانت هذه الآية متيحة للقياس، فينبغي ألا يكون إلا حتى يحكم فيه ذوا عدل منا، أو يكون عدل ذلك صياما. فهكذا هو الحكم في الآية، وأما الآية المذكورة فلا نسبة بينها وبين القياس البتة، وإنما فيها أن الصيد

draw an analogy concerning people's property, whether livestock or game, when someone kills it, and require him to compensate for it with its like: if it is game, then with livestock; and if it is livestock, then with its like from game. This is analogy in its true form: if they affirm it, they disbelieve; and if they abandon analogy, they contradict themselves and are rightly guided in abandoning it. Furthermore, if this verse permits analogy, then it should only take place when two just men from among us adjudicate concerning it, or its equivalent should be fasting, for that is the ruling in the verse. As for the aforementioned verse, there is absolutely no connection between it and analogy. It states only that game can be the like of livestock. This is something we do not deny, for the whole world exhibits likeness in some of its attributes. What we deny is assigning, in religious matters, to something for which that ruling has not come from Allah Most High, a ruling like the one explicitly prescribed for something resembling it. This is the falsehood, error, and forbidden act that is impermissible. Through Allah Most High we receive support. Some of them also argued from the saying of Allah Most High: "O you who believe, do not approach prayer while you are intoxicated until you know what you are saying, nor while in a state of major ritual impurity, unless passing along a way, until you have washed yourselves. If you are ill or on a journey, or one of you has come from relieving himself, or you have touched women, and you find no water, then seek clean earth and wipe your faces and your hands. Allah is indeed pardoning, forgiving." And from His Most High's saying: "It is not for a believer to kill a believer except by mistake. Whoever kills a believer by mistake must free a believing slave and deliver blood money to his family, unless they forgo it as charity. If he belongs to a people hostile to you, while he is a believer, then a believing slave must be freed. If he belongs to a people between whom and you there is a covenant, then blood money must be delivered to his family and a believing slave freed. Whoever does not find must fast for two consecutive months, as repentance granted by Allah. Allah is knowing, wise."

They said: You have thus drawn an analogy between someone who possesses the price of water or the price of a slave, even though he has neither a slave nor water with him, and someone who has the slave or water with him, and

يكون مثلا للنعم وهذا أمر لا ننكره، فالعالم كله متماثل في بعض أوصافه، وإنما أنكرنا أن نحكم في الديانة شيء لم يأت فيه ذلك الحكم من الله تعالى بمثل الحكم المنصوص فيما يشبهه، فهذا هو الباطل والخطأ والحرام الذي لا يحل وبالله تعالى نتأيد. واحتج أيضا بعضهم بقول الله تعالى {يا أيها لذين آمنوا لا تقربوا لصلاة وأنتم سكارى حتى تعلموا ما تقولون ولا جنبا إلا عابري سبيل حتى تغتسلوا وإن كنتم مرضى أو على سفر أو جآء أحد منكم من لغآئط أو لامستم لنسآء فلم تجدوا مآء فتيمموا صعيدا طيبا فمسحوا بوجوهكم وأيديكم إن لله كان عفوا غفورا} وبقوله تعالى {وما كان لمؤمن أن يقتل مؤمنا إلا خطئا ومن قتل مؤمنا خطئا فتحرير رقبة مؤمنة ودية مسلمة إلى أهله إلا أن يصدقوا فإن كان من قوم عدو لكم وهو مؤمن فتحرير رقبة مؤمنة وإن كان من قوم بينكم وبينهم ميثاق فدية مسلمة إلى أهله وتحرير رقبة مؤمنة فمن لم يجد فصيام شهرين متتابعين توبة من لله وكان لله عليما حكيما} قالوا فقستم واجد الثمن للماء والثمن للرقبة، وإن لم يكن عنده رقبة ولا ماء، على من عنده الرقبة والماء، فلم تجيزوا لهما التيمم ولا الصيام. قال أبو محمد: وهذا من ذلك التمويه المعهود، ويعيذنا الله تعالى أن نقول بالقياس في شيء من الدين، وليس ما ذكروا قياسا ولكنه نص جلي بلا تأويل فيه البتة، لأن الله تعالى إنما قال في آية كفارة قتل الخطأ والعود للظهار بعد إيجاب الرقبة.

you have not permitted the former two to perform purification with earth or to fast. Abu Muhammed said: This is more of that familiar obfuscation. May Allah Most High protect us from affirming analogy in any matter of religion. What they have mentioned is not analogy; it is a clear explicit text involving absolutely no interpretive departure from its wording. For Allah Most High merely said, in the verse concerning expiation for accidental killing and returning to the declaration that one's wife is like one's mother's back, after requiring the freeing of a slave,[323][334]

L2953–2955 "It is not for a believer to kill a believer except by mistake. Whoever kills a believer by mistake must free a believing slave and deliver blood money to his family, unless they forgo it as charity. If he belongs to a people hostile to you, while he is a believer, then a believing slave must be freed. If he belongs to a people between whom and you there is a covenant, then blood money must be delivered to his family and a believing slave freed. Whoever does not find must fast for two consecutive months, as repentance granted by Allah. Allah is knowing, wise." He Most High did not say, "Whoever does not find a slave"; rather, He Most High left finding unrestricted. Thus, anything found through which the freeing of a slave can be achieved precludes fasting. Following this is obligatory, because it accords with the apparent meaning of the verse, which may not be contravened. The same applies to the expiation for someone who has intercourse during the daytime in Ramadan.

As for purification with earth by someone who has no water but possesses money with which to purchase it, our companions have said what these peo-

{وما كان لمؤمن أن يقتل مؤمنا إلا خطئا ومن قتل مؤمنا خطئا فتحرير رقبة مؤمنة ودية مسلمة إلى أهله إلا أن يصدقوا فإن كان من قوم عدو لكم وهو مؤمن فتحرير رقبة مؤمنة وإن كان من قوم بينكم وبينهم ميثاق فدية مسلمة إلى أهله وتحرير رقبة مؤمنة فمن لم يجد فصيام شهرين متتابعين توبة من الله وكان الله عليما حكيما} ولم يقل تعالى فمن لم يجد رقبة، ولكنه تعالى أطلق الوجود، فكل وجود يتوصل به إلى عتق الرقبة، فإنه مانع من الصيام، فالواجب اتباعه، لأنه موافق لظاهر الآية الذي لا يجوز خلافه، وهكذا القول في كفارة الواطىء في نهار رمضان، وأما التيمم لمن لم يكن له ماء وعنده ثمن يبتاع به الماء، فإن أصحابنا قالوا ما ذكر هؤلاء، ورأوا واجبا على من وجد ماء للشراء أن يبتاعه بقيمته في الوقت لا بأكثر. وقال غيرهم: بأكثر من قيمته ما لم يجحف به. وقال الحسن البصري: يبتاعه بكل ما يملك إن لم يبع منه بأقل. قال أبو محمد: ولعل من حجة أصحابنا أن يقولوا إن قوله تعالى {يا أيها لذين آمنوا إذا قمتم إلى لصلاة فغسلوا وجوهكم وأيديكم إلى لمرافق ومسحوا برؤوسكم وأرجلكم إلى لكعبين وإن كنتم جنبا فطهروا وإن كنتم مرضى أو على سفر أو جآء أحد منكم من لغائط أو لامستم لنسآء فلم تجدوا مآء فتيمموا صعيدا طيبا فمسحوا بوجوهكم وأيديكم منه ما يريد لله ليجعل عليكم من حرج ولكن يريد ليطهركم وليتم نعمته عليكم لعلكم تشكرون} يقتضي بعموم هذا اللفظ واجده بالابتياع والاستيهاب كما يقول القائل: أمر

[32]**Translator's note (L2951):** The wording وإن تركوا القياس وتناقضوا is syntactically awkward: literally, "and if they abandoned analogy and contradicted themselves." The translation follows the apparent conditional sense without removing the assertion that abandoning analogy contradicts their own position.

[33]**Translator's note (L2952):** "Unless passing along a way" preserves the wording عابري سبيل without deciding whether it concerns travelers or people passing through a place of prayer. "Whoever does not find" deliberately leaves the object unstated, as in the supplied Quranic quotation; the author's subsequent argument turns on that absence. The final clause refers to both accidental killing and the declaration likening one's wife to one's mother's back, but the quotation that follows in the next segment concerns accidental killing alone.

[34]**Qur'an references (L2950):** Qur'an 4:43 (An-Nisa); Qur'an 4:92 (An-Nisa).

ple mentioned. They considered it obligatory for someone who finds water available for purchase to buy it at its value at that time, but not for more. Others said that he must buy it for more than its value, provided that doing so does not impose an excessive burden upon him. Al-Hasan al-Basri said: he must buy it with everything he owns if it will not be sold to him for less. Abu Muhammed said: Perhaps our companions might argue that His words, exalted is He, {O you who believe, when you rise for prayer, wash your faces and your hands up to the elbows, and wipe your heads and your feet up to the ankles. If you are in a state of major ritual impurity, purify yourselves. If you are ill, or on a journey, or one of you comes from relieving himself, or you have touched women, and you find no water, then seek clean earth and wipe your faces and your hands with some of it. Allah does not intend to impose any hardship upon you, but He intends to purify you and to complete His favor upon you, so that you may give thanks}, encompass, through the generality of this wording, someone who finds it through purchasing it or requesting it as a gift, just as someone says, "Such-and-such a thing is available in the market." They would thus say that someone who finds it through purchasing it or requesting it as a gift has found water. Abu Muhammed said: As for us, in our view selling water is absolutely impermissible, in any manner or under any circumstances, because the Prophet ﷺ prohibited selling water. We understand this prohibition in its general scope. This position of ours is also the position of Iyas ibn Abd Allah al-Muzani, a Companion of the Messenger of Allah ﷺ, and others. Thus purchasing water for minor ritual ablution is absolutely impermissible, as is purchasing it for a full ritual bath, because he is prohibited from purchasing it, and he is not a finder of water. His prescribed course is therefore dry ablution, unless the owner of the water voluntarily gives it to him as a gift. That is permissible, and he then has found water and owns it, so his obligation is to purify himself with it. As for someone compelled by necessity to drink water, who fears dying of thirst and finds no one who will voluntarily provide him with enough water to keep him alive, he is obligated to preserve his life by whatever means he can: by overpowering someone, by taking it secretly while concealing what he is doing, or by purchasing it. If he has no means available other than a sale and purchases it, that is then permissible for him. The price is unlawful for

كذا موجود في السوق، فيقولوا إن واجده بالابتياع والاستيهاب واجد للماء. قال أبو محمد: وأما نحن فلا يجوز عندنا بيع الماء البتة بوجه من الوجوه ولا بحال من الأحوال لنهي النبي صلى الله عليه وسلم عن بيع الماء فهذا عندنا على عمومه وقولنا هذا هو قول إياس بن عبد الله المزني صاحب رسول الله صلى الله عليه وسلم وغيره فلا يجوز ابتياع الماء للوضوء البتة ولا للغسل، لأنه منهي عن ابتياعه، وهو غير واجد للماء، فحكمه التيمم إلا أن يتطوع عليه صاحب الماء بأن يهبه إياه، فذلك جائز، وهو حينئذ واجد للماء مالك له، ففرضه التطهر به، وأما من اضطر إلى شرب الماء، وخشي الهلاك من العطش، ولم يجد من يتطوع له بماء يحيي به رمقه، ففرض عليه إحياء نفسه كيف أمكن، بغلبة أو بأخذه سرا مختفيا بذلك، أو بابتياعه، فإذا لم يقدر على غير البيع فابتاعه فهو حينئذ جائز له، والثمن حرام على البائع، وهو باق على ملك المبتاع المضطر، وهو بمنزلة من اضطر إلى ميتة أو لحم خنزير فلم يجده مع ذلك إلا بثمن، ففرض عليه أن يبتاعه لإحياء نفسه.

the seller and remains the property of the purchaser compelled by necessity. He is in the same position as someone compelled by necessity to eat carrion or pork who nevertheless can obtain it only for a price: he is obligated to purchase it to preserve his life.[35][36]

L2956–2958 The same applies to money paid to ransom captives and to bribes paid to avert an injustice. All of this falls under one category: it is permissible for the giver and unlawful for the taker, because the giver is compelled by necessity, while the taker consumes wealth wrongfully and disobeys Allah, exalted is He. We seek refuge in Allah. Then we turn this objection of theirs back upon them and say to them—and success comes through Allah, exalted is He—if this constitutes analogy in their view, they must adopt al-Hasan's position concerning purchasing water with everything one owns, because one has found it. Dry ablution is therefore not an available option when water is available, just as they say concerning someone who can find a slave only by spending everything he owns, while being able afterward to earn enough to sustain himself and his dependents: in their view, nothing will suffice for him except purchasing the slave with all his property. If they do not say the same concerning water, they have contradicted themselves and abandoned the analogy that they claim is religion. There is no escaping this. They argued from His words, exalted is He: {There is no blame upon the blind, nor blame upon the lame, nor blame upon the sick, nor upon yourselves, for eating from your own houses, or the houses of your fathers, or the houses of your mothers, or the houses of your brothers, or the houses of your sisters, or the houses of your paternal uncles, or the houses of your paternal aunts, or the houses of your maternal uncles, or the houses of your maternal aunts, or those whose keys you possess, or your friend. There is no blame upon you for eating together or separately. When you enter houses, greet yourselves with a greeting from Allah, blessed and good. Thus Allah makes the signs clear to you, so that you may understand}. They said: He, exalted is He, did not

وكذلك ما يبذل من المال في فدى الأسرى، وفي الرشوة لدفع المظلمة، فهذا كله باب واحد، وهو مباح للمعطي وحرام على الآخذ، لأن المعطي مضطر، والآخذ آكل مال بالباطل، عاص لله تعالى، نعوذ بالله. ثم نعكس عليهم اعتراضهم هذا فنقول لهم، وبالله تعالى التوفيق: إن كان هذا عندهم قياسا فيلزمهم أن يقولوا بقول الحسن في ابتياع الماء بكل ما يملك، لأنه واجد له، فلا يسعه التيمم مع وجود الماء، كما يقولون فيمن لم يجد رقبة إلا بكل ما يملك، وهو قادر على اكتساب ما يقوم بقوته وقوت عياله بعد ذلك، فإنه لا يجزيه عندهم إلا ابتياع الرقبة بملكه كله، فإن لم يقولوا في الماء كذلك فقد تناقضوا وتركوا القياس الذي يزعمون أنه دين، وهذا ما لا انفكاك منه واحتجوا بقوله تعالى {ليس على لأعمى حرج ولا على لأعرج حرج ولا على لمريض حرج ولا على أنفسكم أن تأكلوا من بيوتكم أو بيوت آبائكم أو بيوت أمهاتكم أو بيوت إخوانكم أو بيوت أخواتكم أو بيوت أعمامكم أو بيوت عماتكم أو بيوت أخوالكم أو بيوت خالاتكم أو ما ملكتم مفاتحه أو صديقكم ليس عليكم جناح أن تأكلوا جميعا أو أشتاتا فإذا دخلتم بيوتا فسلموا على أنفسكم تحية من عند الله مباركة طيبة كذلك يبين الله لكم لآيات لعلكم تعقلون} قالوا ولم يذكر تعالى بيوت الأولاد، فوجب إباحة الأكل من بيوت الأولاد قياسا على الإباحة من بيوت الآباء. قال أبو محمد: وهذا في غاية الفساد والكذب، ومعاذ الله أن تكون الإباحة للأكل من بيوت الأولاد قياسا على إباحة ذلك من بيوت الآباء والأقارب، وما أبحنا الأكل من بيوت الأولاد إلا بنص جلي وهو قول رسول الله صلى الله عليه وسلم إن أطيب ما أكل أحدهم من كسبه وإن ولد أحدكم من كسبه فبهذا أبحنا الأكل من بيوت الأولاد، ولكن يلزمهم إذا فعلوا

[35] **Translator's note (L2953):** The Quranic quotation is repeated in full in the source and has been retained. "Whoever does not find" preserves the absence of an expressed object, on which the author bases his argument.

[36] **Qur'an references (L2953):** Qur'an 4:92 (An-Nisa); Qur'an 4:43 (An-Nisa); Qur'an 5:6 (Al-Ma'idah).

mention the houses of children, so permission to eat from children's houses must be established by analogy with permission to eat from fathers' houses. Abu Muhammed said: This is the utmost corruption and falsehood. Allah forbid that permission to eat from children's houses should rest upon analogy with permission to do so from the houses of fathers and relatives! We permit eating from children's houses only on the basis of an explicit text, namely the words of the Messenger of Allah ﷺ: "Indeed, the best of what any one of them eats is from his earnings, and the child of any one of you is from his earnings." On this basis we permit eating from children's houses. But if they do this, as they claim, by analogy with fathers' houses, they must waive the prescribed punishment for a son who has intercourse with his father's slave woman, just as they waived the prescribed punishment for a father who has intercourse with his child's slave woman. They must also treat sons and fathers equally in all legal rulings and all other relatives, just as they did this by analogy concerning eating. Otherwise, they have contradicted themselves and abandoned analogy. They argued from the words of Allah, exalted is He: {There is no blame upon them concerning their fathers, nor their sons, nor their brothers, nor their brothers' sons, nor their sisters' sons, nor their women, nor those whom their right hands possess. And fear Allah; indeed, Allah is a witness over all things}; and from His words, exalted is He: {And tell the believing women to lower their gaze and guard their private parts, and not to display their adornment except what appears thereof. Let them draw their head coverings over their bosom openings, and not display their adornment except to their husbands, or their fathers, or their husbands' fathers, or their sons, or their husbands' sons, or their brothers, or their brothers' sons, or their sisters' sons, or their women, or those whom their right hands possess, or male attendants who have no sexual desire, or children who have not become aware of women's private parts. And let them not stamp their feet so that what they conceal of their adornment may be known. And turn to Allah in repentance, all of you, O believers, so that you may prosper}. They said: You have included paternal and maternal uncles,

ذلك قياسا بزعمهم على بيوت الآباء، أن يسقطوا الحد على الابن الواطىء أمة أبيه. كما أسقطوا الحد عن الأب إذا وطىء أمة ولده ولزمهم أن يسووا في جميع الأحكام بين الأبناء والآباء وسائر القرابات، كما فعلوا ذلك قياسا على الأكل، وإلا فقد تناقضوا، وتركوا القياس واحتجوا بقول الله تعالى: {لا جناح عليهن في آبآئهن ولا أبنآئهن ولا إخوانهن ولا أبنآء إخوانهن ولا أبنآء أخواتهن ولا نسآئهن ولا ما ملكت أيمانهن وتقين الله إن الله كان على كل شيء شهيدا} بقوله تعالى {وقل للمؤمنات يغضضن من أبصارهن ويحفظن فروجهن ولا يبدين زينتهن إلا ما ظهر منها وليضربن بخمرهن على جيوبهن ولا يبدين زينتهن إلا لبعولتهن أو آبآئهن أو آبآء بعولتهن أو أبنآئهن أو أبنآء بعولتهن أو إخوانهن أو بني إخوانهن أو بني أخواتهن أو نسآئهن أو ما ملكت أيمانهن أو لتابعين غير أولي لإربة من لرجال أو لطفل لذين لم يظهروا على عورات لنسآء ولا يضربن بأرجلهن ليعلم ما يخفين من زينتهن وتوبوا إلى الله جميعا أيها لمؤمنون لعلكم تفلحون} قالوا فأدخلتم من لم يذكر في الآيتين المذكورتين من الأعمام والأخوال في حكم من ذكر فيهما.

who are not mentioned in the two aforementioned verses, under the ruling governing those mentioned in them.[37][38][39]

L2959–2961 Abu Muhammed said: This is not analogy; rather, it is an explicit text, because the Prophet ﷺ said to Aishah, "He is your paternal uncle, so let him enter your presence." And he ﷺ said, "A woman must not travel except with a husband or a male relative permanently barred from marrying her." He thus permitted every male relative permanently barred from marrying her to travel with her. When he travels with her, he must necessarily lift her up, set her down, and see her. Thus all male relatives permanently barred from marrying her are included, by this text, in the permission to see the woman. Their supposition that this rests only upon analogy is therefore invalid. Success comes through Allah, exalted is He. They argued from the words of Allah, exalted is He: {Forbidden to you are your mothers, your daughters, your sisters, your paternal aunts, your maternal aunts, brothers' daughters, sisters' daughters, your mothers who nursed you, your sisters through nursing, your wives' mothers, and your stepdaughters who are in your care, born of your wives with whom you have consummated marriage—but if you have not consummated marriage with them, there is no blame upon you—and the wives of your sons who are from your own loins, and that you should take two sisters together, except what has already passed. Indeed, Allah is ever forgiving, merciful}. They said: You have included in the prohibition sons' daughters, however far down the line of descent, daughters' daughters, however far down the line of descent, grandmothers, however far up the line of ancestry, the paternal and maternal aunts of fathers and grandfathers, and the paternal and maternal aunts of mothers and grandmothers, however distant, although they are not mentioned in the verse of prohibition.

قال أبو محمد وهذا ليس قياسا بل هو نص جلي لأن النبي صلى الله عليه وسلم قال لعائشة إنه عمك فليلج عليك وقال صلى الله عليه وسلم لا تسافر المرأة إلا مع زوج أو ذي محرم فأباح لكل ذي محرم أن يسافر معها، وإذا سافر معها فلا بد له من رفعها ووضعها ورؤيتها فدخل ذو المحارم كلهم بهذا النص في إباحة رؤية المرأة فبطل ظنهم أن ذلك إنما هو قياس، وبالله تعالى التوفيق. واحتجوا بقول الله تعالى: {حرمت عليكم أمهاتكم وبناتكم وأخواتكم وعماتكم وخالاتكم وبنات لأخ وبنات لأخت وأمهاتكم اللاتي أرضعنكم وأخواتكم من لرضاعة وأمهات نسائكم وربائبكم اللاتي في حجوركم من نسائكم اللاتي دخلتم بهن فإن لم تكونوا دخلتم بهن فلا جناح عليكم وحلائل أبنائكم لذين من أصلابكم وأن تجمعوا بين لاختين إلا ما قد سلف إن لله كان غفورا رحيما} قالوا فأدخلتم بنات البنين وإن سفلن، وبنات البنات وإن سفلن، والجدات وإن علون، وعمات الآباء والأجداد وخالاتهم وعمات الأمهات والجدات وخالاتهن، وإن بعدن في التحريم، وإن لم يذكرن في آية التحريم. قالوا: وهذا قياس، وكذلك أدخلتم تحريم ما نكح الأجداد وإن علوا وبنو البنين وإن سفلوا، قياسا على تحريم ما نص عليه من نكاح نساء الآباء وحلائل الأبناء. قال أبو محمد: وهذه دعوى فاسدة، بل هذا نص جلي، وبنو البنين وبنو البنات وإن سفلوا، وبنات البنين وبنات البنات وإن سفلن، فإنه يقع عليهن في اللغة بنص القرآن اسم البنين والبنات وإن سفلن. قال الله تعالى: {يابني آدم قد أنزلنا عليكم لباسا يواري سوءاتكم وريشا ولباس لتقوى ذلك خير ذلك من آيات لله لعلهم يذكرون} فجعلنا بنين له وبنو البنين بنون بالنص، والجد والجدة وإن بعدا فاسم الأب والأم يقع عليهما كما قال تعالى {يابني آدم لا يفتننكم لشيطان كما أخرج أبويكم من لجنة ينزع عنهما لباسهما ليريهما سوءاتهما إنه يراكم هو وقبيله من

[37] **Translator's note (L2957):** In the quoted verse, "or your friend" follows the supplied wording; "house" is not expressly repeated there. The hadith quotation shifts from "any one of them" to "any one of you"; that shift is retained.

[38] **Translator's note (L2958):** The supplied text introduces the second verse with "by His words," without an explicit coordinating conjunction; it is rendered as a second citation in the same argument.

[39] **Qur'an references (L2956):** Qur'an 24:61 (An-Nur); Qur'an 33:55 (Al-Ahzab); Qur'an 24:31 (An-Nur).

They said: This is analogy. Likewise, you have included the prohibition of women whom grandfathers, however far up the line of ancestry, and sons' sons, however far down the line of descent, have married, by analogy with the expressly stated prohibition of marrying fathers' wives and sons' wives. Abu Muhammed said: This is a corrupt claim. Rather, this is an explicit text. Sons' sons and daughters' sons, however far down the line of descent, and sons' daughters and daughters' daughters, however far down the line of descent, fall linguistically under the designation "sons" and "daughters," by the explicit text of the Quran, however far down the line of descent. Allah, exalted is He, said: {O children of Adam, We have sent down to you clothing to cover your private parts, and finery; but the clothing of reverent fear—that is better. That is among Allah's signs, so that they may take heed}. He thus made us sons of his, and sons' sons are sons by the explicit text. A grandfather and grandmother, however distant, fall under the designation "father" and "mother," as He, exalted is He, said: {O children of Adam, let Satan not tempt you as he brought your two parents out of the Garden, stripping them of their clothing to show them their private parts. Indeed, he and his tribe see you from where you do not see them. Indeed, We have made the devils allies of those who do not believe}, meaning Adam and Eve. And likewise is the case with the descendants of brothers and sisters, however far down the line of descent, and paternal uncles, maternal uncles, paternal aunts, and maternal aunts, however far up the line of ancestry. Whoever has a brother from whom you descend is your paternal uncle and your paternal aunt, and you are the son of his brother and of her brother. Whoever has a sister from whom you descend is your maternal uncle and your maternal aunt, and you are the son of his sister and of her sister. We distinguish between the rulings governing some of those to whom a single designation applies only in those cases in which the text, or transmitted and certain consensus, [distin-

حيث لا ترونهم إنا جعلنا لشياطين أولياآء للذين لا يؤمنون} يعني آدم وحواء، وهكذا القول فيمن سفل من أولاد الإخوة والأخوات، ومن علا من الأعمام والأخوال، والعمات والخالات، فمن كنت من ولد أخيه فهو عمك وعمتك، وأنت ابن أخيه وأخيها، ومن كنت من ولد أخته فهو خالك وخالتك، وأنت ابن أخته وأختها، وإنما فرقنا بين أحكام بعض من يقع عليه الاسم الواحد في المواضع التي فوق النص أو الإجماع المنقول المتيقن بينهم فيها، وهذا أيضا الذي ذكروا إجماع، والإجماع لا يجوز خلافه.

guishes] between them. This matter they have mentioned is also a matter of consensus, and it is impermissible to contravene consensus.[40][41][42]

L2962–2968 Then we say to them: If, as you claim, you did that by analogy, you must likewise, by analogy, treat all those we have mentioned equally with respect to giving in marriage, inheritance, and the obligation to provide maintenance, yet they do not do that. They have thus contradicted their own principle and acknowledged their abandonment of analogy. Such is the nature of unsound positions. Success comes through Allah Most High.

They adduced the statement of Allah Most High concerning a woman divorced three times: {Then, if he divorces her, she is not thereafter lawful to him until she marries a husband other than him. Then, if he divorces her, there is no blame upon the two of them if they return to one another, if they think that they can uphold the limits of Allah. Those are the limits of Allah, which He makes clear to people who know.} They said: "You have thus drawn an analogy between this second husband's death or the annulment of his marriage to her and his attachment to her, in that, if he has had intercourse with her, she thereby becomes lawful to the man who divorced her three times." They said to us: "Indeed, you were not content with that, but went so far as to say that, if she is a woman under a covenant of protection whom a Muslim has divorced three times, and a man under a covenant of protection marries her and then divorces her after having intercourse with her, she does not thereby become lawful to the man who divorced her three

ثم نقول لهم: إذا فعلتم ذلك بزعمكم قياسا فيلزمكم أن تسووا أيضا قياسا بين كل من ذكرنا في الإنكاح والمواريث، ووجوب الإنفاق، وهم لا يفعلون ذلك، فقد نقضوا أصلهم، وأقروا بترك القياس، وهكذا تكون الأقوال الفاسدة، وبالله تعالى التوفيق.

واحتجوا بقول الله تعالى في المطلقة ثلاثا: {فإن طلقها فلا تحل له من بعد حتى تنكح زوجا غيره فإن طلقها فلا جناح عليهما أن يتراجعا إن ظنا أن يقيما حدود الله وتلك حدود الله يبينها لقوم يعلمون} قالوا فقستم وفاة هذا الزوج الثاني وفسخ نكاحه عنها على علاقة لها في كونها إذا مسها في ذلك حلالا المطلق ثلاثا، قالوا لنا: بل لم تقنعوا بذلك حتى قلتم إن كانت ذمية طلقها مسلم ثلاثا فتزوجها ذمي، فطلقها بعد أن وطئها لم تحل بذلك لمطلقها ثلاثا، ولا تحل إلا بموته عنها، أو بفسخ نكاحه منها. قال أبو محمد: فالجواب وبالله تعالى التوفيق: أننا أبحنا لها الرجوع إليه بالوفاة وبالفسخ لوجهين: أحدهما: الإجماع المتيقن، والثاني: النص الصحيح الذي عنه تم الإجماع وهو قول رسول الله صلى الله عليه وسلم للقرظية المطلقة ثلاثا أتريدين أن ترجعي إلى رفاعة؟ لا، حتى تذوقي عسيلته ويذوق عسيلتك. قال علي: فهذا الحديث أعم من الآية، وزائد على ما فيها، فوجب الأخذ به، ووجب أن كل ما كان بعد ذوق العسيلة، مما يبطل به النكاح، فهي به حلال رجوعها إلى الزوج المطلق ثلاثا لأنه صلى الله عليه وسلم إنما جعل الحكم الرافع للتحريم ذوق العسيلة في النكاح الصحيح، فإذا ارتفع بذلك التحريم فقد صارت كسائر النساء، فإذا خلت من ذلك الزوج بفسخ أو وفاة أو طلاق كان لها أن تنكح من شاءت من غير ذوي محارمها ولم يشترط النبي صلى الله عليه وسلم بعد ذوق العسيلة طلاقا من فسخ من وفاة وأيقنا أنه صلى الله عليه وسلم لم يبحها للزوج الأول وهي بعد في عصمة الزوج الثاني، ولا خلاف بين أحد

[40] **Translator's note (L2960):** "Lift her up, set her down" preserves the concrete wording, apparently referring to assisting her onto and off a mount.

[41] **Translator's note (L2961):** The kinship examples awkwardly coordinate masculine and feminine relationships: literally, "he is your paternal uncle and your paternal aunt" and "he is your maternal uncle and your maternal aunt." The translation retains that coordination; the intended reference appears to be to the corresponding male and female relatives. The supplied phrase "in the cases in which the text is above" is syntactically defective. The bracketed "distinguishes" reflects the apparent intended argument; the supplied word meaning "above" may be a corruption of a word meaning "distinguished."

[42] **Qur'an references (L2959):** Qur'an 4:23 (An-Nisa); Qur'an 7:26 (Al-A'raf); Qur'an 7:27 (Al-A'raf).

times. She becomes lawful only through that husband's death or the annulment of his marriage to her."

Abu Muhammed said: The answer—and success comes through Allah Most High—is that we permitted her to return to him following death or annulment for two reasons. The first is certain consensus. The second is the authentic text on the basis of which that consensus was reached: the statement of the Messenger of Allah ﷺ to the Quraziyyah woman who had been divorced three times: "Do you wish to return to Rifaʿah? No, not until you taste his little sweetness and he tastes your little sweetness."

Ali said: This hadith is more general than the verse and adds to what it contains, so it must be followed. It follows necessarily that, through anything that terminates the marriage after the tasting of the little sweetness, her return to the husband who divorced her three times becomes lawful. For he ﷺ made the tasting of the little sweetness within a valid marriage the determining condition that removes the prohibition. Once that prohibition has thereby been removed, she becomes like other women. When she is free of that husband through annulment, death, or divorce, she may marry whomever she wishes, apart from those within the degrees of kinship prohibited to her. Following the tasting of the little sweetness, the Prophet ﷺ did not stipulate divorce rather than annulment rather than death. We know with certainty that he ﷺ did not permit her to the first husband while she remained within the marriage bond of the second husband; no one disagrees about that. As for divorce pronounced by a man under a covenant of protection, or by any other unbeliever, it is no divorce, because everything an unbeliever does or says, apart from professing Islam, is invalid, and rejected, except for that whose enforcement is required by the text or transmitted certain consensus, or which the text or consensus likewise permits him. Thus, if he pronounces divorce, it is ineffectual, because there is neither a text nor consensus establishing the validity of his divorce. He has therefore not effected a divorce, and she remains within his marriage bond, since their marriages are valid under the text, on account of the confirmation by the Prophet ﷺ of the unbelievers' marriages to their wives when they embraced Islam together with them, and because he ﷺ was conceived through such a marriage. We know

في ذلك. وأما طلاق الذمي وسائر الكفار، فليس طلاقا، لأن كل ما فعل الكافر، وقال غير اللفظ بالإسلام، فهو باطل مردود إلا ما أوجب إنفاذه النص أو الإجماع المتيقن المنقول، أو أباحه له النص أو الإجماع، كذلك فإذا لفظ بالطلاق فهو لغو لأنه لا نص ولا إجماع في جواز طلاقه، فليس مطلقا وهو بعد في عصمته لصحة نكاحهم بالنص من إقرار النبي صلى الله عليه وسلم للكفار لما أسلموا مع نسائهم على نكاحهم معهن ولأنه صلى الله عليه وسلم من ذلك النكاح خلق وقد علمنا أنه صلى الله عليه وسلم مخلوق من أصح نكاح ولا يحل لمسلم أن يمر بباله غير هذا، ولم يمنع تعالى في الآية من إباحة رجعتها بعد وفاة الزوج، أو فسخ نكاحه، وإنما ذكر تعالى الطلاق فقط وعم رسول الله صلى الله عليه وسلم بإجمال لفظه الطلاق وغيره وقد كان يلزم من قال بذلك الخطاب منهم ألا يبيحها إلا بعد الطلاق لا بعد الفسخ والوفاة، فهذه الآية حجة عليهم لا لهم، وبالله تعالى التوفيق واحتجوا أيضا بقوله تعالى {يأيها لذين آمنوا إذا نكحتم لمؤمنات ثم طلقتموهن من قبل أن تمسوهن فما لكم عليهن من عدة تعتدونها فمتعوهن وسرحوهن سراحا جميلا} قالوا: فقستم الكافرات في ذلك على المؤمنات. قال أبو محمد: وهذا خطأ، وقد بينا، في باب مفرد من كتابنا هذا، لزوم شريعة الإسلام لكل كافر ومؤمن مستويا بقوله تعالى {وأن حكم بينهم بمآ أنزل لله ولا تتبع أهوآءهم وحذرهم أن يفتنوك عن بعض مآ أنزل لله إليك فإن تولوا فعلم أنما يريد لله أن يصيبهم ببعض ذنوبهم وإن كثيرا من لناس لفاسقون} فهذا لازم في كل حكم حاشا ما فرق النص والإجماع المتيقن فيه بين أحكامنا وأحكامهم، وما كان كرامة لنا، فإنه ليس لهم فيه حظ لقول الله تعالى {قاتلوا لذين لا يؤمنون بلله ولا بليوم لآخر ولا يحرمون ما حرم لله ورسوله ولا يدينون دين لحق من لذين أوتوا لكتاب حتى يعطوا لجزية عن يد وهم صاغرون} والصغار لا يجتمع مع الكرامة أصلا. وأيضا فالأمة كلها مجمعة على

أن حكم العدة في الطلاق وسقوطها على الذمية كحكمها على المسلمة، والإجماع لا يجوز خلافه. وأيضا فإن الآيات التي أوجب الله تعالى فيها العدد على المطلقات معلومة محصورة، لا خلاف بين المسلمين أن المراد بها الممسوسات، وأصل الناس كلهم على البراءة من وجوب الأحكام عليهم، حتى يلزمهم الحكم نص أو إجماع، وإلا فلا يلزم أحدا حكم إلا أن يلزمه إياه نص أو إجماع، فبقيت الذمية المطلقة غير الممسوسة لم يأت قط بإيجاب عدة عليها، فلم يجز لأحد أن يلزمها عدة لم يأت بها نص ولا إجماع، ووجب المتعة لها، ونصف الصداق بإيجاب الله تعالى ذلك لكل مطلقة فرض لها صداق المتعة خاصة لكل مطلقة، وهي إحدى المطلقات فبطل ظن هؤلاء القوم، والحمد لله رب العالمين.

that he ﷺ was conceived through a marriage of the utmost validity, and it is not lawful for a Muslim to entertain any other thought. In the verse, the Most High did not preclude permitting her return after the husband's death or the annulment of his marriage; the Most High mentioned divorce alone. The Messenger of Allah ﷺ, through the comprehensive wording of his statement, included divorce and other means. Those among them who maintain that position concerning the wording of an address would have been obliged to permit her only after divorce, and not after annulment or death. This verse is therefore evidence against them, not in their favor. Success comes through Allah Most High.

They also adduced His statement, Most High: {O you who believe, when you marry believing women and then divorce them before you have touched them, you have no waiting period to reckon against them. So provide for them and release them with a gracious release.} They said: "You have thus applied analogy to unbelieving women on the basis of believing women in this matter."

Abu Muhammed said: This is an error. In a separate chapter of this book of ours, we have explained that the Law of Islam binds every unbeliever and believer equally, on the basis of His statement, Most High: {And judge between them by what Allah has sent down, and do not follow their desires. Beware of them, lest they tempt you away from some of what Allah has sent down to you. If they turn away, then know that Allah intends only to afflict them for some of their sins. Indeed, many people are defiantly disobedient.} This is binding in every ruling, except where the text and certain consensus distinguish between the rulings applicable to us and those applicable to them, and whatever constitutes an honor bestowed upon us: they have no share in that, because Allah Most High says: {Fight those who do not believe in Allah or in the Last Day, who do not forbid what Allah and His Messenger have forbidden, and who do not profess the religion of truth, among those who were given the Scripture, until they pay the tribute out of hand, while they are abased.} Abasement cannot coexist with honor at all. Furthermore, the entire community unanimously agrees that the ruling concerning the waiting period following divorce, and its nonrequirement, applies to a woman under

a covenant of protection just as it applies to a Muslim woman. Consensus may not be contravened. Furthermore, the verses in which Allah Most High has imposed waiting periods upon divorced women are known and limited in number. There is no disagreement among Muslims that the women intended by them are those with whom intercourse has taken place. The original presumption for all people is freedom from the obligation to comply with legal rulings until a text or consensus makes the ruling binding upon them. Otherwise, no ruling binds anyone unless a text or consensus makes it binding upon him. Thus, the woman under a covenant of protection who has been divorced without having had intercourse remains someone upon whom no waiting period has ever been imposed. No one may therefore impose upon her a waiting period for which neither a text nor consensus has provided. The provision upon divorce and half the bridal payment are due to her because Allah Most High has imposed that for every divorced woman for whom a bridal payment was stipulated; the provision upon divorce specifically is for every divorced woman, and she is one of the divorced women. The supposition of these people is therefore invalid. Praise belongs to Allah, Lord of the worlds.[43][44][45][46]

واحتجوا بما في القرآن من الآيات التي فيها خطاب النبي صلى الله عليه وسلم وحده مثل قوله تعالى {وإذا كنت فيهم فأقمت لهم لصلاة فلتقم طآئفة منهم معك وليأخذوا أسلحتهم فإذا سجدوا فليكونوا من ورائكم ولتأت طآئفة أخرى لم يصلوا فليصلوا معك وليأخذوا حذرهم وأسلحتهم ود لذين كفروا لو تغفلون عن أسلحتكم وأمتعتكم فيميلون عليكم ميلة واحدة ولا جناح عليكم إن كان بكم أذى من مطر أو كنتم مرضى أن تضعوا أسلحتكم وخذوا حذركم إن لله أعد للكافرين عذابا مهينا} ومثل قوله تعالى {وآخرون عترفوا بذنوبهم خلطوا عملا صالحا وآخر سيئا عسى لله أن يتوب عليهم إن لله غفور رحيم} وما أشبه ذلك قالوا فقلتم هي لازمة لنا ومباحة كلزومها النبي صلى الله عليه وسلم وإباحتها له قال أبو محمد وهذا من التخليط ما هو، لأن النص حكم علينا

L2969–2970 They adduced those verses in the Quran in which the Prophet ﷺ alone is addressed, such as His statement, Most High: {When you are among them

[43] **Translator's note (L2963):** The wording translated as "his attachment to her" reads ʿalāqah lahā and appears corrupt; the argument would ordinarily require "his divorcing her." The following wording concerning her becoming lawful to the man who divorced her three times is also grammatically defective. "Tasting the little sweetness" preserves the hadith's diminutive metaphor for sexual enjoyment through intercourse. The sequence translated as "divorce rather than annulment rather than death" has the awkward repeated preposition min; the context presents these as alternative ways for the marriage to end.

[44] **Translator's note (L2965):** The Arabic reads "and he remains within his marriage bond," using a masculine pronoun where the argument requires the woman as its referent. The translation reflects that referent while recording the grammatical discrepancy.

[45] **Translator's note (L2968):** The Arabic moves directly from "a bridal payment was stipulated" to "the provision upon divorce specifically," without an explicit conjunction or other connective. The translation marks the apparent division with a semicolon rather than supplying additional legal qualifications.

[46] **Qur'an references (L2962):** Qur'an 2:230 (Al-Baqarah); Qur'an 33:49 (Al-Ahzab); Qur'an 5:49 (Al-Ma'idah).

and establish the prayer for them, let a group of them stand with you, and let them take their weapons. When they have prostrated, let them be behind you, and let another group, who have not prayed, come and pray with you, taking their precautions and their weapons. Those who disbelieve wish that you would neglect your weapons and your belongings, so that they could fall upon you in a single assault. There is no blame upon you, if you suffer discomfort from rain or are ill, in laying down your weapons; but take your precautions. Allah has prepared a humiliating punishment for the unbelievers.} And such as His statement, Most High: {And others have acknowledged their sins: they mixed a righteous deed with another that was evil. Perhaps Allah will turn toward them in forgiveness. Allah is forgiving, merciful.} And other passages like these. They said: "You have said that these are binding upon us and permissible for us just as they were binding upon the Prophet ﷺ and permissible for him."

Abu Muhammed said: This is confusion indeed, for the text has imposed that ruling upon us when He says: {You have indeed had in the Messenger of Allah a good example, for whoever hopes for Allah and the Last Day and remembers Allah much}; through his statement ﷺ, "Adhere to my established practice"; and through his anger ﷺ at those who disdained to do as he did. Their specious claim that this is analogy is thus invalidated. It is established that every provision of the Law addressed to him ﷺ is binding upon us unless we are forbidden to follow it, as in the Prophet's statement ﷺ concerning continuous fasting without breaking the fast: "I am not as you are."

If someone were to say that what they have mentioned and seized upon is evidence against them, invalidating analogy, he would be right, because the Prophet ﷺ explicitly stated that he is not as we are, nor like any one of us, nor our like. Since he is not our like, and analogy, according to its proponents, consists only in reasoning from a thing to its like, not to something unlike it, analogy is invalid here. They would therefore be obliged not to impose upon people any ruling addressed to the Prophet ﷺ alone. If they did that, they would depart from Islam. It is thus established that these

بذلك إذ يقول {لقد كان لكم في رسول الله أسوة حسنة لمن كان يرجو الله واليوم لآخر وذكر الله كثيرا} وبقوله صلى الله عليه وسلم عليكم بسنتي وبغضبه صلى الله عليه وسلم على من تنزه عن أن يفعل مثل فعله فبطل تمويههم بأن هذا قياس وصح وجوب كل شريعة خوطب بها صلى الله عليه وسلم علينا ما لم ننه عن ذلك كقول النبي صلى الله عليه وسلم في الوصال لست كهيئتكم فلو قال قائل إن الذين تعلقوا به مما ذكروا هو حجة عليهم في إبطال القياس لكان حقا لنص النبي صلى الله عليه وسلم على أنه ليس كهيئتنا ولا كأحدنا ولا مثلنا، وإذ ليس مثلنا والقياس عند القائلين به إنما هو قياس الشيء على مثله لا على ما ليس مثله. فقد بطل القياس ههنا فيلزمهم ألا يحكموا على الناس بشيء خوطب به النبي صلى الله عليه وسلم وحده وإن فعلوا ذلك خرجوا من الإسلام فصح أنه لا مدخل لهذه الآيات، ولا لهذا المعنى في القياس البتة، وبالله تعالى التوفيق واحتجوا أيضا بقول الله تعالى {هو لذي أخرج لذين كفروا من أهل لكتاب من ديارهم لأول لحشر ما ظننتم أن يخرجوا وظنوا أنهم مانعتهم حصونهم من لله فأتاهم لله من حيث لم يحتسبوا وقذف في قلوبهم لرعب يخربون بيوتهم بأيديهم وأيدي لمؤمنين فعتبروا يأولي لأبصار}

verses and this consideration have absolutely no place in analogy. Success comes through Allah Most High.

They also adduced the statement of Allah Most High: {He is the One who expelled those who disbelieved among the People of the Scripture from their homes at the first gathering. You did not think that they would leave, and they thought that their fortresses would protect them against Allah. But Allah came upon them from where they had not expected, and cast terror into their hearts. They were destroying their houses with their own hands and the hands of the believers. So take heed, O people of insight.}[47][48]

L2971 Abu Muhammed said: This, in their estimation, is their foundation for analogy. Yet never have they been further removed from analogy than in their treatment of this verse. No person of reason has ever understood from the words of Allah, blessed and exalted, {He is the One who expelled those who disbelieved among the People of the Book from their homes at the first gathering. You did not think they would leave, and they thought their fortresses would protect them against Allah. Then Allah came upon them from where they had not reckoned, and He cast terror into their hearts. They demolished their houses with their own hands and the hands of the believers. So take heed, you who possess insight}, a prohibition against exchanging one dry measure of acorns for two dry measures of acorns. Analogy has absolutely no scope in this verse, in any respect whatsoever. Nor has anyone ever known, in the language in which the Quran was revealed, that taking heed means analogy. Rather, the Exalted commanded us to reflect upon His immense power in creating the heavens and the earth and upon what He brought down upon the disobedient, as the Exalted said concerning the story of Yusuf's brothers, peace be upon him: {There was indeed in their

قال أبو محمد وهذه هي قاعدتهم بظنهم في القياس، وما كانوا أبعد قط من القياس منهم في هذه الآية، وما فهم قط ذو عقل من قول الله تبارك وتعالى {هو لذي أخرج لذين كفروا من أهل لكتاب من ديارهم لأول لحشر ما ظننتم أن يخرجوا وظنوا أنهم مانعتهم حصونهم من لله فأتاهم لله من حيث لم يحتسبوا وقذف في قلوبهم لرعب يخربون بيوتهم بأيديهم وأيدي لمؤمنين فعتبروا يأولي لأبصار} تحريم مد بلوط بمدي بلوط وما للقياس مجال على هذه الآية أصلا بوجه من الوجوه، ولا علم أحد قط في اللغة التي بها نزل القرآن أن الاعتبار هو القياس، وإنما أمرنا تعالى أن نتفكر في عظيم قدرته في خلق السموات والأرض، وما أحل بالعصاة كما قال تعالى في قصة إخوة يوسف عليه السلام {لقد كان في قصصهم عبرة لأولي لألباب ما كان حديثا يفترى ولكن تصديق لذي بين يديه وتفصيل كل شيء وهدى ورحمة لقوم يؤمنون} فلم يستح هؤلاء القوم أن يسموا القياس اعتبارا وعبرة على جاري عادتهم في تسمية الباطل باسم الحق ليحققوا بذلك باطلهم.

[47] **Translator's note (L2969):** The second Quranic quotation, beginning "And others have acknowledged their sins" (9:102), does not itself address the Prophet alone. This is an apparent mismatch between the author's stated category and the quotation supplied; it has been preserved. The Arabic literally has the plural "those whom they seized upon" where the context appears to require "that which they seized upon." The translation follows the apparent referent, the material adduced, while noting the defective wording.

[48] **Qur'an references (L2969):** Qur'an 4:102 (An-Nisa); Qur'an 9:102 (At-Tawbah); Qur'an 33:21 (Al-Ahzab); Qur'an 60:6 (Al-Mumtahanah); Qur'an 59:2 (Al-Hashr).

stories a lesson for those who possess understanding. It was no fabricated account, but a confirmation of what preceded it, a detailed explanation of everything, and guidance and mercy for people who believe}. Yet these people felt no shame in calling analogy "taking heed" and "a lesson," following their customary practice of naming falsehood with the name of truth, so as thereby to establish their falsehood as true.[49][50]

L2972–2980 This is feeble obfuscation and a flimsy stratagem. The Exalted has said: {They are only names that you and your fathers have named, for which Allah has sent down no authority. They follow only conjecture and what their souls desire, although guidance has already come to them from their Lord. Or shall a human being have whatever he wishes?} Thus Allah the Exalted invalidated every designation whose correctness is established by a demonstration, whether from linguistic usage heard from speakers of the language or expressly stated in the Quran and the words of the Prophet, may Allah bless him and grant him peace ﷺ. Anything other than that is false. Is this course of obfuscation and deception that they have followed—uprooting names from their proper places and shifting words from their proper places—anything other than the conduct of livestock dealers who name their tethering stalls after cities and then swear by Allah, "This animal arrived yesterday from such-and-such a town," concealing the truth and cheating? The proponents of analogy follow this course when they call analogy "a lesson" and "taking heed." We ask them: In what language did they find this? Allah the Exalted has declared them false in this through His words: {There was indeed in their stories a lesson for those who possess understanding. It was no fabricated account, but a confirmation of what preceded it, a detailed explanation of everything, and guidance and mercy for people who believe}. Would that I knew what analogy there is in the story of Yusuf, peace be upon him! Do you suppose that it has been made permissible for us to sell our brothers as his brothers sold him? Or do you suppose that someone whom his brothers

[49] **Translator's note (L2971):** "Dry measure" renders mudd, a specific unit of dry capacity; the example concerns exchanging one mudd of acorns for two mudds. "Taking heed" renders iʿtibār, "a lesson" renders ʿibrah, and "analogy" renders qiyās; the argument turns on distinguishing these terms.

[50] **Qur'an references (L2971):** Qur'an 59:2 (Al-Hashr); Qur'an 12:111 (Yusuf).

وهذا تمويه ضعيف، وحيلة واهية، وقد قال تعالى: {إن هي إلا أسمآء سميتموهآ أنتم وآبآؤكم مآ أنزل الله بها من سلطان إن يتبعون إلا لظن وما تهوى لأنفس ولقد جآءهم من ربهم لهدى * أم للإنسان ما تمنى} فأبطل الله تعالى كل تسمية قام بصحتها برهان، إما من لغة مسموعة من أهل اللسان وإما منصوصة في القرآن وكلام النبي صلى الله عليه وسلم وما عدا ذلك فباطل وهل هذه الطريقة التي سلكوا من التمويه والغش بقلع الأسماء عن مواضعها وتحريف الكلم عن مواضعه، إلا كمن سمى من النخاسين أواريهم بأسماء المدن، ثم يحلف بالله لقد جاءت هذه الدابة أمس من بلد كذا تدليسا وغشا؟ وأهل القياس جارون على هذه الطريقة في تسميتهم القياس عبرة واعتبارا. ونسألهم في أي لغة وجدوا ذلك؟ وقد أكذبهم الله تعالى في ذلك بقوله {لقد كان في قصصهم عبرة لأولي لألباب ما كان حديثا يفترى ولكن تصديق لذي بين يديه وتفصيل كل شيء وهدى ورحمة لقوم يؤمنون} فليت شعري أي قياس في قصة يوسف عليه السلام أترى أنه أبيح لنا بيع إخوتنا كما باعه إخوته؟ أو ترى أن من باعه إخوته يكون ملكا على مصر ويغلو الطعام في أيامه أو ترى إذ قال الله تعالى {هو لذي أخرج لذين كفروا من أهل لكتاب من ديارهم لأول لحشر ما ظننتم أن يخرجوا وظنوا أنهم مانعتهم حصونهم من لله فأتاهم لله من حيث لم يحتسبوا وقذف في قلوبهم لرعب يخربون بيوتهم بأيديهم وأيدي لمؤمنين فعتبروا يأولي لأبصار} أنه أمرنا قياسا على ذلك أن نخرب بيوتنا بأيديهم وأيدينا قياسا على ما أمرنا الله تعالى أن نعتبر به

sell will become king over Egypt and that food will become expensive in his days? Or do you suppose that, when Allah the Exalted said, {He is the One who expelled those who disbelieved among the People of the Book from their homes at the first gathering. You did not think they would leave, and they thought their fortresses would protect them against Allah. Then Allah came upon them from where they had not reckoned, and He cast terror into their hearts. They demolished their houses with their own hands and the hands of the believers. So take heed, you who possess insight}, He commanded us, by analogy with this, to demolish our houses with their hands and our hands, by analogy with what Allah the Exalted commanded us to take heed of: their demolition of their houses with their own hands and the hands of the believers? Have they not heard the words of Allah the Exalted: {And indeed, in livestock there is a lesson for you. We give you to drink, from what is in its bellies, from between dung and blood, pure milk, palatable to those who drink. And from the fruits of date palms and grapevines you take intoxicating drink and good provision. Indeed, in that is a sign for people who reason}? Can anyone with a modicum of reason say that "a lesson" here means analogy, and that the meaning of this verse, {And indeed, in livestock there is a lesson for you We give you to drink, from what is in its bellies, from between dung and blood, pure milk, palatable to those who drink}, is indeed analogy? Does not everyone with sound perception see that this verse invalidates analogy, since the Exalted related therein that He brings forth lawful milk from between unlawful dung and blood, and that from dates and grapes we take an unlawful, foul intoxicant and lawful provision, both coming from a single thing? Thus it becomes evident that the equality of things does not entail the equality of their legal rulings, and it is established that "a lesson" means only wonder. This is something women, children, and the ignorant know, until someone arose who obstinately denied sensory perception and claimed that taking heed means analogy, openly proclaiming falsehood. By Allah, we never imagined that a rational person would accept for himself such baseness, such lying about religion, and the immediate disgrace of this! We seek refuge in Allah. These people are like a group clinging to whatever it finds. Even if there were nothing to invalidate analogy except this verse, it would suffice, for its beginning is the words of the Exalted: {He is the One

من هدم بيوتهم بأيديهم وأيدي المؤمنين أما سمعوا قول الله تعالى {وإن لكم في لأنعام لعبرة نسقيكم مما في بطونه من بين فرث ودم لبنا خالصا سآئغا للشاربين * ومن ثمرات لنخيل ولأعناب تتخذون منه سكرا ورزقا حسنا إن في ذلك لآية لقوم يعقلون} أفيجوز لذي مسكة عقل أن يقول: إن العبرة ههنا القياس وإن معنى هذه الآية {وإن لكم في لأنعام لعبرة نسقيكم مما في بطونه من بين فرث ودم لبنا خالصا سآئغا للشاربين} لقياسا أما يرى كل ذي حس سليم أن هذه الآية مبطلة للقياس لما قص تعالى عليه أنه يخرج من بين فرث حرام ودم لبنا حلالا، وأننا نتخذ من تمر النخيل والأعناب مسكرا حراما خبيثا، ورزقا حلالا، وهما من شيء واحد، فظهر أن تساوي الأشياء لا يوجب تساوي حكمها، وصح أن معنى العبرة التعجب فقط، هذا أمر يدريه النساء والصبيان والجهال، حتى حدث من كابر الحس، وادعى أن الاعتبار القياس مجاهرة بالباطل، تالله ما قدرنا أن عاقلا يرضى لنفسه بهذه الخساسة، وبهذا الكذب في الدين، وبعاجل هذه الفضيحة نعوذ بالله. والقوم كالفريق يتعلق بما وجد، ولو لم يكن في إبطال القياس إلا هذه الآية لكفى لأن أولها قوله تعالى {هو لذي أخرج لذين كفروا من أهل لكتاب من ديارهم لأول لحشر ما ظننتم أن يخرجوا وظنوا أنهم مانعتهم حصونهم من لله فأتاهم لله من حيث لم يحتسبوا وقذف في قلوبهم لرعب يخربون بيوتهم بأيديهم وأيدي لمؤمنين فعتبروا يأولي لأبصار} فنص الله تعالى كما نسمع على أنه أخرج الذين كفروا من أهل الكتاب من ديارهم، وأن المؤمنين لم يظنوا قط ذلك، وأن الكفار لم يحتسبوا قط ذلك، فثبت يقينا بالنص في هذه الآية أن أحكام الله عز وجل جارية على خلاف ما يحتسب الناس كلهم، مؤمنهم وكافرهم، والقياس إنما هو يحتسبه القائسون، لا نص فيه ولا إجماع كظن المالكي أن علة الربا الإدخار في المأكولات في الجنس، وظن الحنفي أنها الوزن أو الكيل في الجنس، وظن الشافعي أنها الأكل في الجنس، وهذه كلها ظنون واحتسابات، فصح أن أحكام الله تعالى

who expelled those who disbelieved among the People of the Book from their homes at the first gathering. You did not think they would leave, and they thought their fortresses would protect them against Allah. Then Allah came upon them from where they had not reckoned, and He cast terror into their hearts. They demolished their houses with their own hands and the hands of the believers. So take heed, you who possess insight}. Thus Allah the Exalted expressly states, as we hear, that He expelled those who disbelieved among the People of the Book from their homes, that the believers had never thought this would happen, and that the unbelievers had never reckoned on it. It is therefore established with certainty by the explicit text in this verse that the rulings of Allah, mighty and majestic, proceed contrary to what all people, believers and unbelievers alike, reckon. Analogy is merely what those who reason by analogy reckon; there is neither an explicit text nor a consensus supporting it. Examples are the Maliki's conjecture that the effective cause of usury is storability in foodstuffs of the same kind, the Hanafi's conjecture that it is weight or measure within the same kind, and the Shafi'i's conjecture that it is edibility within the same kind. All these are conjectures and reckonings. It is thus established that the rulings of Allah the Exalted come contrary to what occurs to people's minds. This verse, then, is the clearest possible invalidation of analogy. Praise be to Allah, Lord of all worlds. Some of them have reinforced their argument from what we mentioned concerning His words, {the believers}, by what is related from Ibn Abbas concerning compensation for fingers: "Why did you not consider this in light of the teeth? Their compensation is equal, although their uses differ." Abu Muhammed said: This provides them with no proof, for Ibn Abbas intended only by his words, "Why did you not take heed?": "Why did you not ascertain this through the fingers and thereby gain clarity?" For an expression conveying something is that by which the thing becomes clear. That is: "Why did you not ascertain that differences in uses do not entail differences in compensation?" Or: "Why did you not reflect upon the fingers and marvel at them and see that differences in their uses do not entail differences in their compensation or differences in their legal rulings, just as the teeth are likewise?" This is an explicit, clear statement from Ibn Abbas invalidating analogy and the effective causes which, according to the proponents

تأتي بخلاف ما يقع في النفوس، فهذه الآية أبين شيء في إبطال القياس والحمد لله رب العالمين. وقد قوى بعضهم احتجاجهم بما ذكرنا في قوله {لمؤمنين} بما روي عن ابن عباس من قوله في دية الأصابع، ألا اعتبرتم ذلك بالأسنان، عقلها سواء وإن اختلفت منافعها. قال أبو محمد: وهذا لا حجة لهم فيه، لأن ابن عباس إنما أراد بقوله: هلا اعتبرتم أي هلا تبينتم ذلك بالأصابع فاستبنتم، لأن العبارة عن الشيء هو ما يتبين به الشيء، أي هلا تبينتم أن اختلاف المنافع لا يوجب اختلاف الدية، أو هلا فكرتم وعجبتم في الأصابع، ورأيتم أن اختلاف منافعها لا يوجب اختلاف دياتها ولا اختلاف أحكامها، كما أن الأسنان أيضا كذلك، وهذا نص جلي من ابن عباس على إبطال القياس، والعلل الموجبة عند القائلين بالقياس لاستواء الأحكام، لأنهم يقولون: إن الدية إنما هي عوض عن الأعضاء المصابة، فيقيسون فقد السمع على فقد البصر في الدية، لأن المنفعة بذلك متساوية فأبطل ابن عباس ذلك ورد إلى نص، ولم يجد الأصابع أصلا للأسنان يقاس عليه، ولا جعل الأسنان أصلا للأصابع يقاس عليه، بل سوى بين كل ذلك تسوية واحدة، وهذا هو ضد القياس، لأن القياس عند القائلين به إنما هو رد الفرع إلى الأصل، وليس ههنا أصل وفرع، بل النص ورد أن الأصابع سواء وأن الأسنان سواء ورودا مستويا فبطل تمويههم الذي راموا به تصحيح أن القياس يسمى عبرة. ولقد ناظرني كبيرهم في مجلس حافل بهذا الخبر فقلت له: إن القياس عند جميع القائلين به، وأنت منهم، إنما هو رد ما اختلف فيه إلى ما أجمع عليه أو رد ما لا نص فيه إلى ما فيه نص، وليس في الأصابع ولا في الأسنان إجماع، بل الخلاف موجود في كليهما، وقد جاء عن عمر المفاضلة بين دية الأصابع وبين دية الأضراس، وجاء عنه وعن غيره التسوية بين كل ذلك، فبطل ههنا رد المختلف فيه إلى المجمع عليه والنص في الأصابع والأسنان سواء، ثم من المحال الممتنع أن يكون عند ابن عباس نص ثابت عن النبي صلى الله عليه وسلم في التسوية

of analogy, necessitate equality of rulings. For they say that compensation is merely recompense for the injured bodily members, and so they draw an analogy between loss of hearing and loss of sight concerning compensation, because the benefit derived from them is equal. Ibn Abbas invalidated that and referred back to an explicit text. He did not find the fingers to be an original case for the teeth to be analogized to, nor did he make the teeth an original case for the fingers to be analogized to. Rather, he treated all of them equally, with one and the same equal treatment. This is the opposite of analogy, for analogy, according to its proponents, consists only in referring the derivative case to the original case. Here, however, there is no original case and derivative case; rather, the explicit text states equally that fingers are equal and that teeth are equal. Thus their obfuscation, by which they sought to establish that analogy is called "a lesson," is invalidated. Their leading figure once debated this report with me before a large gathering. I said to him: "Analogy, according to all its proponents, yourself included, consists only in referring something disputed to something agreed upon by consensus, or referring something for which there is no explicit text to something for which there is an explicit text. There is no consensus concerning either fingers or teeth; rather, disagreement exists concerning both. Reports from Umar distinguish between compensation for fingers and compensation for molars, while reports from him and others prescribe equal compensation for all of them. Thus referring a disputed matter to one agreed upon by consensus is inapplicable here, and the explicit text concerning fingers and teeth is the same. Furthermore, it is utterly impossible that Ibn Abbas should possess an explicit text reliably established from the Prophet, may Allah bless him and grant him peace ﷺ, prescribing equality between fingers and molars, and then issue his ruling to that effect by analogy." He said to me: "Where is the explicit text on that transmitted from Ibn Abbas?" So I mentioned to him the report which Abd Allah ibn Rabiʿ al-Tamimi related to us: Umar ibn Abd al-Malik al-Khawlani related to us: Muhammed ibn Bakr related to us: Sulayman ibn al-Ashʿath al-Sijistani related to us: Abbas ibn Abd al-Azim al-Anbari related to us: Abd al-Samad ibn Abd al-Warith related to us: Shuʿbah ibn al-Hajjaj related to us: Qatadah narrated to us, from ʿIkrimah, from Ibn ʿAbbas, who said: The Messenger of Allah ﷺ said: "The fingers are equal;

بين الأصابع وبين الأضراس ثم يفتي هو بذلك قياسا. فقال لي: وأين النص بذلك عن ابن عباس؟ فذكرت له الخبر الذي حدثناه عبد الله بن ربيع التميمي: ثنا عمر بن عبد الملك الخولاني، ثنا محمد بن بكر، ثنا سليمان بن الأشعث السجستاني، ثنا عباس بن عبد العظيم العنبري، ثنا عبد الصمد بن عبد الوارث، ثنا شعبة بن الحجاج، ثنا قتادة عن عكرمة عن ابن عباس قال قال رسول الله صلى الله عليه وسلم الأصابع سواء الأسنان سواء الثنية والضرس سواء، هذه وهذه سواء يعني الإبهام والخنصر. فانقطع وسكت. وزاد بعضهم جنونا فاحتج في إثبات القياس بقول الله تعالى {وقال الملك إني أرى سبع بقرات سمان يأكلهن سبع عجاف وسبع سنبلات خضر وأخر يابسات يأيها الملأ أفتوني في رؤياي إن كنتم للرؤيا تعبرون}

the teeth are equal; the incisor and the molar are equal; this and this are equal”—meaning the thumb and the little finger. He was then confounded and fell silent. Some of them went still further in madness, arguing for the establishment of analogy from the words of Allah Most High: “And the king said: ‘I see seven fat cows being eaten by seven lean ones, and seven green ears of grain and others that are dry. O assembly, give me your judgment concerning my dream, if you can interpret dreams.’”[51][52][53][54][55][56][57][58]

L2981–2982 Abu Muhammed said: This is madness indeed, for “expression” (ʿibārah) in the language means only making something clear. You say, “This speech is an expression of such-and-such,” and “I expressed myself on behalf of so-

قال أبو محمد: وهذا من الجنون ما هو: لأن العبارة إنما هي في اللغة البيان عن الشيء تقول: هذا الكلام عبارة عن كذا، وعبرت عن فلان إذا بينت عنه ولا مدخل للحكم في شيء من ذلك لشيء لم يذكر اسمه في الشريعة بالحكم في شيء ذكر فيها اسمه، فعارضوا بأن قالوا: العبور هو الجواز والتجاوز من شيء إلى شيء، تقول: عبرت النهر. قالوا: والقياس تجاوز شيء منصوص إلى شيء لا نص فيه. قال أبو محمد: هذا من المكابرة القبيحة، لأن هذا من الأسماء المشتركة التي هي مثل ضرب من ضراب الجمل وهو سفادة الناقة وضرب بمعنى الإيلام بإيقاع جسم على جسم المضروب بشدة والضرب العمل. وهكذا عبرت الرؤيا فسرتها، وعبرت النهر أي تجاوزته، فهذان معنيان مختلفان، ليس أحدهما من الآخر في ورد ولا صدر، ومصدر عبرت النهر إنما هو العبور ومصدر عبرت الرؤيا إنما هو العبارة ومصدر اعتبرت في الشيء إذا فكرت فيه الاعتبار والعبرة الاسم والعبرة والاستعبار التأهب للبكاء والأخذ فيه، والعبرى نبات يكون على شطوط الأنهار، والعبرانية لغة بني إسرائيل، والعبير ضرب من الطيب. فإذا قلنا: إن معنى عبرت النهر إنما هو تجاوزته، ومعنى عبرت الرؤيا إنما هو فسرتها، فقد وضح أن هذا غير هذان ولو أن المعبر للرؤيا تجاوزها لما كان مبينا لها، بل يكون تاركا لها آخذا في غيرها، كما فعل عابر النهر إذا تجاوزه إلى البر، والاعتبار أيضا معنى ثالث غير هذين بلا شك، فخلط هؤلاء القوم وأتوا بالسفسطة المجردة، وهو أن يأتي بألفاظ مشتركة تقع على معاني شتى، فيخلط بها على الناس ليوهم أهل العقل أشياء تخرجهم عن نور الحق إلى ظلمة الباطل، وقد حذر الأوائل من هذا الباب جدا،

[51] **Translator’s note (L2972):** The supplied text says that Allah invalidated every designation whose correctness is established by a demonstration. This contradicts the ensuing qualification and apparently lacks an exception such as “except”; the translation preserves the supplied reading. “Tethering stalls” renders awārī, places or fixtures where animals are tethered.

[52] **Translator’s note (L2973):** The second Quranic quotation continues into the next unit. “Its bellies” preserves the singular possessive in the supplied Arabic referring to livestock.

[53] **Translator’s note (L2974):** The isolated la-qiyāsan (“indeed analogy”) follows an awkward construction interrupted by the quotation; the translation retains its apparent intended connection to the preceding unit without altering the Arabic.

[54] **Translator’s note (L2975):** The supplied ka-l-farīq means “like a group,” an awkward reading in this image of clinging to whatever is found. It may be a corruption of ka-l-gharīq, “like a drowning person”; the translation preserves the supplied reading. The phrase qaṣṣa taʿālā ʿalayhi is awkward here; “the Exalted related therein” follows the contextual reference to the verse.

[55] **Translator’s note (L2976):** The supplied reference quotes {the believers}, although the argument has concerned “So take heed”; this apparent erroneous quotation or reference is preserved. “Effective cause” renders ʿillah, the legally operative attribute proposed as the basis for extending a ruling by analogy.

[56] **Translator’s note (L2977):** The supplied text says “through the fingers,” although the report in the preceding unit says “in light of the teeth”; this discrepancy is preserved. The explanation also plays on related Arabic words: iʿtibār (“taking heed”) and ʿibārah (“expression”).

[57] **Translator’s note (L2978):** “He did not find” preserves the supplied yajid. “He did not make” would be more parallel to the following clause, but would require a different Arabic reading.

[58] **Qur’an references (L2972):** Qur’an 53:23 (An-Najm); Qur’an 12:111 (Yusuf); Qur’an 59:2 (Al-Hashr); Qur’an 16:66 (An-Nahl); Qur’an 16:67 (An-Nahl); Qur’an 12:43 (Yusuf).

and-so" when you make something clear on his behalf. None of this provides any basis for assigning a ruling to something not named in the revealed Law by means of a ruling concerning something named in it. They countered by saying: "Crossing (ʿubūr) means passing and moving across from one thing to another. You say, 'I crossed the river.'" They said: "Analogy is moving across from something covered by a text to something for which there is no text." Abu Muhammed said: This is a repugnant act of obstinate denial, for these are equivocal words, like ḍarb as derived from a camel's mating, meaning its covering a she-camel, and ḍarb meaning the infliction of pain by bringing one body forcefully against the body of the person struck; ḍarb also means work. Likewise, "I interpreted the dream" (ʿabartu al-ruʾyā) means "I explained it," whereas "I crossed the river" (ʿabartu al-nahr) means "I passed across it." These are two different meanings that have nothing whatsoever to do with one another. The verbal noun of "I crossed the river" is ʿubūr, whereas the verbal noun of "I interpreted the dream" is ʿibārah. The verbal noun of "I reflected upon something" (iʿtabartu), when you have thought about it, is "reflection" (iʿtibār), and the corresponding noun is "lesson" (ʿibrah). "Tearfulness" (ʿabrah) and "seeking to weep" (istiʿbār) mean preparing to cry and beginning to do so. ʿAbrā is a plant that grows along riverbanks; Hebrew (ʿibrāniyyah) is the language of the Children of Israel; and ʿabīr is a kind of perfume. Thus, when we say that "I crossed the river" means only "I passed across it," and that "I interpreted the dream" means only "I explained it," it becomes clear that this is other than these two. If the interpreter of a dream passed beyond it, he would not be making it clear; rather, he would be leaving it and taking up something else, just as someone crossing a river does when he passes across it onto dry land. Reflection, too, is unquestionably a third meaning, different from these two. These people have thus confused matters and brought forward pure sophistry: employing equivocal expressions that apply to various meanings, and thereby confusing people so as to suggest to rational people notions that lead them out of the light of truth into the darkness of falsehood. The ancients warned most strongly against this practice and stated that it is among the most powerful causes of defects entering the understanding and of the corruption of realities. We ourselves have drawn attention to it in many places in this book and in our

وأخبروا أنه أقوى الأسباب في دخول الآفات على الأفهام، وفي إفساد الحقائق، وقد نبهنا نحن عليه في مواضع كثيرة من كتابنا هذا، ومن سائر كتبنا، وقد بينا ذلك في كتاب التقريب، ولم نبق فيه غاية، وبالله تعالى التوفيق.

other books. We have explained it in The Book of Approximation, leaving nothing further to be pursued concerning it. Success comes through Allah Most High.[59]

L2983–2984 Then, even after all this, they were not content with this kind of falsehood, but added to it a further excess of great magnitude: they audaciously and deceptively called analogy a "lesson" (ʿibrah). Naming, in the language and in all the speech used among us, admits only two possibilities, with no third:

L2985–2986 The first is a name heard from the Arabs. Yet the Arabs knew nothing of analogy in legal rulings during their pre-Islamic ignorance, because they had no scriptural revealed Law before Muhammed ﷺ. It is therefore untenable that analogy should have had a name among them. The second category is a name belonging to the revealed Law, which Allah Most High and His Messenger ﷺ applied to certain provisions of that Law, such as prayer, obligatory almsgiving, faith, unbelief, hypocrisy, and similar things. Exalted are Allah and His Messenger above reasoning by analogy. It is therefore untenable that Allah Most High and His Messenger ﷺ should have called analogy a "lesson." These two categories of names are binding upon everyone who speaks this language and upon every Muslim. As for names upon which groups of people agree in order to communicate their intended meanings, that is permissible for them by consensus. They are not, however, entitled to use this to confuse people. They incur the gravest sin and culpability if they give something over which others disagree with them a name that applies to an actual meaning, in order to oblige their opponents to accept the very thing over which they disagree with them, deceiving the weak and committing aggression. This is like someone calling wine honey in order thereby to deem it lawful, because honey is lawful. It is therefore invalid to call analogy a "lesson" or "reflection." We know that the proponents of analogy who introduced this innovation are themselves the ones who intro-

[59] **Translator's note (L2982):** The unvocalized word العبرة occurs in two different senses here: ʿibrah, a lesson, and ʿabrah, tearfulness or a tear. The discussion depends throughout on distinctions among words sharing the consonants ʿ-b-r. The wording "this is other than these two" follows the awkward source reading هذا غير هذان. Its reference is unclear; the subsequent sentence explicitly distinguishes reflection as a third meaning.

ثم مع ذلك لم يقنعوا بهذا الباب من الباطل، حتى زادوا عليه زيادة كثيرة، وهو أنهم سموا القياس عبرة جرأة وتمويها، والتسمية في اللغة والكلام المستعمل بيننا كله لا تخلو من وجهين لا ثالث لهما:

أحدهما: اسم سمع من العرب، والعرب لا تعرف القياس في الأحكام في جاهليتها لأنهم لم يكن لهم شريعة كتابية قبل محمد صلى الله عليه وسلم فبطل أن يكون للقياس عندهم اسم والقسم الثاني اسم شرعي أوقعه الله تعالى ورسوله صلى الله عليه وسلم على بعض أحكام الشريعة كالصلاة والزكاة والإيمان والكفر والنفاق، وما أشبه ذلك، وتعالى الله ورسوله عن أن يقيسا فبطل أن يكون الله تعالى ورسوله صلى الله عليه وسلم سميا القياس عبرة فهذان القسمان من الأسماء لازمان لكل متكلم بهذه اللغة، ولكل مسلم، وأما الأسماء التي يتفق عليها أقوام من الناس التفاهم في مرادهم، فلذلك لهم مباح بإجماع، إلا أنهم ليس لهم أن يلبسوا بذلك على الناس. وهم في أعظم إثم وحرج إن سموا ما يخالفهم فيه غيرهم باسم واقع على معنى حقيقي ليلزموا خصومهم قبول ما خالفهم فيه، تمويها على الضعفاء، وعدوانا كمن سمى الخمر عسلا يستحلها بذلك، لأن العسل حلال، فبطل أن يسمي القياس عبرة أو اعتبارا، وعلمنا أن أصحاب القياس الذي أحدثوا هذه البدعة هم الذين أحدثوا له هذا الاسم كما أنذر النبي صلى الله عليه وسلم بقوم يأتون في آخر الزمان يسمون الخمر بغير اسمها ليستحلوها بذلك، فقد فعل أصحاب القياس ذلك بعينه، وسموا الباطل عبرة واعتبارا لهم ليصبح لهم باطلا بذلك لأن العبرة حق {يريدون أن يطفئوا نور الله بأفواههم ويأبى الله إلا أن يتم نوره ولو كره لكافرون} وبالله تعالى التوفيق واحتجوا بآبدة أنست ما قبلها، وهو أن بعضهم استدل

duced this name for it, just as the Prophet ﷺ warned of people who would come at the end of time and call wine by a name other than its own in order thereby to deem it lawful. The proponents of analogy have done precisely that: they have called falsehood a "lesson" and "reflection" for themselves, so that it might thereby become falsehood for them, because taking a lesson is true. "They wish to extinguish the light of Allah with their mouths, but Allah refuses anything except to perfect His light, even though the unbelievers detest it." Success comes through Allah Most High. They also advanced a monstrosity that made what preceded it be forgotten: some of them argued for the validity of analogy from the words of Allah Most High describing what happened to Adam, peace be upon him, when his nakedness was exposed upon eating from the tree. He, Most High, said: "Thus he brought them both down through deception. Then, when they tasted the tree, their private parts became apparent to them, and they began fastening leaves of the Garden together over themselves. Their Lord called to them: 'Did I not forbid you both that tree and tell you both that Satan is a manifest enemy to you both?'"[6061]

على صحة القياس بقول الله تعالى واصفا لأمر آدم عليه السلام، إذ تكشفت عورته عند أكل الشجرة فقال تعالى {فدلاهما بغرور فلما ذاقا لشجرة بدت لهما سوءاتهما وطفقا يخصفان عليهما من ورق لجنة وناداهما ربهما ألم أنهكما عن تلكما لشجرة وأقل لكما إن لشيطان لكما عدو مبين}

L2987 Abu Muhammed said: We stipulated only that we would discuss what is intelligible. As for delirious rambling, we have nothing to do with it. We do not know what aspect of analogy there is in Adam's covering his nakedness with leaves of the Garden. I wonder: if their opponent were to answer this delirious rambling of theirs by saying, "This is an argument for invalidating analogy," how would they extricate themselves from his argument? Would there be any difference between him and them? They also argued from the words of Allah Most High, reporting Abraham, peace be upon him, when he said: "Indeed, Allah is not ashamed to propound a parable of a mosquito or anything above it. As for those who have faith, they know that it is the truth from their Lord. As for those who disbelieve, they say: 'What did Allah

قال أبو محمد إنما شرطنا أن نتكلم فيما يعقل، وأما الهذيان فلسنا منه في شيء ولا ندري وجه القياس في تغطية آدم عورته بورق الجنة، وليت شعري لو قال لهم خصمهم، مجاوبا لهم بهذا الهذيان: إن هذه حجة في إبطال القياس بماذا كانوا ينفكون منه؟ وهل كان يكون بينه وبينهم فرق. واحتجوا أيضا بقول الله تعالى حاكيا عن إبراهيم عليه السلام إذ قال {إن الله لا يستحي أن يضرب مثلا ما بعوضة فما فوقها فأما لذين آمنوا فيعلمون أنه لحق من ربهم وأما لذين كفروا فيقولون ماذآ أراد لله بهذا مثلا يضل به كثيرا ويهدي به كثيرا وما يضل به إلا لفاسقين}

[60] **Translator's note (L2985):** The clause ليصبح لهم باطلا بذلك literally yields the incongruous sense "so that it might thereby become falsehood for them." The wording appears corrupt, since the surrounding argument concerns making falsehood appear valid. The translation retains the supplied reading.

[61] **Qur'an references (L2985):** Qur'an 9:32 (At-Tawbah); Qur'an 7:22 (Al-A'raf); Qur'an 20:121 (Taha).

intend by this as a parable?' He leads many astray through it and guides many through it, and He leads none astray through it except the defiantly disobedient."[62][63]

L2988–2997

Abu Muhammed said: This is like the preceding argument. No one can discern any analogy in Allah's—Mighty and Majestic—bringing the birds to life, nor that it entails the prohibition of exchanging rice for rice in unequal quantities. Arguing from something like this is a matter in which a Muslim ought to fear Allah, Mighty and Majestic. There is no difference between this and someone arguing for the establishment of analogy, or for its invalidation, from the words of Allah Most High: "Say: I seek refuge in the Lord of humankind." Yet someone who cares nothing about what he says finds disgraceful acts easy, and disgrace is no disgrace in the eyes of someone who follows him uncritically. They also argued from the words of Allah Most High: "The likeness of what they spend in this worldly life is that of a wind containing bitter cold, which strikes the crop of a people who have wronged themselves and destroys it. Allah has not wronged them; rather, they wrong themselves," and from His words, Most High: "As though they were rubies and coral." Abu Muhammed said: This is of the same sort as the bewildering marvels we have just related. While we were discussing the prohibition of something whose prohibition is mentioned neither in the Quran nor in the Sunnah nor in consensus, on account of its resemblance to something else prohibited in a text, we suddenly found ourselves discussing the comparison of the wide-eyed maidens of Paradise to rubies and coral. Every rational person knows that rubies and coral are sold, crushed, stolen, and taken out of the salt sea, and that they neither reason nor are living creatures. Do you suppose that all these things are done to the wide-eyed maidens of Paradise? Exalted is Allah above that! Every Muslim knows that the wide-eyed maidens of Paradise are rational, living, speaking beings who are sexually penetrated,

قال أبو محمد وهذه كالتي قبلها، وما يعقل أحد من إحياء الله عز وجل الطير قياسا، ولا أنه يوجب أن يكون الأرز بالأرز متفاضلا حراما، وأن الاحتجاج بمثل هذا مما ينبغي المسلم أن يخاف الله عز وجل فيه، وما بين هذا وبين من احتج في إثبات القياس وفي إبطاله بقول الله تعالى {قل أعوذ برب لناس} فرق ولكن من لم يبال بما تكلم سهلت عليه الفضائح، وليس العار عارا عند من يقلده، واحتجوا بقول الله تعالى {مثل ما ينفقون في هذه لحياة لدنيا كمثل ريح فيها صر أصابت حرث قوم ظلموا أنفسهم فأهلكته وما ظلمهم لله ولكن أنفسهم يظلمون} وبقوله تعالى {كأنهن لياقوت ولمرجان} قال أبو محمد وهذا من نحو ما أوردناه آنفا من العجائب المدهشة، بينما نحن في تحريم شيء لم يذكر تحريمه في القرآن والسنة ولا في الإجماع، من أجل شبهه لشيء آخر حرم في النص، حتى خرجنا إلى تشبيه الحور العين بالياقوت والمرجان، فكل ذي عقل يدري أن الياقوت والمرجان يباع ويدق ويسرق، ويخرج من البحر الملح، وأنه لا يعقل ولا هو حيوان، أفترى الحور العين يفعل بهن هذا كله؟ تعالى الله عن ذلك، وقد علم كل مسلم أن الحور العين عاقلات أحياء ناطقات، يوطأن ويأكلن ويشربن، فهل الياقوت والمرجان كذلك؟ وإنما شبه الله تعالى الحور العين بالياقوت والمرجان في الصفاء فقط، ونحن لا ننكر تشابه الأشياء وإنما ننكر أن نحكم المتشابهات بحكم واحد في الشريعة بغير نص ولا إجماع، فهذا هو الزور والإفك والضلال، وأما تشابه الأشياء فحق يقين. وكذلك شبه الله تعالى بطلان أعمال الكفار ببطلان الزرع بالريح التي فيها الصر فأي مدخل للقياس ههنا؟ أترى من بطل زرعه خالدا في جهنم كما يفعل بالكافر؟ أو ترى الكافر إذا حبط عمله ذهب زرعه في فدانه، كما يذهب

[62] **Translator's note (L2987):** The introduction attributes the following words to Abraham, but the supplied quotation is Quran 2:26, concerning the parable of a mosquito. The following unit instead discusses Allah's bringing birds to life, suggesting an intended reference to the account of Abraham in Quran 2:260. The supplied quotation and attribution have both been retained.

[63] **Qur'an references (L2987):** Qur'an 2:26 (Al-Baqarah).

eat, and drink. Are rubies and coral like that? Allah Most High compared the wide-eyed maidens of Paradise to rubies and coral only in clarity. We do not deny that things resemble one another. We deny only that we should assign things resembling one another a single ruling in the revealed Law without a text or consensus. That is falsehood, fabrication, and error. As for things resembling one another, that is a certain truth. Likewise, Allah Most High compared the nullification of the unbelievers' deeds to the destruction of crops by a wind containing bitter cold. What place is there for analogy here? Do you suppose that someone whose crop has been destroyed remains eternally in Hell, as happens to the unbeliever? Or do you suppose that, when the unbeliever's deeds come to nothing, his crop disappears from his field just as the crop disappears of someone whose crop has been struck by a wind containing bitter cold? No one with any sense says this. The truth, rather, is that these two verses decisively invalidate analogy, because Allah Most High likened the wide-eyed maidens of Paradise to rubies and coral, and likened the deeds of the unbelievers to a crop struck by a wind containing bitter cold. Likening the maidens to rubies and coral did not require that rubies and coral be governed by the rulings applicable to the wide-eyed maidens, nor that the wide-eyed maidens be governed by the rulings applicable to rubies and coral. Nor did the resemblance of the unbelievers' deeds to a ruined crop require that the crop be governed by the rulings applicable to the unbelievers' deeds, such as cursing, disavowal, and threatened punishment, nor that the unbelievers' deeds be governed by the rulings applicable to crops, such as benefiting from their straw as fodder for beasts, and other things. Thus it is established that things' resemblance does not require their equality in religious rulings. Nothing resembles anything else more closely than two things that Allah, mighty and majestic, has likened to one another. If, then, the resemblance of which Allah Most High has informed us does not require one ruling for those two resembling things concerning matters on which no explicit text has been given, you necessarily know that resemblance does not require one ruling for those two resembling things concerning matters on which no explicit text has been given; you necessarily know, therefore, that the false, fabricated resemblance asserted in the claims of the proponents of analogy is still further from requiring one ruling for the things they have

زرع من أصاب زرعه ريح فيها صر؟ هذا ما لا يقوله أحد ممن له طباخ. وأما الحقيقة فإن هاتين الآيتين تبطلان القياس إبطالا صحيحا، لأن الله تعالى مثل الحور العين بالياقوت والمرجان، ومثل أعمال الكفار بزرع أصابته ريح فيها صر. ولم يكن تشبيه الحور بالياقوت والمرجان يوجب للياقوت والمرجان الحكم أحكام الحور العين، ولا للحور العين الحكم بأحكام الياقوت والمرجان، ولا كان شبه عمل الكفار بالزرع الذاهب يوجب للزرع الحكم بأحكام أعمال الكفار، من اللعين والبراءة والوعيد، ولا لأعمال الكفار بأحكام الزرع من الانتفاع بتبنه في علف الدواب وغير ذلك. فصح أن تشابه الأشياء لا يوجب لها التساوي في أحكام الديانة، ولا شيء أقوى شبها من شيئين شبه الله عز وجل بعضها ببعض، فإذا كان الشبه الذي أخبرنا الله تعالى به لا يوجب لذينك المتشابهين حكما واحدا فيما لم ينص فيه، فبالضرورة تعلم أن الشبه لا يوجب لذينك المتشابهين حكما واحدا فيما لم ينص فيه، فبالضرورة تعلم أن الشبه المكذوب المفترى من دعاوى أصحاب القياس أبعد عن أن يوجب لما شبهوا بينهما حكما واحدا، وبالله تعالى التوفيق. واحتجوا بقول الله تعالى {وضرب لنا مثلا ونسي خلقه قال من يحيي لعظام وهي رميم * قل يحييها لذي أنشأها أول مرة وهو بكل خلق عليم * لذي جعل لكم من لشجر لأخضر نارا فإذآ أنتم منه توقدون * أوليس لذي خلق لسماوات ولأرض بقادر على أن يخلق مثلهم بلى وهو لخلاق لعليم} قال أبو محمد وهذا من عجائبهم وطوامهم، ليت شعري ما في هذه مما يوجب القياس أو أن يحكم في ألا يكون الصدق أقل مما يقطع فيه اليد، وأن يرجم اللوطي كما يرجم الزاني المحصن؟ ولكاد احتجاجهم بهذه الآية أن يخرجهم إلى الكفر، لأنه تعالى لم يوجب أنه يعيد العظام من أجل أنه أنشأها أول مرة، ولا أخبر تعالى أن إنشاءه لها أول مرة يوجب أن يعيدها، ومن ظن هذا فقد افترى. ومع ذلك فلو كان إنشاء الله تعالى للعظام، أو لا يوجب أن يحييها ثانية، لوجب ضرورة إذا أفناها أيضا بعد أن أنشأها أولا أن

likened to one another. Success comes through Allah Most High. They argued from the words of Allah Most High: "And he presents a comparison to Us and forgets his own creation. He says, 'Who will give life to the bones when they are decayed?' Say: 'He who brought them into being the first time will give them life, and He knows every creation: He who made fire for you from the green tree, so that you kindle from it.' Is He who created the heavens and the earth not able to create their like? Yes indeed, and He is the All-Creating, the All-Knowing." Abu Muhammed said: This is among their astonishing absurdities and enormities. Would that I knew what there is in these words that requires analogy, or a ruling that the bridal dower must not be less than the amount for which a hand is cut off, and that a man who commits sodomy is to be stoned as an adulterer possessing the legal status of marital chastity is stoned! Their adducing this verse almost leads them into unbelief, for He Most High did not establish that He restores the bones because He brought them into being the first time, nor did He state that His bringing them into being the first time requires Him to restore them. Whoever supposes this has fabricated a falsehood. Moreover, if Allah Most High's bringing the bones into being initially required Him to give them life a second time, then, since He also annihilated them after bringing them into being initially, it would necessarily follow that He must annihilate them a second time after bringing them into being a second time. This they do not maintain, nor does any Muslim maintain it except Jahm ibn Safwan alone. If that were so, it would also follow that He must return them to this world a second time just as He originated them and brought them into being in it for the first time. This is outright unbelief, maintained only by the proponents of transmigration. May Allah render odious every argument whose proponent flees from being refuted and submitting to the truth into something that leads to unbelief! Their deceptive use of this verse is therefore invalidated, and it is established that its meaning is solely what its apparent wording entails: that He who can create things initially can give life to the dead. Allah Most High has explicitly explained this when He says: "Among His signs is that you see the earth lying humbled; then, when We send water down upon it, it stirs and swells. Surely He who gave it life will indeed give life to the dead. He has power over all things." Thus He, mighty and majestic, made

يفنيها ثانية بعد أن أنشأها ثانية، وهذا ما لا يقولونه، ولا يقول به أحد من المسلمين إلا جهم بن صفوان وحده. ولو كان ذلك أيضا لوجب أن يعيدهم إلى الدنيا ثانية كما ابتدأهم ونشأهم فيها أول مرة، وهذا كفر مجرد، لا يقول به إلا أصحاب التناسخ، فقبح الله كل احتجاج يفر صاحبه من الانقطاع والإذعان للحق إلى ما يؤدي إلى الكفر، فبطل تمويههم بهذه الآية، وصح أن معناها هو اقتضاء ظاهرها فقط، وهو أن القادر على خلق الأشياء ابتداء قادر على إحياء الموتى. وقد بين الله تعالى نصا إذ يقول {ومن آياته أنك ترى لأرض خاشعة فإذآ أنزلنا عليها لمآء هتزت وربت إن لذي أحياها لمحى لموتى إنه على كل شيء قدير} فبين عز وجل أنه إنما بين ذلك قدرته على كل شيء. وإنما عارض الله تعالى بهذا قوما شاهدوا إنشاء الله تعالى للعظام من مني الرجل والمرأة أقروا بذلك وأنكروا قدرته تعالى على إنشائها ثانية وإحيائها، فأراهم الله تعالى فساد تقسيمهم لقدرته كما قال في أخرى {أولم يروا أن لله لذي خلق لسماوات ولأرض ولم يعي بخلقهن بقادر على أن يحيي لموتى بلى إنه على كل شيء قدير} فهذه كلك وليس في شيء منها أن نحكم لما لا نص فيه بالحكم بما فيه نص من تحريم أو إيجاب أو إباحة أصلا وأن هذا كله باب واحد، ليس بعضه مقيسا على بعض، ولا أصلا والآخر فرعا، وإقدام أصحاب القياس وجرأتهم متناسبة في مذاهبهم وفيما يؤيدونها، نعوذ بالله من الخذلان واحتجوا أيضا بقول الله تعالى {وهو لذي يرسل لرياح بشرى بين يدي رحمته حتى إذآ أقلت سحابا ثقالا سقناه لبلد ميت فأنزلنا به لمآء فأخرجنا به من كل لثمرات كذلك نخرج لموتى لعلكم تذكرون} وبقوله تعالى {يأيها لناس إن كنتم في ريب من لبعث فإنا خلقناكم من تراب ثم من نطفة ثم من علقة ثم من مضغة مخلقة وغير مخلقة لنبين لكم ونقر في لأرحام ما نشآء إلى أجل مسمى ثم نخرجكم طفلا ثم لتبلغوا أشدكم ومنكم من يتوفى ومنكم من يرد إلى أرذل لعمر لكيلا يعلم من بعد علم شيئا وترى لأرض هامدة فإذآ أنزلنا عليها لمآء هتزت وربت وأنبتت

clear that through this He was only explaining His power over all things. With this, Allah Most High was merely answering people who had witnessed Allah Most High's bringing bones into being from the seminal fluid of man and woman, acknowledged this, and denied His power, Most High, to bring them into being a second time and give them life so Allah Most High showed them the invalidity of their partitioning of His power, as He said in another verse: "Have they not seen that Allah, who created the heavens and the earth and was not wearied by creating them, is able to give life to the dead? Yes indeed; He has power over all things." This verse is like that one. None of them contains any basis whatsoever for applying to something concerning which there is no explicit text the ruling applicable to something concerning which there is an explicit text, whether prohibition, obligation, or permission. All of this belongs to one category: no part of it is inferred by analogy from another, nor is one part an original case and the other a derivative case. The audacity and temerity of the proponents of analogy are consistent in their doctrines and in what they use to support them. We seek refuge in Allah from abandonment. They also argued from the words of Allah Most High: "It is He who sends the winds as glad tidings ahead of His mercy, until, when they bear heavy clouds, We drive them to a dead land and send water down with them, then bring forth with it fruits of every kind. Thus do We bring forth the dead, so that you may take heed"; and from His words, Most High: "O people, if you are in doubt about the resurrection, then We created you from dust, then from a drop of seminal fluid, then from a clinging clot, then from a morsel of flesh, formed and unformed, so that We may make clear to you. We cause whatever We will to remain in the wombs until an appointed term; then We bring you forth as infants, then so that you may attain your full strength. Some of you are taken in death, and some of you are returned to the most abject stage of life, so that after having knowledge they know nothing. You see the earth lifeless; then, when We send water down upon it, it stirs and swells and brings forth every delightful kind"; and from His words, Most High: "And Allah is He who sent the winds, which stir up clouds; then We drove them to a dead land and with them gave life to the earth after its death. Thus is the resurrection"; and from His words, Most High: "And We sent down blessed water from the sky, and with it caused

من كل زوج بهيج} ولقوله تعالى {ولله لذي أرسل لرياح فتثير سحابا فسقناه إلى بلد ميت فأحيينا به لأرض بعد موتها كذلك لنشور} وبقوله تعالى {ونزلنا من لسمآء مآء مباركا فأنبتنا به جنات وحب لحصيد} إلى قوله {ونزلنا من لسمآء مآء مباركا فأنبتنا به جنات وحب لحصيد} وبقوله تعالى {أو خلقا مما يكبر في صدوركم فسيقولون من يعيدنا قل لذي فطركم أول مرة فسينغضون إليك رؤوسهم ويقولون متى هو قل عسى أن يكون قريبا}

gardens and grain for harvest to grow," up to His words: "And We sent down blessed water from the sky, and with it caused gardens and grain for harvest to grow"; and from His words, Most High: "Or a created thing that seems great in your breasts. Then they will say: 'Who will restore us?' Say: 'He

who originated you the first time.' Then they will shake their heads at you and say: 'When will it be?' Say: 'Perhaps it will be soon.'"[6465666768697071]

L2998–2999 Abu Muhammed said: All of this is of the same kind as what we mentioned just now. Anyone who adduces these verses to establish analogy in legal

قال أبو محمد: وهذا كله من جنس ما ذكرناه آنفا والمحتج بهذه الآيات في إثبات القياس في الأحكام، إما جاهل أعمى لا يدري ما القياس، وإما مموه لا يبالي ما قال: ولا ما أطلق به لسانه في استدامة حاله، ولو كان هذا قياسا لوجب أن يحيي الله الموتى كل سنة في أول الربيع، ثم يموتون في أول الشتاء، كما تفعل الثمار وجميع النبات، وهذا مما لا يقوله إلا ممرو، وإنما أخبر تعالى في كل هذه الآيات بأنه يحيي الموتى ويقدر على كل ذلك، لا على أن بعض ذلك مقيس على بعض البتة. وذكروا أيضا في ذلك قول الله تعالى {ويقول لإنسان أإذا ما مت لسوف أخرج حيا * أولا يذكر الإنسان أنا خلقناه من قبل ولم يك شيئا} وبقوله تعالى {يأيها لناس إن كنتم في ريب من لبعث فإنا خلقناكم من تراب ثم من نطفة ثم من علقة ثم من مضغة مخلقة وغير مخلقة لنبين لكم ونقر في لأرحام ما نشآء إلى أجل مسمى ثم نخرجكم طفلا ثم لتبلغوا أشدكم ومنكم من يتوفى ومنكم من يرد إلى أرذل لعمر لكيلا يعلم من بعد علم شيئا وترى لأرض هامدة فإذآ أنزلنا عليها لمآء هتزت وربت وأنبتت من كل زوج بهيج} {يأيها لناس إن كنتم في ريب من لبعث فإنا خلقناكم من تراب ثم من نطفة ثم من علقة ثم من مضغة مخلقة وغير مخلقة لنبين لكم ونقر في لأرحام ما نشآء إلى أجل مسمى ثم نخرجكم طفلا ثم لتبلغوا أشدكم ومنكم من يتوفى ومنكم من يرد إلى أرذل لعمر لكيلا يعلم من بعد علم شيئا وترى لأرض هامدة فإذآ أنزلنا عليها لمآء هتزت وربت وأنبتت من كل زوج بهيج} قال أبو محمد: هذا هو إبطال القياس على الحقيقة، لأنه لا سبيل إلى أن يخلق ثانية من نطفة، ولا من علقة، ولا من مضغة، فإنما معنى هذه الآية: من الله تعالى علينا وتذكيره لنا بقدرته على ما يشاء لا إله إلا هو. وكذلك الآية التي قبلها: أن الإنسان لم يك شيئا، ثم خلق، ولا سبيل إلى أن يعود لا شيء أبدا بل

[64] **Translator's note (L2988):** The reference to bringing birds to life does not match the mosquito verse quoted in the preceding unit. This apparent discontinuity in the supplied text has been preserved.

[65] **Translator's note (L2991):** The supplied اللعين means "the accursed one" rather than "cursing"; the surrounding enumeration appears to require اللعن, "cursing," which is the provisional rendering here. The repeated clause about resemblance not requiring one ruling, followed by the repeated "you necessarily know," is present in the source and has been retained.

[66] **Translator's note (L2992):** The Quranic quotation contains repeated omissions of initial alifs in words such as "the bones," "He who," and "the heavens." The intended words are identifiable and are translated; these transcription defects are not treated as alternative Quranic wording. The supplied الصدق ordinarily means "truthfulness"; the legal context suggests a defective spelling of the term for bridal dower, which is the provisional rendering here. The supplied أو لا, literally "or not," appears to represent أولا, "initially," in this argument. The translation follows that contextual reading. "Possessing the legal status of marital chastity" renders المحصن, a technical legal qualification rather than merely a description of personal chastity.

[67] **Translator's note (L2994):** The Quranic quotation contains recurring omissions of initial alifs. Its identifiable words have been translated without treating these defects as variant Quranic wording. The phrase إنما بين ذلك قدرته has an awkward construction; it is understood here as "through this He was only explaining His power."

[68] **Translator's note (L2995):** The Quranic quotations contain recurring omissions of initial alifs. Their identifiable words have been translated. "As glad tidings" follows the supplied بشرى; it has not been replaced with the wording of another Quranic reading.

[69] **Translator's note (L2996):** The Quranic quotations contain recurring omissions of initial alifs. Their identifiable words have been translated. The clause "then so that you may attain your full strength" preserves the elliptical construction in the supplied quotation without supplying an additional verb.

[70] **Translator's note (L2997):** The passage introduced by "up to His words" repeats exactly the same Quranic excerpt rather than supplying a later endpoint. This apparent quotation error has been retained. The Quranic quotations contain recurring omissions of initial alifs. Their identifiable words have been translated.

[71] **Qur'an references (L2988):** Qur'an 3:117 (Ali 'Imran); Qur'an 36:78 (Ya-Sin); Qur'an 36:79 (Ya-Sin); Qur'an 41:39 (Fussilat); Qur'an 46:33 (Al-Ahqaf); Qur'an 7:57 (Al-A'raf); Qur'an 22:5 (Al-Hajj); Qur'an 35:9 (Fatir); Qur'an 50:9 (Qaf); Qur'an 17:51 (Al-Isra).

rulings is either a blind ignoramus who does not know what analogy is, or a deceiver who cares neither what he says nor what he lets his tongue utter in order to perpetuate his position. If this were analogy, it would follow that Allah must give life to the dead every year at the beginning of spring, and that they must then die at the beginning of winter, as fruits and all vegetation do. This is something that only a deranged person would say. In all these verses He Most High has merely stated that He gives life to the dead and has power over all of this, certainly not that any part of this is inferred by analogy from another. They also cited in this connection the words of Allah Most High: "Man says: 'When I have died, shall I really be brought forth alive?' Does man not remember that We created him before, when he was nothing?" And His words, Most High: "O people, if you are in doubt about the resurrection, then We created you from dust, then from a drop of seminal fluid, then from a clinging clot, then from a morsel of flesh, formed and unformed, so that We may make clear to you. We cause whatever We will to remain in the wombs until an appointed term; then We bring you forth as infants, then so that you may attain your full strength. Some of you are taken in death, and some of you are returned to the most abject stage of life, so that after having knowledge they know nothing. You see the earth lifeless; then, when We send water down upon it, it stirs and swells and brings forth every delightful kind." "O people, if you are in doubt about the resurrection, then We created you from dust, then from a drop of seminal fluid, then from a clinging clot, then from a morsel of flesh, formed and unformed, so that We may make clear to you. We cause whatever We will to remain in the wombs until an appointed term; then We bring you forth as infants, then so that you may attain your full strength. Some of you are taken in death, and some of you are returned to the most abject stage of life, so that after having knowledge they know nothing. You see the earth lifeless; then, when We send water down upon it, it stirs and swells and brings forth every delightful kind." Abu Muhammed said: This is, in truth, the invalidation of analogy, because there is no possibility of a person's being created a second time from a drop of seminal fluid, or from a clinging clot, or from a morsel of flesh. The meaning of this verse is simply Allah Most High's reminding us of His favor toward us and reminding us of His power to do whatever

نفسه عائدة إلى حيث رآها النبي صلى الله عليه وسلم ليلة أسري به ويعود الجسم ترابا ثم يجمعان يوم القيامة فيخلد حيا باقيا أبد الأبد بلا نهاية ولا فناء، في نعيم أو عذاب فبطل القياس ضرورة من حيث راموا إثباته تمويها على اغترابهم. وهذه الآيات كلها هي بمنزلة قوله تعالى {أأنتم أشد خلقا أم لسمآء بناها * رفع سمكها فسواها} فإنما بين قدرته على ما شاهدنا، وعلى ما أخبرنا به مما لم نشاهد وهذا إبطال للقياس ولظنون الجهال، لأن الله تعالى نص على تشابه الأشياء كلها بعضها لبعض، ولم يوجب من أجل ذلك التشابه أن تستوي في أحكامها، وهذا هو نفس قولنا في إبطال القياس في تسوية الأحكام بين الأشياء المشتبهات وبالله التوفيق

He wills; there is no god but He. Likewise, the verse preceding it states that man was nothing and was then created. There is no possibility of his ever becoming nothing again. Rather, his soul returns to where the Prophet ﷺ, may Allah bless him and grant him peace, saw it on the night he was taken on the Night Journey, and the body returns to dust; then the two are brought together on the Day of Resurrection, and he will remain alive and enduring forever and ever, without end or extinction, in bliss or punishment. Analogy is thus necessarily invalidated by the very means through which they sought to establish it, employing obfuscation to conceal their estrangement. All these verses are of the same character as His saying, exalted is He: "Are you more difficult to create, or the heaven? He built it; He raised its ceiling and fashioned it evenly." He has merely explained His power over what we have witnessed and over what He has told us about that we have not witnessed. This invalidates analogy and the conjectures of the ignorant, because Allah, exalted is He, has expressly stated that all things resemble one another, yet has not required that this resemblance make their rulings equal. This is precisely our position in invalidating analogy as a means of equating the rulings governing things that resemble one another. Through Allah comes success.[72][73][74]

[72] **Translator's note (L2998):** The supplied ممرو is corrupt or incomplete. "A deranged person" provisionally understands it as ممرور, a term for someone afflicted by mental derangement. The complete Quranic quotation beginning "O people, if you are in doubt about the resurrection" occurs twice consecutively in the supplied text. Both occurrences have been translated in full. The Quranic quotations contain recurring omissions of initial alifs. Their identifiable words have been translated. The supplied من الله تعالى علينا is understood as مَنُّ الله تعالى علينا, referring to Allah's favor toward us, rather than مِن الله, "from Allah." The unvocalized wording permits ambiguity.

[73] **Translator's note (L2999):** The wording translated as "their estrangement" is unusual in context and may be corrupt; it has not been replaced with a conjectured reading.

[74] **Qur'an references (L2998):** Qur'an 19:66 (Maryam); Qur'an 19:67 (Maryam); Qur'an 22:5 (Al-Hajj); Qur'an 79:28 (An-Nazi'at).

L3000–3001

Of the same character is His saying, exalted is He: “And set forth for them the likeness of the life of this world: like water that We sent down from heaven, with which the vegetation of the earth mingled; then it became dry fragments scattered by the winds. Allah has power over everything.” Likewise His saying, exalted is He: “Indeed, We tested them as We tested the owners of the garden, when they swore that they would harvest it in the morning, and made no exception”—the verses down to His saying, exalted is He: “Such is the punishment; and the punishment of the Hereafter is greater, if only they knew.” Abu Muhammed said: No resemblance is stronger than a resemblance to whose companionship Allah, exalted is He, has testified. Thus, since Allah, exalted is He, has likened the life of this world to vegetation growing from water descending from heaven, it is therefore the thing most closely resembling it. He has also likened the destruction of the bodies of those disobedient people to justice. That does not require the two to be equal in any ruling of the revealed law beyond what Allah, exalted is He, has expressly stated: deterioration after freshness, and nothing more. Their corrupt conjecture is thus invalidated, and praise belongs to Allah, Lord of all worlds. Likewise, too, His saying, exalted is He: “Muhammed is the Messenger of Allah. Those with him are stern toward the unbelievers, merciful among themselves. You see them bowing and prostrating, seeking bounty from Allah and His good pleasure. Their mark is on their faces from the trace of prostration. That is their likeness in the Torah; and their likeness in the Gospel is like a crop that puts forth its shoots, then strengthens them, then grows stout and stands upright upon its stalks, delighting the sowers, so that He may enrage the unbelievers through them. Allah has promised those of them who believe and do righteous deeds forgiveness and a mighty reward.” Abu Muhammed said: That crop is grazed upon, is not subject to religious obligations, and incurs no recompense in the Hereafter. The people likened to it are undoubtedly otherwise: they are subject to religious obligations and will receive their full recompense in the Hereafter. There is indeed much cause for astonishment at their immense obfuscation in religion and their deception concerning it, as they invoke these verses in support of analogy. No one possessing the slightest reason has ever understood these verses to require prohibiting the exchange of straw for straw in unequal quantities

ومثل ذلك قوله تعالى {وضرب لهم مثل لحياة لدنيا كمآء أنزلناه من لسماء فختلط به نبات لأرض فأصبح هشيما تذروه لرياح وكان لله على كل شيء مقتدرا} وكقوله تعالى {إنا بلوناهم كما بلونآ أصحاب لجنة إذ أقسموا ليصرمنها مصبحين * ولا يستثنون} الآيات إلى قوله تعالى {كذلك لعذاب ولعذاب لآخرة أكبر لو كانوا يعلمون} قال أبو محمد: ولا شبه أقوى من شبه شهد الله تعالى بصحبته، فإذا كان الله تعالى قد شبه الحياة الدنيا بالنبات النابت من الماء النازل من السماء، فهي أشبه الأشياء به، وشبه تلف جثث أولئك العصاة بالعدل، وذلك لا يوجب استواءهما في شيء من الحكم في الشريعة غير الذي نص الله تعالى عليه من البلى بعد الجدة فقط، فبطل ظنهم الفاسد، والحمد لله رب العالمين وكذلك أيضا قوله تعالى {محمد رسول لله ولذين معه أشدآء على لكفار رحمآء بينهم تراهم ركعا سجدا يبتغون فضلا من لله ورضوانا سيماهم في وجوههم من أثر لسجود ذلك مثلهم في لتوراة ومثلهم في لإنجيل كزرع أخرج شطأه فآزره فستغلظ فستوى على سوقه يعجب لزراع ليغيظ بهم لكفار وعد لله لذين آمنوا وعملوا لصالحات منهم مغفرة وأجرا عظيما} قال أبو محمد: وذلك الزرع يرعى، وليس متعبدا ولا جزاء عليه، في الآخر والقوم الذين شبهوا به ولا شك أنهم خلاف ذلك، وأنهم متعبدون مجازون بالجزاء التام في الآخرة. وأن العجب ليكثر من عظيم تمويههم في الدين، وتدليسهم فيه باحتجاجهم بهذه الآيات في القياس وما عقل قط ذو مسكة عقل أنه يجب في هذه الآيات تحريم بيع التبن بالتبن متفاضلا، إذا حرم بيع التمر بالتمر متفاضلا وما قائل هذا قريب من الاستخفاف بالقرآن والشرائع، ونعوذ بالله من هذا. واحتج بعضهم في إثبات القياس بآبدة أنست ما تقدم، وهو أنه قال من الدليل على صحة القياس قول الله تعالى {ولمرسلات عرفا} قال فأشار إلى العرف

because the exchange of dates for dates in unequal quantities is prohibited. One who says this is not close to treating the Qur'an and the revealed laws with contempt; we seek refuge with Allah from this. One of them argued for establishing analogy with an enormity that made what preceded it be forgotten. He said: "Among the proofs of the validity of analogy is the saying of Allah, exalted is He: 'By those sent forth in succession.'" He said: "He thus indicated customary practice."[1][2][3]

L3002–3008 Abu Muhammed said: This is evidence of the unsoundness of the intellect of the person invoking it to establish analogy, and of his lack of shame; nothing further need be said. We seek refuge with Allah, exalted is He, from abandonment, and ask Him for success. There is no recognized good except what Allah, exalted is He, has expressly explained to be recognized good. As for people's customary practice among themselves, it has no authoritative ruling and no significance. Since they first came into being, people have recognized nothing but oppression and unlawful tolls. They also argued by saying: Allah, mighty and majestic is He, said: "The good land brings forth its vegetation by its Lord's permission, whereas that which is bad brings forth only meagerly. Thus do We variously expound the signs for a people who give thanks." They said: "Thus, when the explicit text prescribes flogging someone who accuses chaste women of unlawful intercourse, you flog someone who accuses chaste men just as you flog someone who accuses

قال أبو محمد وهذا دليل على فساد عقل المحتج به في إثبات القياس وقلة حيائه ولا مزيد، وبالله تعالى نعوذ من الخذلان، ونسأله التوفيق، ولا عرف إلا ما بين الله تعالى نصا أنه عرف، وأما عرف الناس فيما بينهم فلا حكم له ولا معنى، وما عرف الناس مذ نشؤوا إلا الظلم والمكوس. واحتجوا أيضا بأن قالوا قال الله عز وجل {ولبلد لطيب يخرج نباته بإذن ربه ولذي خبث لا يخرج إلا نكدا كذلك نصرف لآيات لقوم يشكرون} قالوا فإذا جاء النص بجلد قاذف المحصنات، وأنتم تجلدون قاذف الرجال المحصنين كما تجلدون قاذف المحصنات من النساء، وهذا قياس. قال أبو محمد: وهذا ظن فاسد منهم، وحاشا لله أن يكون قياسا، ونحن نبدأ فنبين، بحول الله وقوته، من أين أوجبنا جلد قاذف الرجال من نص القرآن والسنة، فإذا ظهر البرهان على ذلك لائحا، بحول الله وقوته، وأنه من النص عدنا إلى بيان أنه لا يجوز أن يكون قياسا، وأنه لو استعمل ههنا القياس لكان حكمه غير ما قالوا، وبالله تعالى التوفيق، فنقول وبالله تعالى نتأيد إن قول الله عز وجل {ولذين يرمون لمحصنات ثم لم يأتوا بأربعة شهدآء فجلدوهم ثمانين جلدة ولا تقبلوا لهم شهادة أبدا وأولئك هم لفاسقون} عموم لا يجوز تخصيصا إلا بنص أو إجماع، فممكن أن يريد الله تعالى النساء المحصنات كما قلتم، وممكن أن يريد الفروج المحصنات، وهذا غير منكر في اللغة التي بها نزل القرآن، وخاطبنا بها الله تعالى قال الله عز وجل {وأنزلنا من لمعصرات مآء ثجاجا} يريد من السحاب المعصرات، فقلنا نحن: إنه أراد الفروج المحصنات، وقلتم أنتم: إنه أراد

[1] **Translator's note (L3000):** The supplied quotation of Qur'an 18:45 begins with a form meaning "and set forth"; the standard Qur'anic wording uses the imperative "set forth" without this initial conjunction. The word translated as "companionship" is anomalous in context and may be a transcription error for "soundness." The supplied reading is retained.

[2] **Translator's note (L3001):** The phrase "to justice" is anomalous in the comparison concerning the destruction of bodies; the supplied wording has been retained. The supplied text literally says that the person making this claim is "not close" to treating the Qur'an and revealed laws with contempt. This appears inconsistent with the surrounding polemic, but has not been silently changed. The argument turns on different senses of the same Arabic expression: "in succession" in the quoted oath and "customary practice" in the opponent's interpretation. The expression translated as "in the Hereafter" after the description of the crop appears in a truncated form in the supplied Arabic.

[3] **Qur'an references (L3000):** Qur'an 68:17 (Al-Qalam); Qur'an 68:18 (Al-Qalam); Qur'an 48:29 (Al-Fath).

chaste women. This is analogy." Abu Muhammed said: This is a corrupt conjecture on their part. Allah forbid that it should be analogy! We shall begin by explaining, through Allah's might and power, the explicit text of the Qur'an and the Sunnah on the basis of which we have made flogging someone who accuses men obligatory. Once the demonstration of this becomes manifest, through Allah's might and power, and it is clear that it derives from the explicit text, we shall return to explaining that it cannot be analogy, and that, if analogy were employed here, its ruling would differ from what they have said. Through Allah, exalted is He, comes success. We therefore say, supported by Allah, exalted is He: The saying of Allah, mighty and majestic is He, "Those who accuse chaste ones, then do not produce four witnesses: flog them with eighty lashes, and never accept testimony from them; those are the defiantly disobedient," is a general expression that may not be specified except by an explicit text or consensus. It is possible that Allah, exalted is He, means chaste women, as you have said, and it is possible that He means guarded private parts. This is by no means objectionable in the language in which the Qur'an was revealed and in which Allah, exalted is He, addressed us. Allah, mighty and majestic is He, said: "And We sent down from the rain-bearing ones water pouring abundantly," meaning from the rain-bearing clouds. We therefore said that He meant guarded private parts, whereas you said that He meant chaste women. It thus became incumbent upon us to refer our claim back to a clear demonstration. We said: Private parts are more general than women, because restricting what Allah, exalted is He, intends specifically to women specifies the general scope of the expression, and specifying a general expression is impermissible except through an explicit text or consensus. Furthermore, it is the private parts that are accused, and nothing else belonging to men or women. The demonstration of this is what He said, exalted is He: "And those who guard their private parts, except with their spouses or those whom their right hands possess, for then they are not blameworthy." He also said, exalted is He: "Tell the believing men to lower their gaze and guard their private parts. That is purer for them. Indeed, Allah is fully aware of what they do." "Tell the believing men to lower their gaze and guard their private parts. That is purer for them. Indeed, Allah is fully aware of what they do. And tell the believing women to lower

النساء المحصنات، فوجب علينا ترجيع دعوانا بالبرهان الواضح، فقلنا: إن الفروج أعم من النساء، لأن الاقتصار بمراد الله تعالى على النساء خاصة تخصيص لعموم اللفظ، وتخصيص العموم لا يجوز إلا بنص أو إجماع. وأيضا فإن الفروج هي المرمية لا غير ذلك من الرجال والنساء برهان ذلك ما قاله تعالى {ولذين هم لفروجهم حافظون * إلا على أزواجهم أو ما ملكت أيمانهم فإنهم غير ملومين} وقال تعالى: {قل للمؤمنين يغضوا من أبصارهم ويحفظوا فروجهم ذلك أزكى لهم إن الله خبير بما يصنعون} {قل للمؤمنين يغضوا من أبصارهم ويحفظوا فروجهم ذلك أزكى لهم إن الله خبير بما يصنعون * وقل للمؤمنات يغضضن من أبصارهن ويحفظن فروجهن ولا يبدين زينتهن إلا ما ظهر منها وليضربن بخمرهن على جيوبهن ولا يبدين زينتهن إلا لبعولتهن أو آبآئهن أو آبآء بعولتهن أو أبنآئهن أو أبنآء بعولتهن أو إخوانهن أو بني إخوانهن أو بني أخواتهن أو نسآئهن أو ما ملكت أيمانهن أو لتابعين غير أولي لإربة من لرجال أو لطفل لذين لم يظهروا على عورات لنسآء ولا يضربن بأرجلهن ليعلم ما يخفين من زينتهن وتوبوا إلى الله جميعا أيها لمؤمنون لعلكم تفلحون} وقال تعالى {إن لمسلمين ولمسلمات ولمؤمنين ولمؤمنات ولقانتين ولقانتات ولصادقين ولصادقات ولصابرين ولصابرات ولخاشعين ولخاشعات ولمتصدقين ولمتصدقات ولصائمين ولصائمات ولحافظين فروجهم ولحافظات ولذاكرين لله كثيرا ولذاكرات أعد لله لهم مغفرة وأجرا عظيما} وقال تعالى {ومريم بنة عمران لتي أحصنت فرجها فنفخنا فيه من روحنا وصدقت بكلمات ربها وكتبه وكانت من لقانتين} فصح أن الفرج هو المحصن وصاحبه هو المحصن له بنص القرآن. حدثنا عبد الله بن يوسف، نا أحمد بن فتح، نا عبد الوهاب بن عيسى، نا أحمد بن محمد بن نا أحمد بن علي، نا مسلم بن الحجاج، نا إسحاق بن إبراهيم هو ابن راهويه أنا عبد الرزاق، ثنا معمر عن ابن طاوس، عن أبيه، عن ابن عباس قال: ما رأيت أن شيئا أشبه باللمم مما قال أبو هريرة أن النبي صلى الله عليه وسلم قال إن الله كتب على ابن آدم حظه من الزنى

their gaze and guard their private parts, and not to display their adornment except what appears of it. Let them draw their head coverings over their bosoms, and not display their adornment except to their husbands, their fathers, their husbands' fathers, their sons, their husbands' sons, their brothers, their brothers' sons, their sisters' sons, their women, those whom their right hands possess, male attendants who have no sexual desire, or children who have not become aware of women's intimate parts. Let them not stamp their feet so that what they conceal of their adornment may become known. Turn to Allah in repentance, all of you, O believers, so that you may prosper." He also said, exalted is He: "Indeed, the men who submit and the women who submit, the believing men and the believing women, the obedient men and the obedient women, the truthful men and the truthful women, the patient men and the patient women, the humble men and the humble women, the men who give charity and the women who give charity, the fasting men and the fasting women, the men who guard their private parts and the women who guard theirs, and the men who remember Allah much and the women who remember Him—Allah has prepared for them forgiveness and a mighty reward." And He said, exalted is He: "And Mary, daughter of Imran, who guarded her private part, into which We breathed of Our spirit; she affirmed the words of her Lord and His scriptures, and was among the obedient." It is thus established by the explicit text of the Qur'an that the private part is what is guarded, and its possessor is the one who guards it. Abd Allah ibn Yusuf related to us; Ahmad ibn Fath related to us; Abd al-Wahhab ibn Isa related to us; Ahmad ibn Muhammed ibn [name missing] related to us; Ahmad ibn Ali related to us; Muslim ibn al-Hajjaj related to us; Ishaq ibn Ibrahim—that is, Ibn Rahawayh—related to us; Abd al-Razzaq informed us; Ma'mar related to us, from Ibn Tawus, from his father, from Ibn Abbas, who said: "I have not seen anything that I consider more closely resembling minor sins than what Abu Hurayrah said: that the Prophet, may Allah bless him and grant him peace ﷺ, said, 'Allah has prescribed for the son of Adam his share of unlawful intercourse, which he will inevitably attain. The unlawful intercourse of the eyes is looking, and the unlawful intercourse of the tongue is speaking. The soul wishes and desires, and the private part confirms that or gives it the lie.'" Through the same chain to Muslim: Ishaq ibn Mansur related to

أدرك ذلك لا محالة، فزنى العينين النظر، وزنى اللسان النطق، والنفس تمنى وتشتهي، والفرج يصدق ذلك أو يكذبه. وبه إلى مسلم: ثنا إسحاق بن منصور، أنا هشام المخزومي، هو ابن سلمة، ثنا وهيب بن خالد، ثنا سهيل بن أبي صالح عن أبيه عن أبي هريرة عن النبي صلى الله عليه وسلم قال كتب على ابن آدم نصيبه من الزنى مدرك لا محالة، فالعينان زناهما النظر، والأذنان زناهما الاستماع، واللسان زناه الكلام، واليد زناها البطش، والرجل زناها الخطا، والقلب يهوى ويتمنى، ويصدق ذلك الفرج أو يكذبه. قال أبو محمد: فصح يقينا أن المرمية هي الفروج خاصة، وأن المحصنة على الحقيقة هي الفروج إلا ما عداها، وصح أن الزنى الواجب فيه الحد هو زنى الفروج خاصة لا زنى سائر الأعضاء، ولا زنى النفس دون الفرج، فلا حد في النص كما أوردنا، في زنى العينين، ولا في الرجلين، ولا في زنى اللسان، ولا في زنى الأذنين، ولا في زنى القلب الذي هو مبعث الأعمال، وصح أن من رمى العينين بالزنى أو رمى الرجلين بالزنى أو رمى القلب بالزنى، أو رمى الأذنين بالزنى، أو رمى اليدين بالزنى، أو رمى أي عضو كان بالزنى ما عدا الفرج فليس راميا، ولا حد عليه بالنص، لأن الفرج إن كذب فهو كله لغو. فصح يقينا أن الرمي الذي يحد فيه الحدود ورد الشهادة والتفسيق، إنما رمي الفروج بلا شك، بيقين لا مرية فيه، فإذ ذلك كذلك فقد صح أن مراد الله تعالى بالحدود ورد الشهادة في الآية المتلوة، إنما هي رمي الفروج فقط، فصح قولنا بيقين لا مجال للشك فيه، وهذا إذ هو كذلك ففروج الرجال والنساء داخلات في الآية دخولا مستويا. ثم نسألهم فنقول لهم أخبرونا عن قول الله تعالى {ولذين يرمون لمحصنات ثم لم يأتوا بأربعة شهدآء فجلدوهم ثمانين جلدة ولا تقبلوا لهم شهادة أبدا وأولئك هم لفاسقون} إذ قلتم أنه تعالى أراد بهذه اللفظة ههنا النساء فقط، هل أراد الله أن يحد قاذف الرجل أم لا؟ ولا بد من إحداهما، فإن قالوا: لم يرد بقوله تعالى فقد حكموا على أنفسهم أنهم يحكمون بخلاف ما أراد الله تعالى، وكفونا أنفسهم. وإن

us; Hisham al-Makhzumi—that is, Ibn Salamah—informed us; Wuhayb ibn Khalid related to us; Suhayl ibn Abi Salih related to us, from his father, from Abu Hurayrah, from the Prophet, may Allah bless him and grant him peace ﷺ, who said: "The son of Adam has had his portion of unlawful intercourse prescribed for him, and it will inevitably be attained. The eyes—their unlawful intercourse is looking; the ears—their unlawful intercourse is listening; the tongue—its unlawful intercourse is speaking; the hand—its unlawful intercourse is grasping; the foot—its unlawful intercourse is taking steps. The heart desires and wishes, and the private part confirms that or gives it the lie." Abu Muhammed said: It is thus established with certainty that what is accused is specifically the private parts, and that what is guarded in the true sense is the private parts, except what is other than them. It is also established that the unlawful intercourse for which the prescribed punishment is obligatory is specifically the unlawful intercourse of the private parts, rather than that of the other organs or that of the soul without the private part. Thus, according to the explicit text as we have cited it, there is no prescribed punishment for the unlawful intercourse of the eyes, nor of the feet, nor for the unlawful intercourse of the tongue, nor for the unlawful intercourse of the ears, nor for the unlawful intercourse of the heart, which is the source from which actions arise. And it is established that whoever accuses the eyes of unlawful sexual intercourse, or accuses the feet of unlawful sexual intercourse, or accuses the heart of unlawful sexual intercourse, or accuses the ears of unlawful sexual intercourse, or accuses the hands of unlawful sexual intercourse, or accuses any bodily member whatsoever of unlawful sexual intercourse, apart from the private parts, is not an accuser subject to the prescribed punishment, and no prescribed punishment is incumbent upon him, according to the explicit text. For if the private parts give the lie to it, all of it is idle talk. Thus it is established with certainty that the accusation for which the prescribed punishments, rejection of testimony, and declaration of disobedience are imposed is exclusively an accusation concerning the private parts, without doubt, with a certainty admitting no dispute. Since that is so, it is established that what Allah Most High intends by the prescribed punishments and rejection of testimony in the recited verse is exclusively accusation concerning the private parts. Our position is thus established with

قالوا: إن الله تعالى أراد أن يحد قاذف الرجل، قلنا لهم: إن هذا عجب أن يكون تعالى يريد في دينه وعلمه من عباده أن يحد قاذف الرجل، ثم لا يأمرنا إلا بحد قاذف النساء فقط، حاشا لله من ذلك، فإنه تلبيس لا بيان، فإن قالوا: اقتصر على النساء ونبهنا بذلك على حكم قاذف الرجال قلنا له: هاتوا برهانكم إن كنتم صادقين، ولم تأتوا بأكثر من الدعوى الكاذبة التي فيها خالفناكم، فإن كانت عندكم حجة من نص جلي على صحة هذه الدعوى، وإلا فهي كذب بحت، ولستم بصادقين فيها بنص القرآن، قالوا: الإجماع قد صح على وجوب حد قاذف الرجل. قلنا لهم: وأي دليل لكم في الإجماع؟ والإجماع لنا لا لكم لأن الإجماع إنما كان من هذا النص المذكور، فهاتوا دليلا على أنه كان عن قياس، ولا سبيل لهم إلى دليل ذلك أصلا، لا برهاني ولا إقناعي ولا شغبي، وظهر بطلان قولهم،

a certainty leaving no room for doubt. Since this is so, the private parts of men and women fall equally within the verse.

Then we question them, saying to them: Tell us about the saying of Allah Most High, "Those who accuse chaste women, then do not produce four witnesses: flog them with eighty lashes, and never accept testimony from them; those are the disobedient." Since you say that by this expression here He Most High intended women alone, did Allah intend that someone who accuses a man should receive the prescribed punishment, or did He not? It must be one of the two. If they say that He did not intend it by His saying, Most High, they have passed judgment upon themselves that they rule contrary to what Allah Most High intended, and have spared us the trouble of refuting them. If they say that Allah Most High intended that someone who accuses a man should receive the prescribed punishment, we say to them: This is astonishing—that He Most High should intend, in His religion and His knowledge, that His servants impose the prescribed punishment upon someone who accuses a man, but then command us only to impose the prescribed punishment upon someone who accuses women alone! Far exalted is Allah above that, for it would be obfuscation, not clarification. If they say, "He confined His mention to women and thereby alerted us to the ruling concerning someone who accuses men," we say to him: Produce your demonstration, if you are truthful. You have brought nothing beyond the false assertion over which we disagree with you. If you possess an argument from a clear, explicit text establishing this assertion's correctness, produce it; otherwise it is sheer falsehood, and you are not truthful in it, according to the explicit text of the Quran.

They say: Consensus has been established concerning the obligation to impose the prescribed punishment upon someone who accuses a man. We say to them: What evidence does consensus afford you? Consensus supports us, not you, because that consensus derives solely from this aforementioned explicit text. Produce evidence that it derived from analogy. They have absolutely no means of producing evidence for that—whether demonstrative,

persuasive, or merely contentious—and the invalidity of their position has become manifest.[4][5][6][7][8][9][10][11]

L3009–3013 And praise belongs to Allah, Lord of all worlds. Then we return to refuting, altogether and necessarily, the claim that the prescribed punishment for someone who accuses a man rests upon analogy. We say, seeking strength from Allah Most High: We have found that the rulings concerning men and women differ in certain matters. For men, Friday prayers and congregational prayers are obligatory, whereas neither Friday prayer nor congregational prayer is obligatory for women. Yet they are equal in the ruling concerning all other prayer and obligatory almsgiving. A woman may not

والحمد لله رب العالمين. ثم نعود إلى إبطال أن يكون حد قاذف الرجل قياسا جملة ولا بد، فنقول وبالله تعالى نتأيد: إننا وجدنا أحكام الرجال والنساء تختلف في مواضع، فالرجال عليهم الجمعات والجماعات فرضا، والنساء لا تلزمهن جمعة ولا جماعة فرضا، وقد استووا في حكم سائر الصلاة والزكاة، والمرأة لا تسافر في غير واجب إلا مع زوج أو ذي محرم، والرجل يسافر حيث شاء دون زوجة، ودون ذي محرم، والخوف عليه من أن يزني كالخوف عليها من أن تزني ولا فرق، لأن زناها لا يكون إلا مع رجل، وحكمهن في اللباس مخالف لحكم الرجل. فلا يجوز للرجل لباس القمص والعمائم والسراويل في الإحرام، وهذا مباح للنساء، واستووا في تحريم الطيب عليهم وعليهن في الإحرام، والرجال عليهم الصلاة مع الإمام بمزدلفة صلاة الصبح، ومباح للنساء السفر قبل ذلك فاستووا فيما عدا ذلك، والجهاد على الرجال، ولا جهاد على النساء، وشهادة المرأتين تعدل شهادة الرجل، وخصومنا ههنا لا يقبلون النساء أصلا إلا في الأموال مع رجل ولا بد، وفي عيوب النساء والولادات فقط. ويقبلون الرجال فيما عدا ذلك، ولا يقيسون الرجال عليهن ولا يقيسوهن على الرجال، وليس هذا إجماعا، ودية المرأة نصف دية الرجل، وكثير من الحاضرين من خصومنا ههنا يسوون بينهن وبين الرجال في مقدور محدود من الديات، ويفرقون بين أحكامهم وأحكامهن في سائر ذلك، ولا يقيسون النساء على الرجال، ولا الرجال على النساء، وحد المرأة كحد الرجل في القذف والخمر والزنى والقتل والقطع في السرقة، وفرق بين الحاضرين من خصومنا في التغريب في الزنى بين الرجال والنساء، وفرق آخرون منهم في حد الردة، بين الرجال والنساء فرأوا قتل الرجل في الردة، ولم يروا قتل المرأة في الردة، وتركوا القياس ههنا، وللرجل أن ينكح أربعا ويتسرى، ولا يحل للمرأة أن تنكح إلا واحدا ولا تتسرى، ولم يقيسوا عليهن، إلى كثير مثل هذا اكتفينا منه بهذا المقدار. فلما وجدنا أحكام الرجال، وأحكام النساء تختلف كثيرا، وتتفق كثيرا، على حسب

[4] **Translator's note (L3002):** The author continues to exploit the range of meanings of the term rendered here as "recognized good," "customary practice," and "recognized."

[5] **Translator's note (L3003):** "Chaste ones" preserves the author's argument about the feminine plural adjective in Qur'an 24:4: he takes its unexpressed noun to be either "women" or "private parts." The corresponding Arabic plural for "private parts" can take feminine agreement. The supplied wording means "referring our claim back." A reading meaning "establishing the preponderance of our claim" may have been intended, but has not been substituted.

[6] **Translator's note (L3004):** The quotation of Qur'an 24:30 is repeated in the supplied text, first on its own and then as the beginning of the quotation extending through 24:31. Both occurrences are retained.

[7] **Translator's note (L3005):** The transmission chain leaves "Ahmad ibn Muhammed ibn" without the following name. The omission is marked rather than supplied. The identification of Hisham al-Makhzumi as "Ibn Salamah" appears erroneous; the familiar transmitter in this chain is Hisham ibn Sallam. The supplied identification is retained.

[8] **Translator's note (L3006):** The phrase "except what is other than them" is anomalous and conflicts with the immediately preceding restriction. It may be a corruption of wording meaning "not anything other than them"; the supplied wording is retained.

[9] **Translator's note (L3008):** The references to eyes, feet, and other bodily members committing unlawful sexual intercourse invoke figurative usage; the private parts 'giving the lie' to it means that actual intercourse does not occur. The supplied wording is compressed, and its reference has been preserved. The Quranic quotation is Quran 24:4. Its supplied spelling repeatedly omits letters in forms of the definite article and relative pronoun; these orthographic irregularities do not change the translated sense.

[10] **Hadith references (L3002):** Sahih Muslim 2657b.

[11] **Qur'an references (L3002):** Qur'an 7:58 (Al-A'raf); Qur'an 24:4 (An-Nur); Qur'an 23:6 (Al-Mu'minun); Qur'an 70:30 (Al-Ma'arij); Qur'an 24:30 (An-Nur); Qur'an 24:31 (An-Nur); Qur'an 66:12 (At-Tahrim).

travel for a purpose that is not obligatory except with a husband or a male relative whom she is permanently forbidden to marry, whereas a man may travel wherever he wishes without a wife and without such a relative. The fear that he may commit unlawful sexual intercourse is like the fear that she may commit unlawful sexual intercourse, with no difference, because her unlawful sexual intercourse can occur only with a man. Their ruling concerning clothing differs from that concerning men: a man may not wear shirts, turbans, or trousers while in the state of pilgrimage consecration, whereas this is permissible for women. Yet they are equal in the prohibition of perfume for both men and women while in the state of pilgrimage consecration. Men must perform the dawn prayer with the prayer leader at Muzdalifah, whereas women may depart before that; they are equal in matters other than this. Armed struggle is incumbent upon men, whereas no armed struggle is incumbent upon women. The testimony of two women equals the testimony of one man. Our opponents here do not accept women's testimony at all except in financial matters, necessarily together with a man, and concerning women's bodily defects and childbirth alone. They accept men's testimony in other matters, and do not extend the ruling concerning women to men by analogy, nor extend the ruling concerning men to women by analogy. This is not a matter of consensus. A woman's blood money is half a man's blood money. Many of our opponents present here treat women and men equally up to a specified amount of blood money, but distinguish between the rulings concerning men and those concerning women in the remainder of that, and do not reason by analogy from men to women or from women to men. The prescribed punishment for a woman is like that for a man in accusation of unlawful sexual intercourse, wine drinking, unlawful sexual intercourse, killing, and amputation for theft. Some of our opponents present have distinguished between men and women concerning banishment for unlawful sexual intercourse. Others among them have distinguished between men and women concerning the prescribed punishment for apostasy: they hold that a man is to be killed for apostasy, but do not hold that a woman is to be killed for apostasy. They abandon analogy here. A man may marry four women and take female slaves as concubines, whereas it is not lawful for a woman to marry more than one man, and she may not take concubines;

ورود النص في ذلك فقط، بطل أن يقاس حكم الرجال على النساء، إذا اقتصر النص عن ذكرهن، أو أن تقاس النساء على الرجال،: إذا اقتصر النص على ذكرهم. إذ ليس الجمع بين أحكامهن وأحكام الرجال حيث لم يأت النص بالتفريق قياسا على ما جاء النص فيه متساويا بين أحكامهن وأحكامهم، أولى من التفريق بين أحكامهن وأحكام الرجال، حيث لم يأت النص بالجمع قياسا على ما جاء النص فيه مفرقا بين أحكامهن وأحكامهم، وهذا في غاية الوضوح.

yet they have not extended the ruling concerning women to men by analogy. There are many more examples like this, of which we have confined ourselves to this amount. Thus, since we have found that the rulings concerning men and the rulings concerning women frequently differ and frequently agree, solely according to the occurrence of an explicit text concerning the matter, it is invalid to extend the ruling concerning women to men by analogy when the explicit text stops short of mentioning women, or to extend the ruling concerning men to women by analogy when the explicit text confines itself to mentioning men. For unifying the rulings concerning women and the rulings concerning men where no explicit text establishes a distinction, by analogy with cases in which the explicit text makes their rulings equal, has no greater claim than distinguishing between the rulings concerning women and the rulings concerning men where no explicit text establishes their unity, by analogy with cases in which the explicit text distinguishes between their rulings. This is utterly clear[12][13]

L3014 and true, admitting no doubt. Thus, even if analogy were valid, extending the obligation of the prescribed punishment from someone who accuses a woman to someone who accuses a man would be certainly invalid, and it would be wholly impermissible to rule on that basis. Their supposition is therefore entirely dispelled. Praise belongs to Allah, Lord of all worlds.

Among the clearest demonstrations that the prescribed punishment for someone who accuses a man does not derive from analogy with someone who accuses a woman of unlawful sexual intercourse is that, only one line after Allah's command to flog someone who accuses chaste women, there occurs His saying, Most High: "Those who accuse their spouses and have no witnesses except themselves: the testimony of one of them shall be four testimonies by Allah that he is indeed among the truthful"—the verses. No one in the

والحقيقة بلا شك فيها، فلو كان القياس حقا لكان قياس قاذف الرجل في إيجاب الحد عليه على قاذف المرأة، باطلا متيقنا لا يجوز الحكم به أصلا فارتفع توهمهم جملة، والحمد لله رب العالمين. ومن أوضح برهان على أن حد قاذف الرجل ليس عن قياس على قاذف المرأة بالزنى أن بعد أمر الله بجلد قاذف المحصنات بسطر واحد فقط قوله تعالى {ولذين يرمون أزواجهم ولم يكن لهم شهدآء إلا أنفسهم فشهادة أحدهم أربع شهادات بلله إنه لمن لصادقين} الآيات فلا خلاف بين أحد من الأمة أنه لا يقاس قاذفة زوجها أن تلاعن على قاذف زوجته أن يلاعن، فلو كان القياس حقا، لما كان قياس قاذف الرجل على قاذف المرأة أن يجلد الحد: أولى ولا أصح من قياس قاذف زوجته أن تلاعنه أيضا، ولا يجد أحد فرق بين الأمرين أصلا، فصح أن القياس باطل إذ لو كان حقا لاستعمله الناس في الملاعنة، وصح أن جلد قاذف الرجل ليس عن قياس وأنه عن نص كما ذكرنا، وبالله التوفيق

[12] **Translator's note (L3011):** The wording 'some of our opponents present have distinguished' renders an awkward construction in the supplied text, which reads literally '[someone] among the opponents present distinguished.'

[13] **Translator's note (L3013):** The first condition reads 'when the explicit text stops short of mentioning women.' The argument appears to require 'when the explicit text confines itself to mentioning women,' parallel to the following condition concerning men. The supplied wording has been retained rather than silently corrected.

community disagrees that a woman who accuses her husband is not required to engage in mutual imprecation by analogy with a man who accuses his wife and is required to engage in mutual imprecation. Thus, if analogy were valid, reasoning by analogy from someone who accuses a woman to someone who accuses a man, so that he should be flogged with the prescribed punishment, would have no greater claim and be no more correct than reasoning by analogy from someone who accuses his wife, so that she too should engage in mutual imprecation with him. No one can find any difference whatsoever between the two matters. It is therefore established that analogy is invalid, since, if it were valid, people would have employed it in mutual imprecation. It is also established that flogging someone who accuses a man does not derive from analogy, but from an explicit text, as we have stated. Success comes through Allah.[14][15]

L3015–3016 Some of them argued from the saying of Allah Most High: "He is the One who sent down to you the Book. In it are unequivocal verses, which are the foundation of the Book, and others that are ambiguous. As for those in whose hearts is deviation, they follow what is ambiguous in it, seeking discord and seeking its interpretation. None knows its interpretation except Allah. Those firmly grounded in knowledge say, 'We believe in it; all is from our Lord.' None takes heed except those possessed of understanding."

Abu Muhammed said: This proponent mumbled and did not state clearly [his contention that] there are things here in the Quran requiring analogy. Abu Muhammed said: These are words that give cause to think ill of their speaker's beliefs. No statement is worse than the statement of someone who says that Allah Most High made matters obscure to His servants concerning what He desired of them and what He charged them with, and that the

[14]**Translator's note (L3014):** The Quranic quotation is Quran 24:6. The supplied spelling contains omitted letters but no evident change of substantive wording. Mutual imprecation is the procedure of sworn attestations and invocations of Allah's curse or wrath associated with a husband's accusation against his wife. The final analogy is elliptically and awkwardly expressed in the Arabic: it mentions 'someone who accuses his wife' and then 'that she engage in mutual imprecation with him too,' without explicitly restating the corresponding case of a wife accusing her husband. That awkwardness has been retained.

[15]**Qur'an references (L3014):** Qur'an 24:6 (An-Nur).

واحتج بعضهم بقول الله تعالى {هو لذي أنزل عليك لكتاب منه آيات محكمات هن أم لكتاب وأخر متشابهات فأما الذين في قلوبهم زيغ فيتبعون ما تشابه منه بتغاء لفتنة وبتغاء تأويله وما يعلم تأويله إلا لله ولراسخون في لعلم يقولون آمنا به كل من عند ربنا وما يذكر إلا أولوا لألباب} قال أبو محمد وجمجم هذا المحتج ولم يصرح على ههنا أشياء من القرآن مفتقرة إلى القياس. قال أبو محمد: وهذا كلام يسيء الظن بمعتقد، قائله، ولا قول أسوأ من قول من قال: إن الله تعالى شبه على عباده فيما أراد منهم وفيما كلفهم وإن رسول الله صلى الله عليه وسلم لم يبين تلك الأشياء وتركها مهملة واحتاجوا فيها إلى قياسهم الفاسد. وقد بينا الكلام في باب مفرد في ديواننا هذا، وأخبرنا أنه لا يحل لأحد أن يتبع متشابه القرآن، ولا أن يطلب معنى ذلك المتشابه، وليس إلا الإقرار به، وأنه من عند الله تعالى كما قال عز وجل في آخر الآية المذكورة {هو لذي أنزل عليك لكتاب منه آيات محكمات هن أم لكتاب وأخر متشابهات فأما الذين في قلوبهم زيغ فيتبعون ما تشابه منه بتغاء لفتنة وبتغاء تأويله وما يعلم تأويله إلا لله ولراسخون في لعلم يقولون آمنا به كل من عند ربنا وما يذكر إلا أولوا لألباب}

Messenger of Allah, may Allah bless him and grant him peace ﷺ, did not clarify those things, but left them unattended, so that they needed their corrupt analogy concerning them. We have explained the matter in a separate chapter of this work of ours, and have stated that it is not lawful for anyone to pursue the ambiguous portions of the Quran or to seek the meaning of that which is ambiguous. There is only acknowledgment of it, and acknowledgment that it is from Allah Most High, as He, Mighty and Majestic, said at the end of the aforementioned verse: "He is the One who sent down to you the Book. In it are unequivocal verses, which are the foundation of of the Book, and others are ambiguous. As for those in whose hearts is deviation, they follow what is ambiguous in it, seeking discord and seeking its interpretation. None knows its interpretation except Allah. Those firmly grounded in knowledge say, 'We believe in it; all is from our Lord.' None takes heed except those possessed of understanding." And He, exalted is He, informed us therein, saying: "He is the One who sent down to you the Book. In it are unequivocal verses, which are the foundation of the Book, and others are ambiguous. As for those in whose hearts is deviation, they follow what is ambiguous in it, seeking discord and seeking its interpretation. None knows its interpretation except Allah. Those firmly grounded in knowledge say, 'We believe in it; all is from our Lord.' None takes heed except those possessed of understanding." Thus He, exalted is He, expressly stated that whoever seeks

وأخبر تعالى فيها فقال {هو لذي أنزل عليك لكتاب منه آيات محكمات هن أم لكتاب وأخر متشابهات فأما الذين في قلوبهم زيغ فيتبعون ما تشابه منه بتغاء لفتنة وبتغاء تأويله وما يعلم تأويله إلا لله ولراسخون في لعلم يقولون آمنا به كل من عند ربنا وما يذكر إلا أولوا لألباب} فنص تعالى على أن من طلب تأويل المتشابه فهو زائغ القلب، مبتغي فتنة.

the interpretation of the ambiguous is one whose heart deviates and who seeks discord.[16][17][18]

L3017–3018 We declare ourselves before Allah free of this description. It is therefore necessarily established by the texts that no one knows the interpretation of the ambiguous except Allah, mighty and majestic, alone and exclusively, because seeking knowledge of it is forbidden. When seeking knowledge of something is forbidden, the door to knowing it has necessarily been closed, since nothing pertaining to action can be attained without first seeking it. Whatever it is forbidden to seek, therefore, cannot be attained. This is clear, with nothing obscure about it. The routes to knowledge are known and delimited: they are the senses and reason, which Allah has implanted in those living beings subject to religious obligations—namely, the angels, the jinn, and those human beings in whom any of this has been placed—and then those things that Allah has commanded us to ascertain, and concerning which He has commanded us to ascertain His ruling, from what has come from Him, mighty and majestic: the Quran and the Sunnah alone. All these are routes that we have been commanded to follow and to use in drawing inferences. Yet we have been forbidden to seek the meaning of the ambiguous. It is therefore established that knowledge of its meaning cannot be attained by way of anything belonging to the senses, nor through what is rationally apprehended, nor through the Quran, nor through the Sunnah. Since this is

ونحن نبرأ إلى الله من هذه الصفة، فثبت بالنصوص، ضرورة، أن تأويل المتشابه، لا يعلمه أحد إلا الله عز وجل وحده فقط، لأن ابتغاء معرفته حرام، وما حرم ابتغاء معرفته فقد سد الباب دون معرفته ضرورة، إذ لا يوصل إلى شيء من العمل إلا بعد ابتغائه، فما حرم ابتغاؤه فلا سبيل إلى الوصول إليه، وهذا بين لا خفاء فيه، وطرق المعارف معروفة محصورة، وهي: الحواس والعقل اللذان ركبهما الله في المتعبدين من الحيوان، وهم الملائكة والجن، ومن وضع من ذلك فيه شيء من الإنس، ثم ما أمر الله بتعرفه وتعرف حكمه فيه، مما جاء من عنده عز وجل، وهو القرآن والسنة فقط، وهذه كلها طرق أمرنا بسلوكها والاستدلال بها، وقد نهينا عن طلب معنى المتشابه، فصح أنه لا يوصل إلى معرفة معناه من جهة شيء من الحواس، ولا من المعقول ولا من القرآن ولا من السنة، فإذا كان الأمر كذلك فلا سبيل لمخلوق إلى معرفته إلا أن الذي صح في الآي المحكمات التي أمرنا الله بتدبرها وبتعلمها، وبطلب تأويلها والتفقه فيها. فطاعة القرآن فيما أمر الله تعالى فيه ونهى وطاعة الرسول صلى الله عليه وسلم في الذي أمر فيه ونهى وترك التعدي لهذه الحدود، وبطلان ما عداها، فبطل القياس ضرورة لأنه غير هذه الحقائق، والحمد لله رب العالمين. واحتجوا فقالوا: حرم الله تعالى لحم الخنزير فحرمتم شحمه والأنثى منه، وهذا قياس. قال أبو محمد: وهذا ظن فاسد منهم، ومعاذ الله أن نحرم شحم الخنزير وأنثاه بقياس، بل بالإجماع الصحيح وبالنص في القرآن، ولو كان الشحم كحكم اللحم لوجب، إذ حرم على بني إسرائيل الشحم، أن يحرم عليهم اللحم، فإذا لم يكن ذلك فقد صح أن الشحم لم يحرم من الخنزير قياسا على اللحم. ومن الطرائف أن المحتجين بهذا يقولون، أو أكثرهم، إن الشحم جنس غير اللحم ويجيزون رطل لحم برطلي شحم، حتى إن جمهورهم، وهم صحاب أبي حنيفة،

[16] **Translator's note (L3015):** The supplied phrase following 'did not state clearly' reads "alā hāhunā,' which is syntactically corrupt or incomplete. The bracketed words supply the apparent connection to the contention that follows, without treating the reading as certain. Both quotations reproduce Quran 3:7, with the second beginning again at the opening of the verse even though the author introduces it as occurring 'at the end' of the verse. This apparent quotation-reference mismatch has been preserved. The unpunctuated Quranic wording permits different syntactic treatment of 'those firmly grounded in knowledge.' The translation places a stop after 'Allah,' consistent with the author's ensuing argument that the ambiguous passages are to be acknowledged rather than interpreted.

[17] **Translator's note (L3016):** The opening continues a Quranic quotation from the preceding segment. The supplied transcription repeatedly omits initial letters, particularly alifs; the words remain identifiable. The punctuation separating 'except Allah' from 'Those firmly grounded in knowledge' reflects the author's explicit interpretation of the verse.

[18] **Qur'an references (L3015):** Qur'an 3:7 (Ali 'Imran).

so, no created being has any way to know it. However, what is established concerning the unequivocal verses, which Allah has commanded us to ponder, learn, seek to interpret, and understand thoroughly, is obedience to the Quran in what Allah, exalted is He, has commanded and forbidden therein, obedience to the Messenger ﷺ in what he has commanded and forbidden, refraining from transgressing these limits, and the invalidity of everything beyond them. Analogy is therefore necessarily invalid, since it is something other than these realities. Praise belongs to Allah, Lord of the worlds. They advanced an argument, saying: 'Allah, exalted is He, forbade the flesh of swine, and you forbade its fat and the female of the species. This is analogy.' Abu Muhammed said: This is a corrupt supposition on their part. Allah forbid that we should prohibit swine fat and the female of the species by analogy! Rather, we do so by sound consensus and by the explicit text of the Quran. If fat had the same ruling as flesh, then, when fat was forbidden to the Children of Israel, flesh would necessarily have been forbidden to them. Since that was not the case, it is established that swine fat was not forbidden by analogy with its flesh. One of the curious things is that those who advance this argument—or most of them—say that fat is a different category from flesh, and permit exchanging one ratl of flesh for two ratls of fat. Indeed, the majority of them, namely the followers of Abu Hanifah, consider back fat different from abdominal fat, and so permit exchanging one ratl of abdominal fat for two ratls of goose fat. What, then, becomes of their ravings that swine fat was forbidden only by analogy with its flesh?[19][20]

يرون شحم الظهر غير شحم البطن، فيجيزون رطل شحم بطن برطلي شحم الأوز فأين هذيانهم، إنه إنما حرم شحم الخنزير قياسا على لحمه؟.

L3019–3026 The Shafiʿis, Hanafis, and Malikis say that someone who swears not to eat fat and then eats flesh does not break his oath. Nor is there any disagreement among them that, if someone says to another, 'Buy me flesh with this dirham,' and he buys him fat with it, he is liable. Their feeble analogy—that swine fat is assimilated by analogy to its flesh—is thus invalid. And there is no

والشافعيون والحنفيون والمالكيون يقولون: من حلف ألا يأكل شحما فأكل لحما فإنه لا يحنث، ولا خلاف بينهم أن من قال لآخر: ابتع لي بهذا الدرهم لحما فابتاع له به شحما فإنه ضامن. فبطل قياسهم البارد إن الشحم من الخنزير مقيس على لحمه، ولا خلاف بينهم أن العظم لا نسبة بينه وبين اللحم، ولا يجوز أن يقاس عليه، ونحن وهم مجمعون على أن من سحق عظم الخنزير فاستفه فقد عصى الله تعالى، فصح ضرورة أنه لم يحرم شحمه قياسا على لحمه، ولا أنثاه قياسا على ذكره، وبطل تمويههم والحمد لله. وإنما حرم شحم الخنزير وغضروفه ودماغه ومخه وعصبه، وعروقه وجلده وشعره وعظمه وعضله

[19] **Translator's note (L3017):** The text reads 'action' (al-ʿamal) in 'nothing pertaining to action can be attained.' 'Knowledge' (al-ʿilm) would fit the surrounding argument more readily, but the supplied reading has been retained.

[20] **Translator's note (L3018):** A ratl is a unit of weight; its particular regional value is not specified here. The wording introducing obedience as what is 'established concerning the unequivocal verses' is syntactically awkward in the supplied Arabic.

disagreement among them that bone bears no relation to flesh and cannot permissibly be assimilated to it by analogy. Both we and they unanimously agree that someone who crushes a swine's bone and swallows the powder has disobeyed Allah, exalted is He. It is therefore necessarily established that there was no prohibition of its fat by analogy with its flesh, nor of its female by analogy with its male. Their obfuscation is invalid, and praise belongs to Allah. Swine fat, its cartilage, its brain, its marrow, its sinews, its vessels, its skin, its hair, its bone, its muscle, its tooth, its cloven hoof, ownership of it, the female of the species, and her milk were forbidden only by the saying of Allah, exalted is He: "Say: I find in what has been revealed to me nothing forbidden to an eater who eats it, unless it be carrion, or blood poured forth, or the flesh of swine—for it is filth—or an act of transgression over which a name other than Allah's has been invoked. But whoever is compelled, neither seeking it nor transgressing—then your Lord is forgiving, merciful." In the language of the Arabs, a pronoun refers back to the nearest thing mentioned; we have devoted a separate chapter to this in this book of ours. The nearest thing mentioned to the pronoun in "O you who believe, wine, gambling, sacrificial stones, and divining arrows are only filth, of Satan's work; so avoid it, that you may prosper" is the swine, not the flesh. Thus the whole swine is filth by the explicit text, and all filth is foul and forbidden by the saying of Allah, exalted is He: "O you who believe, wine, gambling, sacrificial stones, and divining arrows are only filth, of Satan's work; so avoid it, that you may prosper." The pronoun in His saying, exalted is He, therefore refers back to filth, because, had He, exalted is He, intended the four things mentioned at the beginning of the verse, He would have said, 'So avoid them.' Since He, exalted is He, did not say that, and since the pronoun in His saying, exalted is He, "O you who believe, wine, gambling, sacrificial stones, and divining arrows are only filth, of Satan's work; so avoid it, that you may prosper," cannot refer back to Satan, because we are incapable of avoiding him, it is necessarily established that it refers back to filth and Satan's work. All filth is therefore forbidden; it is of Satan's work, forbidden, and something we are commanded to avoid. Thus whatever is filth is [subject to] avoiding it. The swine is filth, so the whole of it is forbidden and something we are commanded to avoid. Likewise wine, gambling, sacrificial stones, divining

وسنه وظلفه، وملكه والأنثى منه ولبنها، بقول الله تعالى: {قل لا أجد في مآ أوحي إلي محرما على طاعم يطعمه إلا أن يكون ميتة أو دما مسفوحا أو لحم خنزير فإنه رجس أو فسقا أهل لغير الله به فمن ضطر غير باغ ولا عاد فإن ربك غفور رحيم} والضمير في لغة العرب راجع إلى أقرب مذكور. وقد أفردنا لذلك بابا في كتابنا هذا وأقرب مذكور إلى الضمير الذي في {يأيها لذين آمنوا إنما خمر ولميسر ولأنصاب ولأزلام رجس من عمل لشيطان فجتنبوه لعلكم تفلحون} هو الخنزير لا اللحم، فالخنزير كله بالنص رجس والرجس كله خبيث محرم بقول الله تعالى {يأيها لذين آمنوا إنما خمر ولميسر ولأنصاب ولأزلام رجس من عمل لشيطان فجتنبوه لعلكم تفلحون} فرجع الضمير في قوله تعالى: إلى الرجس، لأنه تعالى لو أراد الأربعة المذكورة في أول الآية لقال: فاجتنبوها، فلما لم يقل تعالى ذلك، ولم يجز أن يكون الضمير راجعا في قوله تعالى {يأيها لذين آمنوا إنما خمر ولميسر ولأنصاب ولأزلام رجس من عمل لشيطان فجتنبوه لعلكم تفلحون} إلى الشيطان لأننا غير قادرين على اجتنابه، صح ضرورة أنه راجع إلى الرجس وعمل الشيطان، فكان الرجس كله محرما، وهو من عمل الشيطان محرم مأمور باجتنابه، فكل ما كان رجسا فهو باجتنابه، والخنزير رجس فكله محرم مأمور باجتنابه، وكذلك الخمر والميسر والأنصاب، والأزلام، وكل رجس بالنص المذكور، وبالله تعالى التوفيق. وإنما قلنا هذا حسما للأقوال، وإنما فالضمير راجع إلى عمل الشيطان، والرجس، بنص الآية، من عمل الشيطان، فهو مأمور باجتنابه بيقين، والخنزير رجس بنص القرآن، والخنزير كله حرام، والخنزير في لغة العرب، التي بها خوطبنا، اسم للجنس يقع تحته الذكر والأنثى والصغير والكبير، فبطل ما ظنوا أن تحريم الشحم إنما هو جهة القياس، وبالله تعالى التوفيق. ثم نقول لهم: أخبرونا عن قول الله تعالى: {قل لا أجد في مآ أوحي إلي محرما على طاعم يطعمه إلا أن يكون ميتة أو دما مسفوحا أو لحم خنزير فإنه رجس أو فسقا أهل لغير الله به فمن ضطر غير باغ

arrows, and every filthy thing, by the aforementioned explicit text. Through Allah, exalted is He, comes success. We have said this only to put an end to the arguments. And indeed, the pronoun refers back to Satan's work, while filth, by the explicit wording of the verse, is of Satan's work. It is therefore certainly something we are commanded to avoid. The swine is filth by the explicit text of the Quran, and the whole swine is forbidden. 'Swine,' in the language of the Arabs in which we have been addressed, is a generic noun encompassing male and female, young and old. Their supposition that the prohibition of fat comes only by way of analogy is thus invalid. Through Allah, exalted is He, comes success. Then we say to them: Tell us about the saying of Allah, exalted is He: "Say: I find in what has been revealed to me nothing forbidden to an eater who eats it, unless it be carrion, or blood poured forth, or the flesh of swine—for it is filth—or an act of transgression over which a name other than Allah's has been invoked. But whoever is compelled, neither seeking it nor transgressing—then your Lord is forgiving, merciful." What, according to you, did He intend by it? Flesh alone, excluding fat? If you say that, then, according to your assertion, He permitted fat. This contradicts Islam and contradicts your own position. Or did He intend by it fat, flesh, bone and milk? This is false, because all of that is called "flesh" by someone. Your position thus amounts to either a lie or unbelief: one of the two is unavoidable. If they say, "He prohibited flesh and thereby indicated fat," we say: "Bring your demonstration, if you are truthful." This is precisely where we disagree with you and declare your claim false. They have thus ended up in sheer error.

One of them argued: "You must permit killing unbelievers only by striking their necks, because Allah Most High says: {When you meet those who disbelieve, strike their necks; then, when you have thoroughly subdued them, bind them firmly. Thereafter, either release them graciously or ransom them, until war lays down its burdens. Thus it is. Had Allah willed, He would have exacted retribution from them Himself, but [He commands this] to test some of you through others. Those who are killed in Allah's path—He will never let their deeds go astray.}"

ولا عاد فإن ربك غفور رحيم} ماذا أراد به عندكم؟ اللحم وحده دون الشحم؟ فإن قلتم ذلك فقد أباح الشحم على قولكم، وهذا خلاف الإسلام، وخلاف قولكم، أم أراد به الشحم واللحم والعظم واللبن؟ فهذا باطل، لأن كل ذلك يقع عليه عند أحد اسم لحم، فقد حصل قولكم بين كذب وكفر، لا بد من إحداهما، فإن قالوا: حرم اللحم ودل بذلك على الشحم قلنا: هاتوا برهانكم إن كنتم صادقين، وفي هذا خالفناكم وكذبنا دعواكم، فحصلوا في ضلال محض. واحتج بعضهم بأن قال: يلزمكم ألا تبيحوا قتل الكفار إلا بضرب الرقاب فقط لقول الله تعالى {فإذا لقيتم لذين كفروا فضرب لرقاب حتى إذآ أثخنتموهم فشدوا لوثاق فإما منا بعد وإما فدآء حتى تضع لحرب أوزارها ذلك ولو يشآء الله لانتصر منهم ولكن ليبلو بعضكم ببعض ولذين قتلوا في سبيل لله فلن يضل أعمالهم} قال أبو محمد والجواب بأن الله تعالى إنما قال هذا في المتمكن منهم من الكفار، وهذا فرض بلا شك، ولا يحل خلافه، فمن أراد الإمام قتله من الأسارى لم يحل قتله إلا بضرب الرقبة خاصة، لا بالتوسيط ولا بالرماح ولا بالنبل ولا بالحجارة ولا بالخنق ولا بالسم ولا بقطع الأعضاء. وأما من لا يتمكن منه فقد قال تعالى {إذ يوحي ربك إلى لملائكة أني معكم فثبتوا لذين آمنوا سألقي في قلوب لذين كفروا لرعب فضربوا فوق لأعناق وضربوا منهم كل بنان} وقال تعالى {فإذا نسلخ لأشهر لحرم فقتلوا لمشركين حيث وجدتموهم وخذوهم وحصروهم وقعدوا لهم كل مرصد فإن تابوا وأقاموا لصلاة وآتوا لزكاة فخلوا سبيلهم إن لله غفور رحيم} فقتل هؤلاء واجب كيف ما أمكن بالنص المذكور، وهذا لا نعلم فيه خلافا، وهو ظاهر الآيات المذكورات ويبين أن المراد بالآية التي فيها ضرب رقاب الأسرى فقط قوله تعالى في تلك الآية بعينها {هو لذي أنزل لسكينة في قلوب لمؤمنين ليزدادوا إيمانا مع إيمانهم ولله جنود لسماوات ولأرض وكان لله عليما حكيما} فاستثنى الأسرى من

جملة قوله تعالى {إذ يوحي ربك إلى لملائكة أني معكم فثبتوا لذين آمنوا سألقي في قلوب لذين كفروا لرعب فضربوا فوق لأعناق وضربوا منهم كل بنان} و {فإذا نسلخ لأشهر لحرم فقتلوا لمشركين حيث وجدتموهم وخذوهم وحصروهم وقعدوا لهم كل مرصد فإن تابوا وأقاموا لصلاة وآتوا لزكاة فخلوا سبيلهم إن لله غفور رحيم} وقال بعضهم أيضا يلزمكم ألا تجيزوا أن يبدأ في غسل الذراعين في الوضوء إلا من الأنامل لقول الله تعالى {يا أيها لذين آمنوا إذا قمتم إلى لصلاة فغسلوا وجوهكم وأيديكم إلى لمرافق ومسحوا برؤوسكم وأرجلكم إلى لكعبين وإن كنتم جنبا فطهروا وإن كنتم مرضى أو على سفر أو جآء أحد منكم من لغائط أو لامستم لنسآء فلم تجدوا مآء فتيمموا صعيدا طيبا فمسحوا بوجوهكم وأيديكم منه ما يريد لله ليجعل عليكم من حرج ولكن يريد ليطهركم وليتم نعمته عليكم لعلكم تشكرون} قال أبو محمد: وهذا خطأ وقول فاسد، لأن الله تعالى لم ينص على أن يبدأ في ذلك من مكان من اليدين بعينه، وإنما جعل عز وجل المرافق نهاية موضع الغسل لا نهاية عمل الغسل، فكيف ما غسل الغاسل ما بين أطراف الأنامل إلى نهاية المرافق فقد فعل ما أمر به في النص ولا مزيد.

Abu Muhammed said: The answer is that Allah Most High said this only concerning those unbelievers over whom control has been secured. This is unquestionably an obligation, and departing from it is unlawful. Any prisoner whom the ruler intends to execute may lawfully be killed only by striking the neck specifically: not by cutting him in two, nor with spears, arrows, stones, strangulation, poison, or severing his limbs. As for someone over whom control has not been secured, He Most High said: {When your Lord revealed to the angels: "I am with you, so strengthen those who believe. I shall cast terror into the hearts of those who disbelieve. Strike above their necks, and strike every fingertip of theirs."} And He Most High said: {Then, when the sacred months have elapsed, kill the polytheists wherever you find them, seize them, besiege them, and lie in wait for them at every place of ambush. But if they repent, establish prayer, and give the obligatory alms, then let them go their way. Allah is indeed forgiving, merciful.}

Killing these people is therefore obligatory by whatever means are possible, under the aforementioned text. We know of no disagreement about this, and it is the apparent meaning of the verses cited. What makes clear that the verse mentioning the striking of necks refers only to prisoners is His Most High's statement in that very verse: {He is the one who sent down tranquility into the hearts of the believers, so that they might increase in faith alongside their faith. To Allah belong the armies of the heavens and the earth, and Allah is knowing, wise.} He thus excepted prisoners from the general scope of His Most High's statement: {When your Lord revealed to the angels: "I am with you, so strengthen those who believe. I shall cast terror into the hearts of those who disbelieve. Strike above their necks, and strike of theirs every fingertip."} And: {Then, when the sacred months have elapsed, kill the polytheists wherever you find them, seize them, and besiege them and lie in wait for them at every place of ambush. But if they repent, establish prayer, and give the obligatory alms, then let them go their way. Allah is indeed forgiving, merciful.}

One of them also said: "You must not permit washing the forearms during ablution to begin anywhere except at the fingertips, because Allah Most High says: {O you who believe, when you rise for prayer, wash your faces and your

hands up to the elbows, and wipe your heads, and [wash] your feet up to the ankles. If you are in a state of major ritual impurity, purify yourselves. If you are ill or on a journey, or one of you has come from relieving himself, or you have touched women, and you find no water, then resort to clean earth and wipe your faces and your hands with it. Allah does not wish to impose hardship upon you, but wishes to purify you and complete His favor upon you, so that you may give thanks.}"

Abu Muhammed said: This is an error and an unsound statement, because Allah Most High did not expressly stipulate that one must begin at any particular place on the hands. Rather, He, mighty and majestic, made the elbows the limit of the area to be washed, not the endpoint of the act of washing. Thus, however a person washes the area between the tips of the fingers and the far limit of the elbows, he has done what the text commands, and nothing further is required.[21][22][23][24]

L3027–3038 One of them argued from Allah Most High's statement: {Then, when they reach the end of their appointed term, retain them honorably or part with them honorably, and call to witness two persons of upright character from

واحتج بعضهم بقول الله تعالى: {فإذا بلغن أجلهن فأمسكوهن بمعروف أو فارقوهن بمعروف وأشهدوا ذوي عدل منكم وأقيموا لشهادة لله ذلكم يوعظ به من كان يؤمن بالله واليوم لآخر ومن يتق لله يجعل له مخرجا} قالوا وإنما قال ذلك تعالى في الطلاق والرجعة، يعني اشتراط العدالة، واشترط تعالى الرضا في الرجل والمرأتين في الديون فقط، فكان ذلك في سائر الأحكام قياسا على الطلاق والرجعة. قال أبو محمد: وهذا الاحتجاج من غريب نوادرهم فأول ذلك أن المحتج بهذا إن كان مالكيا فقد نسي نفسه في إباحتهم شهادة الطبيب الفاسق، وفي شهادة الصبيان في الدماء والجراحات خاصة، وهم غير موصوفين بعدالة، ولم يقس على ذلك الصبايا ولا تحريق الثياب. وإن كان حنفيا فقد نسي نفسه في قبول شهادة الكفار بعضهم على بعض، ونقضهم كلهم هذا الأصل في رد شهادة العبيد العدول والأقارب العدول، وأما نحن فلم نأخذ قبول شهادة العدول فيما عدا الطلاق والرجعة والديون قياسا على ذلك، ونعوذ بالله من هذا، وإنما لزم قبول العدول في كل موضع حاشا ما استثناه النص من

[21] **Translator's note (L3021):** The first quotation is Quran 6:145. In the subsequent claim that 'the nearest thing mentioned' is swine, the supplied text instead quotes Quran 5:90, which contains no mention of swine. This apparent quotation error has been retained. The wording 'whatever is filth is [subject to] avoiding it' renders the defective phrase fa-huwa bi-ijtināibihi; the bracketed words supply an English connection without silently replacing the Arabic. 'Ownership of it' renders the supplied mulkihi, which introduces ownership among the listed bodily parts and products.

[22] **Translator's note (L3022):** The supplied phrase wa-innamā fa-l-ḍamīr, rendered 'And indeed, the pronoun,' is syntactically irregular; its precise connective force is uncertain.

[23] **Translator's note (L3024):** The opening continues the preceding unit's question about whether the prohibition encompasses fat, flesh, bone, and milk. The supplied wording says that all these things are called "flesh" by someone. The argument appears to require a negation, but none is supplied; the translation preserves the affirmative wording. The quotation beginning "He is the one who sent down tranquility" is Quran 48:4, not part of the verse about striking necks, Quran 47:4. The source's assertion that it occurs "in that very verse" is preserved.

[24] **Qur'an references (L3019):** Qur'an 6:145 (Al-An'am); Qur'an 47:4 (Muhammad); Qur'an 9:5 (At-Tawbah); Qur'an 48:4 (Al-Fath); Qur'an 4:43 (An-Nisa); Qur'an 5:6 (Al-Ma'idah).

among you, and uphold testimony for Allah. This is what anyone who believes in Allah and the Last Day is admonished with. Whoever fears Allah, He will provide him a way out.} They said: "He Most High said this only concerning divorce and the resumption of marriage"—meaning the stipulation of upright character—"and He Most High stipulated acceptability in the case of the man and the two women only in matters of debt. Its application to all other legal rulings is therefore by analogy with divorce and the resumption of marriage."

Abu Muhammed said: This argument is one of their peculiarly remarkable productions. To begin with, if the person advancing it is a Maliki, he has forgotten his own position in their permitting the testimony of a morally depraved physician, and the testimony of boys specifically in cases of bloodshed and wounds, although they are not characterized by uprightness. Yet he did not extend this by analogy to girls or to the burning of clothes. If he is a Hanafi, he has forgotten his own position in accepting unbelievers' testimony against one another. All of them have contradicted this principle by rejecting the testimony of upright slaves and upright relatives.

As for us, we did not derive the acceptance of upright witnesses' testimony in matters other than divorce, the resumption of marriage, and debts by analogy with those matters—we seek refuge in Allah from this. Rather, accepting upright persons became obligatory in every instance, except what the text specifically excepted regarding the acceptance of unbelievers' testimony concerning a testament while traveling only, through Allah Most High's statement: {O you who believe, if a morally depraved person brings you a report, ascertain the truth, lest you harm people in ignorance and then become remorseful over what you have done.} Allah Most High thus forbade us to accept a morally depraved person. Among sane adults there is only either a morally depraved person or an upright person. We must therefore ascertain the condition of every witness and every informant until we know whether he is morally depraved, in which case we do not act on his report or his testimony when he conveys it to us, or know whether he is upright, in which case we act on his report and his testimony. This ignorant man's supposition is therefore invalid.

قبول شهادة الكفار في الوصية في السفر فقط في قول الله تعالى {يأيها لذين آمنوا إن جآءكم فاسق بنبإ فتبينوا أن تصيبوا قوما بجهالة فتصبحوا على ما فعلتم نادمين} فنهانا الله تعالى عن قبول الفاسق، ليس في البالغين العقلاء، وإلا فاسق أو عدل، فوجب علينا التبين في كل شاهد، وكل مخبر حتى نعلم أفاسق هو فلا نعمل بخبره ولا بشهادته إذا أنبأنا بها، أو نعلم أهو عدل؟ فنعمل بخبره وشهادته فبطل ظن هذا الجاهل وأما قبول عدلين في سائر الأحكام فقد كان يلزم هذا الجاهل، إن التزم القياس، أن يقيس جميع الشهادات في السرقة والقذف والخمر والقصاص والقتل على الشهادة في الزنى فلا يقبل في شيء مما ذكرنا إلا أربعة شهداء لا أقل، لأن الحدود بالحدود أشبه من الحدود بالطلاق والرجعة والديون، والزنى حد، وكل ما ذكرناه في السرقة والقذف والخمر حد. وكان يلزمه أيضا أن يقيس على الديون فيقبل في سائر الأشياء رجلا وامرأتين كما جاء النص في الأموال، وإلا فلأي معنى وجب أن يقاس على الرجعة والطلاق دون أن يقاس على الديون؟ فإن ادعى الإجماع، قيل له: كذبت وجهلت فالحسن البصري لا يقبل في القتل إلا أربعة شهداء عدول، وهذا عمر بن الخطاب وعطاء بن أبي رباح يقبلان في الطلاق النساء دون الرجال، وعطاء يقبل في الزنى ثماني النسوة، وأبو حنيفة يقبل في الطلاق والرجعة والنكاح رجلا وامرأتين، ولا يقبل ذلك في الحدود، وقول الحسن أدخل في القياس، لأن القتل أشبه بالزنى الذي يكون فيه القتل في الإحصان، فهو قتل وقتل، فالقتل بالقتل أشبه من القتل بالطلاق. وقول عمر وعطاء أشبه بالقياس، لأنهما جعلا مكان كل رجل امرأتين، وجلد الزنى جلد، وجلد القذف والخمر جلد، فالجلد بالجلد أشبه من الجلد بالرجعة في النكاح. وهذا ما لا يحل يخيل على من له أدنى حس سليم، لا سيما المالكيين الذين يقولون بقياس القتل على الزنى: أنه إن عبر عن القاتل أن يجلد مائة سوط ويغرب سنة، قياسا على الزاني غير المحصن، فهلا قلدوه عليه فيما يقبل عليه من عدد الشهود

As for accepting two upright witnesses in all other legal rulings, if this ignorant man committed himself to analogy, he would have been obliged to assimilate all testimony concerning theft, accusations of unlawful intercourse, wine, retaliation, and homicide to testimony concerning unlawful intercourse. He would then accept no fewer than four witnesses in any of the matters we have mentioned, because prescribed penalties resemble prescribed penalties more closely than prescribed penalties resemble divorce, the resumption of marriage, and debts. Unlawful intercourse incurs a prescribed penalty, and everything we have mentioned concerning theft, accusations of unlawful intercourse, and wine incurs a prescribed penalty. He would also have been obliged to draw an analogy with debts, and thus accept one man and two women in all other matters, as the text provides concerning property. Otherwise, on what grounds must an analogy be drawn with the resumption of marriage and divorce, without an analogy being drawn with debts? If he claims consensus, he is told: "You have lied and displayed ignorance." Al-Hasan al-Basri accepts only four upright witnesses in homicide cases. Here are Umar ibn al-Khattab and Ata ibn Abi Rabah accepting women without men in divorce cases; Ata accepts eight women in cases of unlawful intercourse. Abu Hanifa accepts one man and two women in divorce, the resumption of marriage, and marriage, but does not accept this in cases involving prescribed penalties.

Al-Hasan's position accords more closely with analogy, because homicide more closely resembles unlawful intercourse, for which there is execution when the offender has the status of a person who has consummated a valid marriage. It is thus execution and execution: execution resembles execution more closely than execution resembles divorce. Umar's and Ata's position more closely resembles analogy because they put two women in the place of each man. Flogging for unlawful intercourse is flogging, and flogging for accusations of unlawful intercourse and wine is flogging. Flogging thus resembles flogging more closely than flogging resembles the resumption of marriage.

This is something that it is not lawful to make appear plausible to anyone with even the slightest sound sense, especially the Malikis, who say, by analogy

ولكن هكذا يكون من سلك السبل فتفرقت به عن سبيل الله تعالى والعجب أن مالكا أجاز في القتل شاهدا واحدا وأيمان الأولياء، وهذا قياس على الشاهد واليمين في الأموال، فلا أجاز ذلك في الطلاق والنكاح والعتق وغير ذلك وأي فرق بين هذه الوجوه نعوذ بالله من التخليط والآراء والمقاييس الفاسدة في دين الله تعالى. واحتج بعضهم في ذلك بالآية الواردة في تعبير الرؤيا، وهذا تخليط ما شئت والرؤيا قتل كل كلام لا يقطع بصحتها، وقد تكون أضغاثا، والحكم في الدين استباحة للدماء، والفروج، والأموال وإيجاب العبادات، وإسقاط لكل ذلك، ولا يجوز الحكم في شيء من ذلك برؤيا أحد دون رؤيا النبي صلى الله عليه وسلم وإذا كانت هذه الرؤيا التي جعلها هذا المحتج أصلا لتصحيح القياس لا يجوز القطع بها في دين الله تعالى. فالقياس الذي هو فرعها أبعد من ذلك على قضيته الفاسدة التي رضيها لنفسه، وأيضا فإن كثيرا من الرؤيا يفسر فيها الشيء بضده؟ فيحمد القيد والسواد، ويذم العرس، وليس هذا من القياس في ورود ولا صدر، ولو كان ذلك في القياس لوجب إذا جاء النص بالأمر أن يفهم منه النهي، أو بالنهي أن يفهم منه ضده، وهذا عكس الحقائق، وبالجملة فهذا شغب فاسد ضعيف، لأن الحكم بالقياس عندهم إنما هو أن يحكم المسكوت عنه بحكم المنصوص عليه، وهذا هو غير العمل في الرؤيا جملة، ومن شبه دينه بالرؤيا، وفيها الأضغاث وما تتحدث به النفس، فقد كفى خصمه مؤنته، وبالله تعالى التوفيق. وذكروا أيضا قول الله تعالى {ولقد صرفنا للناس في هذا لقرآن من كل مثل فأبى أكثر لناس إلا كفورا} وقوله تعالى {وتلك لأمثال نضربها للناس وما يعقلهآ إلا لعالمون} قال أبو محمد صدق الله تعالى وكذب أصحاب القياس، وما أنكر ضرب الله تعالى الأمثال إلا كافر، بل قد ضرب الله عز وجل الأمثال في إدبار الدنيا بالزرع، وفي أعمال الكفار بسراب بقيعة، وفي الظالمين بالأمم السالفين فهذا لا يعقله فيغبط به إلا العالمون. ولعمري إن من صرف هذا الأمثال عما وضعها الله تعالى

between homicide and unlawful intercourse, that if the killer is 'passed over,' he is to be flogged one hundred lashes and banished for a year, by analogy with a perpetrator of unlawful intercourse who does not have the status of a person who has consummated a valid marriage. Why, then, did they not follow him in applying it to the number of witnesses accepted against him? But this is what happens to someone who follows the paths and is thereby led away from the path of Allah Most High. What is astonishing is that Malik permitted one witness together with the oaths of the victim's legal heirs in homicide cases. This is an analogy with one witness and an oath in property cases. Why, then, did he not permit that in divorce, marriage, emancipation, and other matters? What difference is there between these cases? We seek refuge in Allah from confusion, personal opinions, and unsound analogies in the religion of Allah Most High.

One of them argued for this from the verse concerning the interpretation of dreams. This is confusion to whatever extent you please. Dreams—'the killing of all speech'—cannot be established as certainly true, and they may be confused dreams. Ruling in religion means permitting the taking of lives, sexual relations, and property, imposing acts of worship, and removing all those obligations. No ruling in any of these matters may be based on anyone's dream other than the dream of the Prophet, may Allah bless him and grant him peace ﷺ. If this dream, which the person advancing the argument has made a basis for establishing the validity of analogy, cannot be treated as certain in the religion of Allah Most High, then analogy, which is its derivative, is even further from that, according to his own premise corrupt, which he has accepted for himself. Furthermore, in many dreams a thing is interpreted as its opposite: fetters and blackness are regarded favorably, while a wedding is regarded unfavorably. This has nothing whatsoever to do with analogy. Were this applicable to analogy, then, whenever a text commanded something, a prohibition would have to be understood from it, or, whenever it prohibited something, its opposite would have to be understood. This reverses realities. In sum, this is invalid, feeble disputation, because ruling by analogy, according to them, consists precisely in assigning to something about which the text is silent the ruling applicable to something expressly

له، إلى تحريم القديد بالقديد، إلا مثل بمثل، أو البتة وإلى أن على المرأة الموطوءة في نهار رمضان عتق رقبة، وإلى أن الصداق لا يكون إلا عشرة دراهم أو ربع دينار، وإلى أن من لاط حد حد الزنى، لجريء على القول على الله تعالى بغير علم. وليت شعري لو ادعى خصمهم عليهم واستحل ما يستحلونه، فادعى في هذه الآيات أنها تقتضي ضد مذاهبهم فيما ذكرنا، أكان بينه وبينهم فرق؟ ونعوذ بالله من الخذلان. وكما نقول: إن الله تعالى ضرب لنا الأمثال، وإن أمثاله المضروبة كلها حق، لأنه تعالى قال ذلك فيها. فكذلك نقول: لا يحل لنا ضرب الأمثال لله تعالى لأنه قال تعالى {فلا تضربوا لله لأمثال إن لله يعلم وأنتم لا تعلمون} والقياس ضرب أمثال الله تعالى بيقين منا ومنهم، فهو حرام وباطل، لنهي الله تعالى عنا نصا، وبالله تعالى التوفيق. فهذا كل ما شغبوا به من القرآن، ووضعهوه في غير مواضعه، وقد أوردناه وبينا ذلك لكل ذي حس سليم أنه لا حجة لهم في شيء منه، وأن أكثره مانع من القول في الدين بغير نص من الله تعالى. واحتجوا من الحديث بما كتب به إلي يوسف بن عبد الله النمري؛ حدثنا سعيد ابن نصر، ثنا قاسم بن أصبغ، ثنا محمد بن وضاح، ثنا أبو بكر بن أبي شيبة، حدثنا شبابة بن سوار المدائني، عن الليث بن سعد، عن بكير بن عبد الله بن الأشج، عن عبد الملك بن سعيد الأنصاري، عن جابر بن عبد الله، عن عمر بن الخطاب قال: هششت إلى المرأة فقبلتها وأنا صائم فأتيت النبي صلى الله عليه وسلم فقلت يا رسول الله أتيت أمرا عظيما قبلت وأنا صائم فقال رسول الله صلى الله عليه وسلم أرأيت لو مضمضت بماء وأنت صائم قلت لا بأس. قال: ففيم؟. قال أبو محمد: لو لم يكن في إبطال القياس إلا هذا الحديث لكفى، لأن عمر ظن أن القبلة تفطر الصائم قياسا على الجماع فأخبره صلى الله عليه وسلم أن الأشياء المماثلة والمتقاربة لا تستوي أحكامها، وأن المضمضة لا تفطر، ولو تجاوز الماء الحلق عمدا لأفطر، وأن الجماع يفطر، والقبلة

addressed by the text. This is entirely different from the procedure followed in interpreting dreams. Whoever likens his religion to dreams, which include confused dreams and things the soul says to itself, has spared his opponent the trouble of refuting him. Success comes through Allah Most High. They also cited the words of Allah Most High: "We have indeed variously presented for people in this Quran every kind of parable, yet most people refuse anything but unbelief"; and His words, Most High: "These parables We set forth for people, but none understands them except those who possess knowledge." Abu Muhammed said: Allah Most High has spoken the truth, and the advocates of analogy have lied. None denies the setting forth of parables by Allah Most High except an unbeliever. Indeed, Allah, Mighty and Majestic, has set forth parables concerning the passing away of this world through crops, concerning the deeds of the unbelievers through a mirage on a level plain, and concerning wrongdoers through bygone nations. None understands this, and is consequently to be envied for it, except those who possess knowledge. By my life, anyone who diverts these parables from the purposes for which Allah Most High established them to the prohibition of exchanging dried meat for dried meat except in equal quantities, or to its outright prohibition; to requiring a woman who has been subjected to intercourse during the daytime in Ramadan to emancipate a slave; to holding that the bridal dower can only be ten dirhams or a quarter of a dinar; and to imposing upon someone who commits sodomy the prescribed punishment for unlawful sexual intercourse—such a person is indeed audacious in speaking about Allah Most High without knowledge. I should like to know: if their opponent made a claim against them and deemed permissible what they deem permissible, asserting that these verses entail the opposite of their positions on the matters we have mentioned, would there be any difference between him and them? We seek refuge in Allah from abandonment. Just as we say that Allah Most High has set forth parables for us, and that all the parables He has set forth are true, because He Most High has said this concerning them, so too we say that it is unlawful for us to set forth comparisons for Allah Most High, because He Most High said: "So do not set forth comparisons for Allah. Indeed, Allah knows, and you do not know." Analogy is the setting forth of comparisons for Allah Most High, as both we and they know with

لا تفطر، وهذا هو إبطال القياس حقا. ولا شبه بين القبلة والمضمضة فيمكنهم أن يقولوا إنه صلى الله عليه وسلم قاس القبلة على المضمضة لأنهم لا يرون القياس إلا بين شيئين مشتبهين، وبضرورة العقل والحس نعلم أن القبلة من الجماع أقرب شيئا، لأنهما من باب اللذة، فهما أقرب شبها من القبلة إلى المضمضة. ثم إن الحديث عائد للمالكيين، لأنهم يستحبون المضمضة للصائم في الوضوء، ويكرهون له القبلة، فقد فرقوا بإقرارهم بين ما زعموا أنه عليه السلام سوى بينهما، وفي هذا ما فيه، فبطل شغبهم بهذا الحديث، وعاد عليهم حجة، والحمد لله رب العالمين. واحتجوا بما حدثناه أحمد بن محمد الطلمنكي، ثنا ابن مفرج، ثنا محمد بن أيوب الصموت، ثنا أحمد بن عمرو بن عبد الخالق البزار، ثنا إبرهيم بن نصر، ثنا الفضل بن دكين، ثنا طلحة بن عمر عن عطاء عن أبي هريرة عن النبي صلى الله عليه وسلم قال إذا كنت إماما فقس الناس بأضعفهم قال أبو محمد: طلحة بن عمرو ركن من أركان الكذب متروك الحديث، قاله أحمد ويحيى وغيرهما، وهذا حديث مشهور من طريق أبي هريرة وعثمان بن أبي العاص، ليس في شيء منه هذه اللفظة البتة إلا من هذه الطريق الساقطة. ولو صحت ما كانت لهم فيه حجة أصلا، لأنه ليس هنا شيء مسكوت قيس بمنصوص عليه وإنما أمر صلى الله عليه وسلم الإمام أن يخفف الصلاة على قدر احتمال أضعف من خلفه، وليس يخرج من هذا تحريم البلوط بالبلوط متفاضلا، والنص قد جاء بإيجاب أن يخفف الإمام الصلاة رفقا بالناس كلهم.

certainty. It is therefore forbidden and invalid, because Allah Most High has explicitly forbidden us this. Success comes through Allah Most High. This, then, is everything from the Quran that they have used for disputation and placed where it does not belong. We have presented it and made clear to everyone of sound perception that they have no proof in any of it, and that most of it precludes speaking about religion without a text from Allah Most High. From the hadith, they adduced as evidence what Yusuf ibn Abd Allah al-Namari wrote to me: Said ibn Nasr related to us; Qasim ibn Asbagh related to us; Muhammed ibn Waddah related to us; Abu Bakr ibn Abi Shaybah related to us; Shababah ibn Sawwar al-Madaini related to us, from al-Layth ibn Sad, from Bukayr ibn Abd Allah ibn al-Ashajj, from Abd al-Malik ibn Said al-Ansari, from Jabir ibn Abd Allah, from Umar ibn al-Khattab, who said: "I felt desire for the woman and kissed her while I was fasting. I went to the Prophet ﷺ and said: 'O Messenger of Allah, I have done something grave: I kissed while I was fasting.' The Messenger of Allah ﷺ said: 'Tell me, what if you rinsed your mouth with water while you were fasting?' I said: 'There would be no harm.' He said: 'Then what is the concern?'" Abu Muhammed said: If there were nothing to invalidate analogy except this hadith, it would suffice. Umar thought that kissing broke the fasting person's fast by analogy with intercourse. He ﷺ informed him that things which resemble one another and are closely related do not have identical rulings: rinsing the mouth does not break the fast, although, if the water deliberately passed beyond the throat, it would break the fast; intercourse breaks the fast, while kissing does not. This is truly the invalidation of analogy. There is no resemblance between kissing and rinsing the mouth that would enable them to say that he ﷺ drew an analogy between kissing and rinsing the mouth, for they recognize analogy only between two things that resemble one another. Through the necessary evidence of reason and sense perception, we know that kissing is more closely related to intercourse, since both belong to the category of pleasure: the resemblance between them is closer than that between kissing and rinsing the mouth. Moreover, the hadith turns against the Malikis, because they regard rinsing the mouth during ablution as recommended for someone fasting, while they regard kissing as disapproved for him. By their own admission, they have thus distinguished between the

things they claim he, peace be upon him, treated alike. This has the implications it has. Their disputation based on this hadith is therefore invalid, and it becomes a proof against them. Praise be to Allah, Lord of the worlds. They adduced as evidence what Ahmad ibn Muhammed al-Talamanki related to us: Ibn Mufarrij related to us; Muhammed ibn Ayyub al-Samut related to us; Ahmad ibn Amr ibn Abd al-Khaliq al-Bazzar related to us; Ibrahim ibn Nasr related to us; al-Fadl ibn Dukayn related to us; Talhah ibn Umar related to us, from Ata, from Abu Hurayrah, from the Prophet—blessings of Allah and peace be upon him—who said: "When you are an imam, measure the people by the weakest among them." Abu Muhammed said: Talhah ibn Amr is one of the pillars of lying, a transmitter whose hadith is abandoned. Ahmad, Yahya, and others said this. This is a well-known hadith transmitted through Abu Hurayrah and Uthman ibn Abi al-As. This particular expression occurs in absolutely none of its versions except through this discredited transmission route. Even if it were authentic, they would have no proof in it at all, because there is nothing here about which the text is silent that has been subjected to analogy with something expressly addressed by a text. He ﷺ merely commanded the imam to shorten the prayer in accordance with the endurance of the weakest person behind him. No prohibition of exchanging acorns for acorns in unequal quantities follows from this. The

text has already established the obligation for the imam to shorten the prayer out of consideration for all the people.[25][26][27][28][29][30]

L3039–3041 How, then, could their claim stand, when this report has come only in two wordings: “Follow the weakest among them,” and “Gauge the people by the weakest among them”? Thus Abd Allah ibn Rabi related to us: Muhammed ibn Muawiyah related to us; Ahmad ibn Shuayb related to us; Ahmad ibn Sulayman related to us; Affan ibn Muslim related to us; Hammad ibn Salamah related to us; Said al-Jurayri related to us, from Abu al-Ala, from Mutarrif ibn al-Shikhkhir, from Uthman ibn Abi al-As, who said: “I said: ‘O Messenger of Allah, appoint me imam of my people.’ He said: ‘You are their imam. Follow the weakest among them, and appoint a caller to prayer who takes no payment for his call to prayer.’” Abd Allah ibn Rabi related to us: Muhammed ibn Muawiyah related to us; Ahmad ibn Shuayb related to us; Qutaybah related to us; Malik related to us, from Abu al-Zinad, from al-Araj, from Abu

فكيف وإنما جاء هذا الخبر بلفظين: اقتد بأضعفهم واقدر الناس بأضعفهم كما حدثنا عبد الله بن ربيع، ثنا محمد بن معاوية، ثنا أحمد بن شعيب، ثنا أحمد بن سليمان، ثنا عفان بن مسلم، ثنا حماد بن سلمة، ثنا سعيد الجريري، عن أبي العلاء، عن مطرف بن الشخير، عن عثمان بن أبي العاص قال: قلت: يا رسول الله اجعلني إمام قومي، قال: أنت إمامهم واقتد بأضعفهم، واتخذ مؤذنا لا يأخذ على أذانه أجرا. حدثنا عبد الله بن ربيع، ثنا محمد بن معاوية، ثنا أحمد بن شعيب، نا قتيبة، نا مالك، عن أبي الزناد عن الأعرج عن أبي هريرة عن النبي صلى الله عليه وسلم قال إذا صلى أحدكم بالناس فليخفف فإن فيهم السقيم والضعيف والكبير، وإذا صلى أحدكم لنفسه فليطول ما شاء. وهكذا رواه أيضا أبو سلمة عن أبي هريرة. واحتجوا أيضا بما حدثناه عبد الله بن ربيع، نا عمر بن عبد الملك، ثنا محمد بن بكر، نا أبو داود، نا قتيبة، عن الليث، عن عقيل، عن الزهري، عن سعيد بن المسيب عن أبي هريرة قال قال رسول الله صلى الله عليه وسلم لا يلدغ المؤمن من جحر مرتين قال أبو محمد: وقد قلنا مرارا إننا لا ننكر نقل لفظ إلى معنى آخر، إذا صح ذلك بنص آخر أو إجماع، ولكن إذا كان عندهم هذا قياسا فإنه يلزمهم أنه متى سمعوا ذكر جحر في أي شيء ذكر، أن يقيسوا عليه كل ما في العالم، كما جاء النهي عن البول في الجحر فلم يقيسوا عليه غيره. فإذا لم يفعلوا فلا شك أنه إنما انتقل إلى ههنا لفظ الجحر إلى كل ما عداه بالإجماع، وبالله تعالى التوفيق واحتجوا أيضا بقوله صلى الله عليه وسلم للخثعمية وللمستفتية التي ماتت وعليها صوم. وهو حديث مشهور رويناه من طرق، ومن بعضها ما حدثناه عبد الله بن يوسف، عن أحمد بن فتح، عن عبد الوهاب بن عيسى، عن أحمد بن محمد، عن أحمد بن علي، ثنا مسلم بن الحجاج، حدثني أحمد بن عمر الوكيعي، ثنا حسين بن علي الجعفي، عن

[25] **Translator’s note (L3027):** The wording rendered “Among sane adults there is only either a morally depraved person or an upright person” is syntactically irregular in the supplied Arabic, which contains an apparently intrusive conjunction before “except.” Its evident binary distinction is retained.

[26] **Translator’s note (L3030):** The wording rendered “it is not lawful to make appear plausible” is awkward and possibly corrupt: the supplied text reads “ما لا يحل يخيل.” No secure correction is evident. “If the killer is ‘passed over’” represents the uncertain supplied wording “إن عبر عن القاتل.” The context suggests a reference to pardoning the killer, but the Arabic does not clearly say this. The antecedent of “him” in “did they not follow him” is unclear in the supplied wording; the translation preserves that uncertainty.

[27] **Translator’s note (L3031):** The phrase “قتل كل كلام,” translated literally as “the killing of all speech,” is apparently corrupt. It interrupts an otherwise intelligible statement that the truth of dreams cannot be established with certainty; no correction has been silently substituted. The concluding “premise” continues into the following segment, where it is qualified as unsound.

[28] **Translator’s note (L3034):** The phrase rendered “because Allah Most High has explicitly forbidden us this” reads li-nahy Allahi taala anna nassan. The preposition anna is syntactically awkward here; the translation conveys the prohibition asserted in the surrounding argument.

[29] **Translator’s note (L3036):** The transmitter is called Talhah ibn Umar here, but Talhah ibn Amr in the next unit. The discrepancy in the supplied text has been retained.

[30] **Qur’an references (L3027):** Qur’an 65:2 (At-Talaq); Qur’an 49:6 (Al-Hujurat); Qur’an 17:89 (Al-Isra); Qur’an 29:43 (Al-’Ankabut).

Hurayrah, from the Prophet ﷺ, who said: "When one of you leads the people in prayer, let him shorten it, for among them are the sick, the weak, and the elderly. When one of you prays on his own, let him prolong it as much as he wishes." It was also transmitted in this same way by Abu Salamah, from Abu Hurayrah. They also adduced as evidence what Abd Allah ibn Rabi related to us: Umar ibn Abd al-Malik related to us; Muhammed ibn Bakr related to us; Abu Dawud related to us; Qutaybah related to us, from al-Layth, from Uqayl, from al-Zuhri, from Said ibn al-Musayyab, from Abu Hurayrah, who said: The Messenger of Allah ﷺ said: "The believer is not bitten from the same burrow twice." Abu Muhammed said: We have said repeatedly that we do not reject transferring an expression to another meaning when this is established by another text or by consensus. But if they regard this as analogy, they are bound, whenever they hear a burrow mentioned, in whatever connection it is mentioned, to draw an analogy from it to everything in the world. Thus a prohibition has been transmitted against urinating into a burrow, yet they have not extended it by analogy to anything else. Since they have not done so, there is no doubt that it is only by consensus that the expression "burrow" has here been extended to everything other than it. Success comes through Allah Most High. They also adduced as evidence his ﷺ words to the woman of Khatham and to the woman seeking a ruling who had died owing a fast. This is a well-known hadith that we have transmitted through several routes. Among them is what Abd Allah ibn Yusuf related to us, from Ahmad ibn Fath, from Abd al-Wahhab ibn Isa, from Ahmad ibn Muhammed, from Ahmad ibn Ali: Muslim ibn al-Hajjaj related to us; Ahmad ibn Umar al-Wakii related to me; Husayn related to us ibn Ali al-Jufi, from Zaidah, from Sulayman al-Amash, from Muslim al-Batin, from Said ibn Jubayr, from Ibn Abbas, who said: A man came to the Prophet ﷺ and said: "O Messenger of Allah, my mother died owing a month's fast. Should I make it up on her behalf?"[31]

L3042 He said, "If your mother owed a debt, would you discharge it on her behalf?" He said, "Yes." He said, "Then a debt owed to Allah has a greater claim to

[31] **Translator's note (L3040):** The supplied wording describes the woman seeking a ruling as herself having died while owing a fast. This is an apparent textual error: the following report concerns an inquirer's deceased mother. The wording has been translated without silently supplying a missing reference to the mother.

زائدة، عن سليمان الأعمش، عن مسلم البطين، عن سعيد بن جبير عن ابن عباس قال جاء رجل إلى النبي صلى الله عليه وسلم فقال يا رسول الله إن أمي ماتت وعليها صوم شهر أفأقضيه عنها؟.

قال: لو كان على أمك دين أكنت قاضيه عنها؟ قال: نعم. قال: فدين الله أحق أن يقضى قال الأعمش: فقال الحكم بن عتيبة وسلمة بن كهيل جميعا ونحن جلوس حين حدث مسلم هذا الحديث فقال: سمعنا مجاهدا يذكر هذا الحديث عن ابن عباس.

be discharged." Al-Aʿmash said: Al-Hakam ibn ʿUtaybah and Salamah ibn Kuhayl both spoke, while we were sitting there when Muslim related this hadith, saying, "We heard Mujahid relate this hadith from Ibn ʿAbbas."

L3043–3058 Among them is what ʿAbd Allah ibn Rabiʿ related to us: Muhammed ibn Muʿawiyah related to us: Ahmad ibn Shuʿayb related to us: Khushaysh ibn Asram al-Nasaʾi related to us, from ʿAbd al-Razzaq: Maʿmar informed us, from ʿIkrimah, from Ibn ʿAbbas, who said: A man said, "O Prophet of Allah, my father died without performing the pilgrimage. Shall I perform the pilgrimage on his behalf?" He said, "Consider: if your father owed a debt, would you discharge it?" He said, "Yes." He said, "Then a debt owed to Allah has a greater claim." Muhammed ibn Saʿid ibn Nabat informed me: Ahmad ibn ʿAwn Allah related to us: Qasim ibn Asbagh related to us: Muhammed ibn ʿAbd al-Salam al-Khushani related to us: Muhammed ibn Bashshar related to us: Muhammed ibn Jaʿfar, Ghundar, related to us: Shuʿbah related to us, from Abu Bishr—namely, Jaʿfar ibn Abi Wahshiyyah—who said: I heard Saʿid ibn Jubayr relate from Ibn ʿAbbas that a woman vowed to perform the pilgrimage and then died. Her brother came to the Prophet ﷺ and asked him about that. He said, "Consider: if your sister owed a debt, would you discharge it?" He said, "Yes." He said, "Then discharge what is owed to Allah, for He has a greater claim to fulfillment." Abu Muhammed said: This is among the most astonishing things they have adduced as evidence, and among those that most disgrace their positions and expose their corrupt doctrines. As for the Shafiʿis, Hanafis, and Malikis, they ought to be ashamed to mention the hadith about fasting with which we began, because they disobey it and oppose its provision concerning making up a deceased person's fasts on that person's behalf. How, then, can they find it permissible, or bring their tongues to pronounce, that analogy is obligatory on the basis of this hadith, when it contains absolutely no trace of analogy? Yet they venture to contradict it, saying, "No one may fast on anyone else's behalf." As for the Malikis and Hanafis, they have gone still further in their audacity: they do not hold that debts owed to Allah Most High, consisting of obligatory alms, vows, and expiations, are to be discharged from anyone's estate before its division. They say, "Debts owed to people have a greater claim to be dis-

ومنها ما حدثناه عبد الله بن ربيع، ثنا محمد بن معاوية: ثنا أحمد بن شعيب، حدثنا خشيش بن أصرم النسائي، عن عبد الرزاق، أنا معمر، عن عكرمة، عن ابن عباس قال: قال رجل: يا نبي الله إن أبي مات ولم يحج، أفأحج عنه؟ قال: أرأيت لو كان على أبيك دين كنت قاضيه؟ قال: نعم، قال: فدين الله أحق. أخبرني محمد بن سعيد بن نبات، نا أحمد بن عون الله، نا قاسم بن أصبغ، ثنا محمد بن عبد السلام الخشني، نا محمد بن بشار، نا محمد بن جعفر غندر، نا شعبة، عن أبي بشر، هو جعفر بن أبي وحشية، قال: سمعت سعيد بن جبير يحدث عن ابن عباس: أن امرأة نذرت أن تحج فماتت فأتى أخوها النبي صلى الله عليه وسلم فسأله عن ذلك فقال أرأيت لو كان على أختك دين أكنت قاضيه؟ قال: نعم. قال: فاقضوا الله فهو أحق بالوفاء. قال أبو محمد: وهذا من أعجب ما احتجوا به وأشده فضيحة لأقوالهم، وهتكا لمذاهبهم الفاسدة. أما الشافعيون والحنفيون والمالكيون فينبغي لهم أن يستحوا من ذكر حديث الصوم الذي صدرنا به، لأنهم عاصون له، مخالفون لما فيه من قضاء الصيام عن الميت. فكيف يسوغ لهم أو تواتيهم ألسنتهم بإيجاب القياس من هذا الحديث؟ وليس فيه للقياس أثر البتة؟ ويقدمون على خلافه، فيقولون: لا يصوم أحد عن أحد. وأما المالكيون والحنفيون فإنهم زادوا إقداما، فلا يقولون بقضاء ديون الله تعالى من الزكاة والنذور والكفارات من رأس مال أحد. ويقولون: ديون الناس أحق بالقضاء من ديون الله تعالى؛ واقضوا الناس فهم أحق بالوفاء، وإن ديون الناس من رأس المال، وديون الله تعالى من الثلث، إن أوصى بها، وإلا فلا تؤدى البتة، لا من الثلث ولا من غيره، والله إن الجلود لتقشعر من أن يكون الرسول صلى الله عليه وسلم يقول اقضوا الله فهو

charged than debts owed to Allah Most High," and, "Discharge what is owed to people, for they have a greater claim to fulfillment," and that debts owed to people are payable from the estate before its division, whereas debts owed to Allah Most High are payable from the disposable third if the deceased made a bequest concerning them; otherwise they are not to be paid at all, either from the third or from anything else. By Allah, one's skin indeed shudders at the fact that the Messenger ﷺ should be saying, "Discharge what is owed to Allah, for He has a greater claim to fulfillment," and, "A debt owed to Allah has a greater claim to be discharged," while these wretched men, with their forsaken opinions, blindly following those who were neither protected against error nor furnished with a declaration from Allah Most High certifying their correctness—Abu Hanifah, Malik, and their followers—say, "Leave aside the words of your Prophet ﷺ, pay them no heed, and accept our statement: discharge debts owed to people, for their debts have a greater claim than a debt owed to Allah Most High." Abu Muhammed said: We know of nothing among religious innovations uglier or more abominable than this. The adherents of religious innovations did not deem the hadiths authentic, and therefore have more excuse for abandoning them. These men, however, profess, as they claim, to accept the report of a single upright transmitter and to hold that it is true and may not be contradicted. They have absolutely no grounds for impugning these chains of transmission, yet they venture openly to contradict them. What admits of no doubt is that anyone whom these reports have reached, who has found them authentic, and who then deems it permissible to contradict what is authentically established from the Messenger of Allah ﷺ in order to follow the position of Abu Hanifah and Malik, is an unbeliever and a polytheist, whose blood may lawfully be shed and whose property may lawfully be taken, joining the ranks of the Jews and Christians. As for someone who authenticates a chain of transmission of this kind and bases religious rulings upon it, but then says of these reports, "It is not authentic," he is a brazen evildoer, possessing little shame and displaying his defiance openly. We seek refuge in Allah from both courses, for both are courses of degradation. Then there is their collective refusal to extend by analogy the ruling on performing the pilgrimage on a deceased person's behalf, when that person has directed it in a bequest, to fasting on a deceased

أحق بالوفاء ودين الله أحق أن يقضى فيقول هؤلاء المساكين بآرائهم المخذولة، تقليدا لمن لم يعصم من الخطأ، ولا أنته براءة من الله تعالى بالصواب، من أبي حنيفة ومالك وأصحابهما دعوا كلام نبيكم صلى الله عليه وسلم ولا تلتفتوه وخذوا قولنا فاقضوا ديون الناس، فدينهم أحق من دين الله تعالى. قال أبو محمد: ما نعلم في البدع أقبح من هذا ولا أشنع منه، لأن أهل البدع لم يصححوا الأحاديث، فهم أعذر في تركها، وهؤلاء يقولون بزعمهم بخبر الواحد العدل، وأنه حق لا يجوز خلافه، وليس لهم في هذه الأسانيد مطعن البتة ثم يقدمون على المجاهرة بخلافها. والذي لا يشك فيه، أن من بلغته هذه الآثار. وصحت عنده ثم استجاز خلاف ما صح عن رسول الله صلى الله عليه وسلم إتباعا لقول أبي حنيفة ومالك فهو كافر مشرك حلال الدم والمال، لاحق باليهود النصارى. وأما من صحح مثل هذا الإسناد وحكم به في الدين، ثم قال في هذه لا يصح، فهو فاسق وقاح قليل الحياء بادي المجاهرة، نعوذ بالله من كلتي الخطتين فهما خطتا خسف. ثم تركهم كلهم أن يقيسوا الصوم عن الميت، وإن أوصى به على الحج عنه إذا أوصى به، وهم يدعون أنهم أصحاب قياس، فهم أول من ترك القياس، في الحديث الذي احتجوا به مع تركهم لحديث الصوم، وقياسهم عليه وهم لا يأخذون به. ثم نقول وبالله تعالى التوفيق: إنه ليس في هذا الحديث قياس أصلا، ولا دلالة على القياس، ولكنه نص من الله تعالى أخبر في آية المواريث فقال: {ولكم نصف ما ترك أزواجكم إن لم يكن لهن ولد فإن كان لهن ولد فلكم لربع مما تركن من بعد وصية يوصين بها أو دين ولهن لربع مما تركتم إن لم يكن لكم ولد فإن كان لكم ولد فلهن لثمن مما تركتم من بعد وصية توصون بها أو دين وإن كان رجل يورث كلالة أو مرأة وله أخ أو أخت فلكل واحد منهما لسدس فإن كانوا أكثر من ذلك فهم شركاء في لثلث من بعد وصية يوصى بها أو دين غير مضار وصية من لله ولله عليم

person's behalf, even when that person has directed it in a bequest. They claim to be proponents of analogy, yet they are the first to abandon analogy in the very hadith they have adduced as evidence, while abandoning the hadith about fasting and drawing analogies from it although they do not follow it. Then we say—and success comes through Allah Most High—that this hadith contains no analogy whatsoever, nor any indication supporting analogy. Rather, it is an explicit text from Allah Most High, who declared in the verse concerning inheritances: {And you shall have half of what your wives leave if they have no child; but if they have a child, you shall have a quarter of what they leave, after any bequest they make or debt. And they shall have a quarter of what you leave if you have no child; but if you have a child, they shall have an eighth of what you leave, after any bequest you make or debt. And if a man whose estate is inherited leaves neither direct ascendants nor descendants, or a woman, and he has a brother or sister, then each one of the two shall have a sixth; but if they are more than that, they shall share in the third, after any bequest made or debt, without causing harm—a prescription from Allah; and Allah is All-Knowing, Forbearing.} Thus Allah, Mighty and Majestic, included all debts without restriction. Through rational necessity we know that whatever Allah has made obligatory upon us concerning our property unquestionably falls under the designation 'debt.' Then, through the explicit texts and through rational necessity, we know that Allah's command has a greater claim to obedience, is more entitled to implementation, and is more binding upon us than people's commands. This explicit text would have sufficed for the man and the woman who questioned the Prophet ﷺ, had they recalled it. The Prophet ﷺ therefore informed them that all of that constitutes a debt, and further taught them that a debt owed to Allah Most High has a greater claim to be discharged than debts owed to people. This is a clear explicit text. Where, then, is there any trace of analogy here, or any avenue for it, if only these people would deal fairly with themselves and consider their own interests? Yet among calamities there is nothing more abominable than the statement of someone who says: "When the Prophet ﷺ commands that fasting and pilgrimage be performed on a deceased person's behalf, and declares that this is a debt owed to Allah Most High and has a greater claim to be discharged than all other debts owed to people,

حليم} فعم الله عز وجل الديون كلها. وبضرورة العقل علمنا أن ما أوجبه الله علينا في أموالنا فإنه يقع عليه اسم دين بلا شك، ثم بالنصوص علمنا، وبضرورة العقل. أن أمر الله أولى بالانقياد له، وأحق بالتنفيذ، وأوجب علينا من أمر الناس وكان السائل والسائلة للنبي صلى الله عليه وسلم مكتفين بهذا النص لو حضرهما ذكره فأعلمها للنبي صلى الله عليه وسلم بأن كل ذلك دين وزادهم علما بأن دين الله تعالى أحق بالقضاء من ديون الناس، وهذا نص جلي فأين للقياس ههنا أثر أو طريق لو أن هؤلاء القوم أنصفوا أنفسهم ونظروا لها؟. ولكن ما في المصائب أشنع من قول من قال إذا أمر النبي صلى الله عليه وسلم بأن يصام عن الميت ويحج عنه وأخبر أنه دين الله تعالى وهو أحق بالقضاء من سائر ديون الناس، فترك ذلك واجب، فلا يجوز أن يصام عن ميت، ولا يستعمل هذا الحديث فيما جاء فيه، لكن منه استدللنا على أن بيع العسل في قيره بعسل في قيره لا يجوز، أو أن بيع رطل لحم تيس برطلي لحم أرنب لا يجوز، أو أن رطل قطن برطلي قطن لا يجوز تبارك الله ما أقبح هذا وأشنعه لمن نظر بعين الحقيقة ونعوذ بالله من الخذلان. واحتجوا بما روى الحديث المشهور أن رجلا قال لرسول الله صلى الله عليه وسلم يا رسول الله إن امرأتي ولدت ولدا أسود وهو يعرض لنفيه فقال رسول الله صلى الله عليه وسلم هل لك من إبل قال نعم قال ما ألوانها قال حمر. قال: هل فيها من أورق قال إن فيها لورقا فقال رسول الله صلى الله عليه وسلم أنى ترى ذلك أناه أو كلاما هذا معناه فقال له الرجل لعل عرقا نزعه فقال صلى الله عليه وسلم لعل هذا عرقا نزعه قالوا وهذا قياس وتعليم للقياس. قال أبو محمد: وهذا من أقوى الحجج عليهم في إبطال القياس، وذلك لأن الرجل جعل خلاف ولده في شبه اللون علة لنفيه عن نفسه فأبطل رسول الله صلى الله عليه وسلم حكم الشبه وأخبره أن الإبل الورق قد تلدها الإبل الحمر فأبطل صلى الله عليه وسلم أن

abandoning that is obligatory: one may not fast on a deceased person's behalf, and this hadith is not to be applied to the matter concerning which it was transmitted. But from it we have inferred that selling honey in its wax for honey in its wax is impermissible; or that selling one ratl of billy-goat meat for two ratls of rabbit meat is impermissible; or that one ratl of cotton for two ratls of cotton is impermissible." Blessed is Allah! How ugly and abominable this is to anyone who looks with an eye for the truth! We seek refuge in Allah from abandonment. They also adduced as evidence what is related in the well-known hadith: a man said to the Messenger of Allah ﷺ, "O Messenger of Allah, my wife has given birth to a black child," hinting that he wished to deny paternity. The Messenger of Allah ﷺ said, "Do you own any camels?" He said, "Yes." He said, "What colors are they?" He said, "Red." He said, "Are there any dusky gray ones among them?" He said, "There certainly are dusky gray ones among them." The Messenger of Allah ﷺ said, "How do you think that came to it?"—or words to that effect. The man said to him, "Perhaps an ancestral strain drew it back." He ﷺ said, "Perhaps an ancestral strain drew this one back." They said: This is analogy and instruction in analogy. Abu Muhammed said: This is among the strongest arguments against them for invalidating analogy. That is because the man made his child's difference in color resemblance a causative ground for denying that the child was his. The Messenger of Allah ﷺ invalidated judgment on the basis of resemblance and informed him that red camels may give birth to dusky gray camels. He ﷺ thus invalidated the proposition that similar things must have the same ruling. It is utterly impossible that anyone with a modicum of reason should reason by analogy from camel births to human births. Analogy, according to them, consists only in referring a derivative case to its original case and likening something not covered by an explicit text to something covered by one. We know by necessity that camels have no greater claim to giving birth than humans, nor humans than camels, and that the two species are alike in producing offspring and impregnation. Where, then, is there any scope for analogy here? Is someone who says that human reproduction is determined by analogy with camel reproduction any different from someone who says that the sunset prayer was made obligatory only because it was determined by analogy with the noon prayer, and that

تتساوى المتشابهات في الحكم ومن المحال الممتنع أن يكون من له مسكة عقل يقيس ولادات الناس على ولادات الإبل، والقياس عندهم إنما هو رد فرع إلى أصله، وتشبيه ما لم ينص بمنصوص، وبالضرورة نعلم أنه ليس الإبل أولى الولادة من الناس ولا الناس أولى من الإبل، وأن كلا النوعين في الإيلاء والإلقاح سواء، فأين ههنا مجال للقياس وهل من قال: إن توالد الناس مقيس على توالد الإبل، إلا بمنزلة من قال: إن صلاة المغرب إنما وجبت فرضا لأنها قيست على صلاة الظهر؟ وإن الزكاة إنما وجبت قياسا على الصلاة؟. وهذه حماقة لا تأتي بها عضاريط أصحاب القياس، لا يرضون بها لأنفسهم فكيف أن يضاف هذا إلى رسول الله صلى الله عليه وسلم الذي آتاه الله الحكمة والعلم دون معلم للناس، وجعل كلامه على لسانه ما أخوفنا أن يكون هذا استخفافا بقدر النبوة وكذبا عليه صلى الله عليه وسلم ولقد كنا نعجب من إقدام أصحاب القياس في نسبتهم إلى عمر وعلي وعبد الرحمن رضي الله عنهم قياس حد الشارب على حد القاذف، ونقول:، إن هذا استنقاص للصحابة، إذ ينسب مثل هذا الكلام السخيف إليهم. حتى أتونا بالثالثة الأثافي والتي لا شوى لها فنسبوا إلى رسول الله صلى الله عليه وسلم أنه قاس ولادة الناس على ولادة الإبل فأذكرنا هذا الفعل منهم قول بشر بن أبي حازم الأسدي. غضبت تميم أن تقتل عامر يوم النسار فأعقبوا بالصيلم هذا مع أن بعضهم لا يأخذ بهذا الحديث فيما ورد فيه ويروى في التعريض الحد وهو يسمع فيه أن الأعرابي كان يعرض بنفي ولده فلم يزده النبي صلى الله عليه وسلم على أن أراد بطلان ظنه ووجوب الحكم بظاهر المولد والفراش، ولم ير عليه حدا، أفيكون أعجب ممن يترك الحديث فيما ورد فيه، ويطلب فيه ما لا يجده أبدا، ومن أن القاتل إذا عفي عنه ضرب مائة سوط ونفي سنة، قياسا على الزاني، إن هذا العجب ونسأل الله العصمة والتوفيق واحتجوا أيضا بقول النبي صلى الله عليه

obligatory alms were made obligatory only by analogy with prayer? This is a stupidity that even the lackeys of the proponents of analogy would not perpetrate or accept for themselves. How, then, can this be attributed to the Messenger of Allah ﷺ, to whom Allah gave wisdom and knowledge without a teacher for mankind, and placed His speech upon his tongue. How greatly we fear that this is a belittling of the dignity of prophethood and a lie against him ﷺ! We had indeed been astonished at the audacity of the proponents of analogy in attributing to ‘Umar, ‘Ali, and ‘Abd al-Rahman—may Allah be pleased with them—the analogical assimilation of the prescribed punishment for the drinker to the prescribed punishment for someone who makes an accusation of unlawful intercourse. We would say that this disparages the Companions, since such foolish discourse is attributed to them. Then they brought us the third hearthstone, a calamity that spares no vital part: they attributed to the Messenger of Allah ﷺ an analogy between human births and the births of camels. This conduct of theirs reminded us of the words of Bishr ibn Abi Hazim al-Asadi: “Tamim grew angry that ‘Amir should be slain on the day of al-Nisar; then they were visited with utter destruction.” This, moreover, while some of them do not follow this hadith concerning the very matter about which it was related, and transmit that an insinuation incurs the prescribed punishment, although they hear in it that the Bedouin was insinuating a denial of his child’s paternity. Yet the Prophet ﷺ did no more than seek to invalidate his suspicion and establish the obligation to judge according to the apparent circumstances of the birth and the marital bed; he did not consider him liable to a prescribed punishment. Could anything be more astonishing than someone who abandons a hadith concerning the matter about which it was related, while seeking in it something he will never find? Or than the claim that a killer, if pardoned, is to be flogged one hundred lashes and banished for a year, by analogy with someone who commits unlawful intercourse? This is indeed astonishing! We ask Allah for protection and success. They also adduced as evidence the words of the Prophet ﷺ when he was asked about camels that are among the grazing herd, looking like gazelles, among which a mangy camel enters, whereupon they all become mangy. He ﷺ said: “And who infected the first one?” Abu Muhammed said: This is like the preceding example, and worse. No one

وسلم إذ سئل عن الإبل تكون في الرسل كأنها الظباء فيدخل فيها البعير الأجرب فتجرب كلها فقال صلى الله عليه وسلم ومن أعدى الأول قال أبو محمد وهذا كما قبله وأطم، وما فهم قط أحد أن هذا القياس وجها، بل فيه إبطال القياس حقا، لأنهم أرادوا أن يجعلوا الإبل إنما جربت من قبل الأجرب الذي انتقل حكمه إليها فأبطل رسول الله صلى الله عليه وسلم هذا الظن الفاسد وأخبر أن كل وارد من قبل الله عز وجل، وأنه فعل ذلك بالإبل والنعم ولا فرق. وذكروا ما حدثناه أحمد بن قاسم، ثنا أبي قاسم بن محمد بن قاسم، ثنا جدي قاسم بن أصبغ، ثنا إسماعيل هو ابن إسحاق، ثنا علي هو ابن المديني ثنا عبد الأعلى بن عبد الأعلى، ثنا هشام هو ابن حسان عن الحسن عن عمران ابن الحصين قال أسرينا مع رسول الله صلى الله عليه وسلم في غزاة فلما كان من آخر السحر عرسنا فما استيقظنا حتى أيقظنا حر الشمس، فجعل الرجل يثب دهشا فزعا فقال رسول الله صلى الله عليه وسلم اركبوا فركب وركبنا فسار حتى ارتفعت الشمس، ثم نزل فأمر بلال فأذن، قضى حاجاتهم، وتوضؤوا فصلينا ركعتين قبل الغداة، ثم أقام فصلى بنا فقلنا: يا رسول الله ألا نقضيها لوقتها من الغد؟ فقال: لا ينهاكم ربكم عن الربا ويقبله منكم قالوا فقاس صلى الله عليه وسلم حكم قضاء صلاتين مكان صلاة على الربا قال أبو محمد: وهذا باطل من وجوه أحدها: أنه قد تكلم في سماع الحسن بن عمران بن الحصين، فقيل: سمع منه، وقيل لم يسمع منه وأيضا فإنه قد صح من طريق جابر عن النبي صلى الله عليه وسلم قال جابر كان على رسول الله صلى الله عليه وسلم دين فقضاني وزادني فهذا أشبه بالربا من صلاتين مكان صلاة، إلا أن هذا حلال والربا حرام وأيضا فقد صح عن النبي صلى الله عليه وسلم فيمن جامع عامدا في يوم رمضان أن يصوم مكانه ستين يوما أو ثمانية وخمسين يوما أو تسعة وخمسين يوما، فلو كان القياس كما ذكروا لكان هذا عين الربا على أصلهم، وأيضا فإن هذا الحديث

has ever understood this to constitute analogy in any respect. Indeed, it truly invalidates analogy, because they wished to maintain that the camels became mangy only because of the mangy one, whose condition passed to them. The Messenger of Allah ﷺ invalidated this corrupt supposition and declared that every occurrence comes from Allah, mighty and majestic, and that He had done this to the camels and the livestock alike, without distinction. They also cited what Ahmad ibn Qasim related to us: My father, Qasim ibn Muhammed ibn Qasim, related to us: My grandfather, Qasim ibn Asbagh, related to us: Isma'il—that is, Ibn Ishaq—related to us: 'Ali—that is, Ibn al-Madini—related to us: 'Abd al-A'la ibn 'Abd al-A'la related to us: Hisham—that is, Ibn Hassan—related to us, from al-Hasan, from 'Imran ibn al-Husayn, who said: "We travelled by night with the Messenger of Allah ﷺ on a military expedition. Toward the end of the predawn hours, we halted to sleep, and we did not awaken until the heat of the sun woke us. Men began springing up, bewildered and frightened. The Messenger of Allah ﷺ said: 'Mount!' He mounted, and we mounted. He travelled until the sun had risen high, then dismounted and instructed Bilal, who gave the call to prayer. They attended to their needs and performed their ablutions. We prayed two units of prayer before the morning prayer; then he gave the announcement commencing the prayer, and he led us in prayer. We said: 'Messenger of Allah, shall we not make it up at its appointed time tomorrow?' He said: 'No. Your Lord forbids you usury, yet would He accept it from you?'" They said: Thus he ﷺ drew an analogy between the ruling on making up two prayers in place of one prayer and usury. Abu Muhammed said: This is invalid on several grounds. First, there has been discussion of the hearing of al-Hasan ibn 'Imran ibn al-Husayn: it has been said that he heard from him, and it has been said that he did not hear from him. Moreover, an authentic report from the Prophet ﷺ has come through Jabir. Jabir said: "The Messenger of Allah ﷺ owed me a debt, and he repaid me and gave me an additional amount." This more closely resembles usury than two prayers in place of one prayer, except that this is lawful and usury is forbidden. Moreover, it has been authentically reported from the Prophet ﷺ, concerning someone who deliberately has intercourse during a day of Ramadan, that he is to fast sixty days in its place, or fifty-eight days, or fifty-nine days. If analogy were

لا يقول به المالكيون والشافعيون، لأنهم لا يرون أن يؤذن للصلاة الفائتة، ولا يصلي ركعتا الظهر قبل صلاة الصبح إذا فاتت، ولا أقبح من قول من يحتج بخبر ثم هو أول مخالف لنصه وحكمه. والقول الصحيح هو أن هذا الخبر حجة في إبطال القياس، لأنهم رضي الله عنهم أرادوا أن يصلوا مكان صلاة صلاتين، وقد نهاهم الله تعالى عن تعدي حدوده ومن تعدي الحدود أن يزيد أحد شرعا لم يأمر الله تعالى به، والربا في لغة العرب الزيادة فصح بهذا الخبر نهي النبي صلى الله عليه وسلم عن ربه تعالى عن الزيادة على ما أمر به فقط. وبيقين يدري كل ذي حس أن القول بالقياس زيادة في الشرع على ما أمر الله تعالى به، فلما حرم الله تعالى الأصناف الستة متفاضلة في ذاتها، زادوا هم ذلك في المأكولات أو المكيلات أو الموزونات أو المدخرات، فزيادتهم هذه هي الربا حقا، والله تعالى قد نهى عنه، فهذا الخبر حجة، لو صح، في إبطال القياس، وإلا فلا نسبة بين الصلاة والبيع، وبالله تعالى التوفيق.

as they describe, this would be usury itself according to their principle. Furthermore, the Malikis and Shafi'is do not adopt this hadith, because they do not hold that the call to prayer should be given for a missed prayer, nor that the two units of the noon prayer should be performed before the dawn prayer when it has been missed. Nothing is more disgraceful than the position of someone who adduces a report as evidence and then is the first to contravene its explicit wording and ruling. The correct position is that this report is evidence invalidating analogy. For they—may Allah be pleased with them—wanted to perform two prayers in place of one prayer, whereas Allah Most High had forbidden them to transgress His limits. One form of transgressing those limits is for someone to add a religious prescription that Allah Most High has not commanded. In the language of the Arabs, usury means increase. Thus this report establishes the Prophet's ﷺ prohibition, on the authority of his Lord Most High, against adding to what He has commanded, and nothing more. Every possessor of sense knows with certainty that advocating analogy adds to religious law beyond what Allah Most High has commanded. When Allah Most High prohibited exchanging the six categories in unequal quantities within their respective kinds, they extended this to foodstuffs, or things measured by volume, or things measured by weight, or things stored for future use. This addition of theirs is truly usury, and Allah Most High has forbidden it. Thus this report, if authentic, is evidence

invalidating analogy. Otherwise, there is no correspondence between prayer and sale. Success is through Allah Most High.[3233343536373839]

[32]**Translator's note (L3047):** The Quranic quotation has defective spellings, including forms lacking the initial alif in the words for 'the quarter' and 'the eighth.' Their meanings remain identifiable.

[33]**Translator's note (L3048):** The Quranic quotation contains defective spellings in the words for 'the sixth,' 'the third,' and 'Allah'; the intended words remain identifiable. The wording rendered 'The Prophet ﷺ therefore informed them' is corrupt: the supplied Arabic reads fa-aʿlamahā li-l-nabī, with an anomalous pronoun and a preposition before 'the Prophet.' The translation gives the contextual sense; the supplied syntax does not securely support it.

[34]**Translator's note (L3049):** A ratl is a unit of weight; its value varies by place and period.

[35]**Translator's note (L3050):** The question 'How do you think that came to it?' follows the supplied wording, which is awkward; the narrator expressly allows that the actual wording differed. The word al-īlāʾ in the phrase rendered 'producing offspring and impregnation' ordinarily means an oath to abstain from marital intercourse and is anomalous here. The contextual rendering is uncertain; the text may be corrupt.

[36]**Translator's note (L3053):** "The third hearthstone" is an idiom for a crowning calamity. The accompanying expression literally refers to a calamity that does not merely strike a nonvital part. The supplied poem reads فأعقبوا, rendered here as "then they were visited with"; its unvocalized form leaves the precise voice and construction uncertain. الصيلم denotes a devastating calamity or utter destruction. The supplied الرسل in the description of the camels is obscure. "Among the grazing herd" is a contextual rendering; the familiar wording of this report has الرمل, "sand," but that reading has not been substituted here.

[37]**Translator's note (L3056):** The supplied فأذن قضى حاجاتهم has an abrupt grammatical transition and a singular verb before "their needs." The translation reflects the apparent sequence without adding a missing Arabic conjunction. The unpunctuated لا ينهاكم ربكم عن الربا ويقبله منكم is construed as a refusal followed by a rhetorical question: "No. Your Lord forbids you usury, yet would He accept it from you?" The Arabic does not explicitly mark the interrogative. The supplied سماع الحسن بن عمران بن الحصين literally makes "ibn 'Imran ibn al-Husayn" part of al-Hasan's name, producing an inconsistency with the preceding transmission chain and the subsequent "heard from him." The apparent intended reading is "al-Hasan's hearing from 'Imran ibn al-Husayn," but the supplied wording has been retained.

L3059 Furthermore, this report is a clear, explicit text in which analogy has absolutely no place, and there is no correspondence between it and any kind of analogy. For, by the explicit wording of this report, the term “usury” encompasses both an increase in a debt and an increase in prayer. The prohibition of usury therefore entails the prohibition of both matters. Everything established by the explicit text is valid, while everything they want it to mean that is not explicitly stated is invalid. It is thus clear that whoever adduces this report as evidence has engaged in obfuscation by invoking something that has no bearing whatever on what he seeks; rather, it is evidence against him. Praise be to Allah, Lord of all worlds.[40]

وأيضا فإن هذا الخبر نص جلي، لا مدخل للقياس فيه أصلا، ولا بينه وبين شيء من القياس نسبة، لأنه اسم الربا يجمع الزيادة في الدين، والزيادة في الصلاة بنص هذا الخبر، فتحريم الربا مقتضى لتحريم الأمرين وكل ما جاء به النص فصحيح، وكل ما أرادوا هم أن يريده مما ليس منصوصا عليه فهو باطل، فظهر أن من احتج بهذا الخبر فموه بما ليس مما يريد في شيء، بل هو حجة عليه، والحمد لله رب العالمين.

L3060 Then, even if explicit texts from the Qur’an and the transmitted practices were authentically established in their favor and mentioned analogy by name and its ruling—and this will never be found—they would have no evidence in any of that. For the ruling then would be that whatever Allah Most High and His Messenger ﷺ have said is the truth, whereas whatever they themselves say that neither Allah Most High nor His Messenger ﷺ has said is falsehood that it is unlawful to profess. This suffices for anyone who understands. Allah Most High has imposed obligations and prohibitions through the tongue of His Messenger ﷺ and in His Book. Yet it is not lawful for anyone to prohibit, impose as obligatory, or declare lawful something that Allah Most High has not declared lawful, imposed as obligatory, or prohibited, on the grounds that Allah Most High has prohibited, imposed obligations, and declared things lawful. All of that is a transgression of the limits of Allah Most High. They also engaged in obfuscation by saying: “If all knowledge were manifest, the learned and the ignorant would be equal in their understanding of it. If all knowledge were hidden, the learned and the ignorant would be equal in their ignorance of it. It is therefore established that some of it is manifest and

ثم لو صح لهم نصوصا من القرآن والسنن ووردت باسم القياس وحكمه، وهذا لا يوجد أبدا، لما كان لهم في شيء من ذلك حجة، لأنه كان يكون الحكم حينئذ أن ما قاله الله تعالى ورسوله صلى الله عليه وسلم فهو الحق وإنما ما يقولونه هم مما لم يقله الله تعالى ولا رسوله صلى الله عليه وسلم فهو الباطل الذي لا يحل القول به وفي هذا كفاية لمن عقل. وقد أوجب الله تعالى وحرم على لسان رسوله صلى الله عليه وسلم وفي كتابه ولم يحل لأحد أن يحرم ولا أن يوجب ولا أن يحل ما لم يحله الله تعالى ولا أوجبه ولا حرمه، لأن الله تعالى حرم وأوجب وأحل، وكل ذلك تعد لحدود الله تعالى. وموهوا أيضا بأن قالوا: لو كان العلم كله جلي لاستوى العالم والجاهل في البيان، ولو كان العلم كله خفيا لاستوى العالم والجاهل في الجهل به، فصح أن بعضه جلي وبعضه خفي، فوجب أن يقاس الخفي على الجلي. قال أبو محمد: وهذا كلام في غاية الفساد، لأنه إذا كان بعضه جليا وبعضه خفيا، فالواجب على أصلهم هذا الفاسد أن يستوي العالم والجاهل في تبين الجلي منه، وأن يستوي الجاهل والعالم في خفاء الخفي منه عليهما أيضا، فبطل العلم على أصلهم الخبيث الظاهر الفساد. وأما نحن فنقول إن العلم كله جلي بين، نعني علم الديانة، قال تعالى: {ويوم نبعث في كل أمة شهيدا عليهم

[38] **Translator’s note (L3057):** The supplied text specifies “the two units of the noon prayer” (ركعتا الظهر), although the preceding report describes two units before the morning prayer. This apparent inconsistency has been preserved. The three alternative numbers of fasting days are present in the source and have been retained without reconciliation.

[39] **Qur’an references (L3043):** Qur’an 4:12 (An-Nisa).

[40] **Translator’s note (L3059):** The unvocalized الدين is rendered “debt,” in keeping with the discussion of usury, though the same written form can also mean “religion.”

some hidden, so the hidden must be assimilated by analogy to the manifest." Abu Muhammed said: This is discourse of the utmost invalidity. For if some of it is manifest and some hidden, then, according to this corrupt principle of theirs, the learned and the ignorant must be equal in discerning what is manifest in it, and the ignorant and the learned must likewise be equal in its hidden aspects remaining hidden from both of them. Knowledge is thus nullified according to their vile principle, whose invalidity is evident. As for us, we say that all knowledge is manifest and clear—we mean knowledge of religion. He Most High said: "And on the day when We raise up in every community a witness against them from among themselves, and bring you as a witness against these, and We have sent down to you the Book as an explanation of everything, and as guidance, mercy, and glad tidings for those who submit." And He Most High said: "With clear proofs and the scriptures; and We have sent down to you the Reminder so that you may explain to mankind what has been sent down to them, and so that they may reflect."[41][42]

من أنفسهم وجئنا بك شهيدا على هؤلآء ونزلنا عليك لكتاب تبيانا لكل شيء وهدى ورحمة وبشرى للمسلمين} وقال تعالى {بلبينات ولزبر وأنزلنا إليك لذكر لتبين للناس ما نزل إليهم ولعلهم يتفكرون}

L3061 It is thus established that the Messenger of Allah ﷺ explained to mankind what was sent down to him. What has been explained is clear—praise be to Allah, Lord of all worlds—to anyone who knows the language in which we have been addressed.

فصح أن رسول الله صلى الله عليه وسلم قد بين للناس ما نزل إليه والمبين بين والحمد لله رب العالمين، لمن يعلم اللغة التي بها خوطبنا.

L3062–3065 Whatever knowledge of religious law remains hidden from anyone does so only because he turns away from it, neglects to examine it, and devotes himself to forms of falsehood that provide no path to understanding religious law, or because he examines it with an understanding dulled, whether by preoccupation, illness, or heedlessness. If religious knowledge were not entirely clear, it would never be possible for the ignorant person to understand any of it—meaning those matters which they claim are obscure. Since it is established that the scholar can furnish a demonstration and clarify what is

وإنما خفي ما خفي من علم الشريعة على من خفي عليه، لإعراضه عنه وتركه النظر فيه وإقباله على وجود الباطل، التي ليست طريقة إلى فهم الشريعة، أو لنظره في ذلك بفهم كليل؛ إما لشغل بال أو مرض أو غفلة، ولو لم يكن علم الدين جليا كله ما أمكن الجهل فهم شيء منه أبدا، نعني مما يدعون أنه خفي، فلما صح أن العالم ممكن له إقامة البرهان وإيضاح ما خفي على الجاهل حتى يفهمه ويتبين له، صح أن العلم كله جلي بين نعني علم الديانة، والحمد لله رب العالمين. وموهوا أيضا بما روي من قول نسب إلى رسول الله صلى الله عليه وسلم وهو ما حدثناه عن عبد الله بن ربيعة التيمي، ثنا محمد بن إسحاق بن السليم، ثنا ابن الأعرابي، ثنا سليمان بن الأشعري، ثنا حفص بن

[41] **Translator's note (L3060):** The Qur'anic quotations contain defective spellings: لكتاب for الكتاب, بلبينات for بالبينات, ولزبر for والزبر, and لذكر for الذكر. Their recognizable lexical meanings are translated, with these transcription defects recorded here. The opening "And" before "on the day" in the first quotation is retained as supplied.

[42] **Qur'an references (L3060):** Qur'an 16:89 (An-Nahl); Qur'an 16:44 (An-Nahl).

obscure to the ignorant person until he understands it and it becomes evident to him, it is established that all knowledge is clear and evident: we mean religious knowledge. Praise be to Allah, Lord of the worlds.

They also resorted to obfuscation through a reported statement attributed to the Messenger of Allah ﷺ, namely what was related to us from Abd Allah ibn Rabi'ah al-Tamimi: Muhammed ibn Ishaq ibn al-Sulaym related to us; Ibn al-A'rabi related to us; Sulayman ibn al-Ash'ari related to us; Hafs ibn Umar al-Awdi related to us, from Shu'bah, from Abu Awn, from al-Harith ibn Amr, the nephew of al-Mughirah ibn Shu'bah, from some people of Homs among the companions of Mu'adh: When the Messenger of Allah ﷺ intended to send Mu'adh to Yemen, he said, "How will you judge when a case requiring judgment is presented to you?" He said, "I will judge by the Book of Allah, mighty and majestic." He said, "And if you do not find it in the Book of Allah, mighty and majestic?" He said, "Then by the Sunnah of the Messenger of Allah ﷺ." He said, "And if you do not find it in the Sunnah of the Messenger of Allah or in the Book of Allah?" He said, "I will exercise my own judgment, even if I fall short." Then the Messenger of Allah ﷺ struck him on the chest and said, "Praise be to Allah, who has guided the messenger of the Messenger of Allah to what pleases the Messenger of Allah."

Abu Muhammed said: Abd Allah ibn Rabi' also related to us: Umar ibn Abd al-Malik al-Khawlani related to us; Muhammed ibn Bakr related to us; Dawud related to us; Musaddad related to us; Yahya—that is, al-Qattan—related to us, from Shu'bah ibn Abi Awn, from al-Harith ibn Umar, from some people among the companions of Mu'adh, from Mu'adh ibn Jabal, that the Messenger of Allah ﷺ sent him to Yemen; he then related its substance.

Abu Muhammed said: This is a discredited report. No one has transmitted it through any route other than this one. The first reason for its discredit is that it comes from unidentified people who are not named: someone whose identity is unknown cannot serve as an authoritative proof. Its chain also includes al-Harith ibn Umar, who is unidentified: who he is is not known. This report has never come through any route other than his. Ahmad ibn Umar al-Udhri informed me: Abu Dharr al-Harawi related to us; Zahr ibn Ahmad, the jurist, Zanjawayh ibn al-Naysaburi related to us; Muhammed ibn

عمر العوضي، عن شعبة، عن أبي عون، عن الحارث بن عمرو ابن أخي المغيرة بن شعبة، عن أناس من أهل حمص من أصحاب معاذ أن رسول الله صلى الله عليه وسلم لما أراد أن يبعث معاذا إلى اليمن قال كيف تقضي إذا عرض لك قضاء؟ قال: أقضي بكتاب الله عز وجل، قال: فإن لم تجد في كتاب الله عز وجل قال فبسنة رسول الله صلى الله عليه وسلم قال فإن لم تجد في سنة رسول الله ولا في كتاب الله؟ قال اجتهد رأيي ولو آلو قال فضرب رسول الله صلى الله عليه وسلم في صدره وقال الحمد لله الذي وفق رسول رسول الله لما يرضي رسول الله. قال أبو محمد: وحدثنا أيضا عبد الله بن ربيع، ثنا عمر بن عبد الملك الخولاني، ثنا محمد بن بكر، ثنا داود، ثنا مسدد، ثنا يحيى هو القطان عن شعبة بن أبي عون، عن الحارث بن عمر، عن ناس من أصحاب معاذ عن معاذ بن جبل أن رسول الله صلى الله عليه وسلم بعثه إلى اليمن فذكر معناه قال أبو محمد هذا حديث ساقط، لم يروه أحد من غير هذا الطريق، وأول سقوطه أنه عن قوم مجهولين لم يسموا، فلا حجة فيمن لا يعرف من هو، وفيه الحارث بن عمر وهو مجهول لا يعرف من هو، ولم يأت هذا الحديث قط من غير طريقه. أخبرني أحمد بن عمر العذري، ثنا أبو ذر الهروي، ثنا زهر بن أحمد الفقيه زنجويه بن النيسابوري، ثنا محمد بن إسماعيل البخاري، هو جامع الصحيح، قال فذكر سند هذا الحديث، وقال: رفعه في اجتهاد الرأي، قال البخاري: ولا يعرف الحارث إلا بهذا، ولا يصح. هذا كلام البخاري رحمه الله.

Isma‘il al-Bukhari—that is, the compiler of the Sahih—related to us. He then mentioned the chain of this report and said, “He attributed it to the Prophet concerning the exercise of personal judgment.” Al-Bukhari said, “Al-Harith is known only through this, and it is not sound.” These are al-Bukhari’s words, may Allah have mercy on him.[43][44][45]

L3066–3068 Moreover, this report is manifestly false and fabricated. For it is plainly impossible that Allah Most High should say, {Forbidden to you are carrion, blood, the flesh of swine, that over which a name other than Allah’s has been invoked, the strangled animal, the animal killed by a blow, the animal killed by a fall, the animal gored to death, and that which a beast of prey has eaten, except what you slaughter, and that which has been sacrificed upon stone altars; and that you seek allotments by divining arrows. That is transgression. Today those who disbelieve have despaired of your religion, so do not fear them, but fear Me. Today I have perfected your religion for you, completed My favor upon you, and approved Islam as your religion. But whoever is compelled by severe hunger, without inclining toward sin—then Allah is forgiving, merciful}, and {There is no creature upon the earth, nor any bird flying with its two wings, but they are communities like you. We have neglected nothing in the Book. Then to their Lord they will be

وأيضا فإن هذا الحديث ظاهر الكذب والوضع، لأن من المحال البين أن يكون الله تعالى يقول {حرمت عليكم لميتة ولدم ولحم لخنزير وما أهل لغير لله به ولمنخنقة ولموقوذة ولمتردية ولنطيحة وما أكل لسبع إلا ما ذكيتم وما ذبح على لنصب وأن تستقسموا بلأزلام ذلكم فسق ليوم يئس لذين كفروا من دينكم فلا تخشوهم وخشون ليوم أكملت لكم دينكم وأتممت عليكم نعمتي ورضيت لكم لأسلام دينا فمن ضطر في مخمصة غير متجانف لإثم فإن لله غفور رحيم} و {وما من دآبة في لأرض ولا طائر يطير بجناحيه إلا أمم أمثالكم ما فرطنا في لكتاب من شيء ثم إلى ربهم يحشرون} و {ويوم نبعث في كل أمة شهيدا عليهم من أنفسهم وجئنا بك شهيدا على هؤلآء ونزلنا عليك لكتاب تبيانا لكل شيء وهدى ورحمة وبشرى للمسلمين} ثم يقول رسول الله صلى الله عليه وسلم إنه ينزل في الديانة ما لا يوجد في القرآن ومن المحال البين أن يقول الله تعالى مخاطبا لرسوله صلى الله عليه وسلم {بلبينات ولزبر وأنزلنا إليك لذكر لتبين للناس ما نزل إليهم ولعلهم يتفكرون} ثم يقول رسول الله صلى الله عليه وسلم إنه يقع في الدين ما لم يبينه صلى الله عليه وسلم ثم من المحال الممتنع أن يقول رسول الله صلى الله عليه وسلم فاتخذ الناس رؤوسا جهالا فأفتوا بالرأي فضلوا وأضلوا جاء هذا بالسند الصحيح الذي لا اعتراض فيه، وقد ذكرنا في باب الكلام في الرأي. ثم يطلق الحكم في الدين بالرأي فهذا كله كذب ظاهر لا شك فيه. وقد كان في التابعين الراوين عن الصحابة رضي الله عنهم خبث كثير وكذب ظاهر، كالحارث الأعور وغيره ممن شهد

[43] **Translator’s note (L3062):** The supplied وجود الباطل literally suggests “the existence of falsehood,” but its plural relative clause suggests that وجوه الباطل, “forms” or “aspects of falsehood,” may have been intended. “Forms of falsehood” reflects that apparent sense; the supplied reading is uncertain.

[44] **Translator’s note (L3063):** The opening continues the preceding segment’s description of someone examining the subject with a dulled understanding. الجهل, literally “ignorance,” is grammatically awkward here; the translation takes it as referring to the ignorant person, as the ensuing argument does. The report reads ولو آلو, “even if I fall short,” rather than the familiar ولا آلو, “and I will spare no effort.” The supplied wording is retained. The second chain reads “Shu‘bah ibn Abi Awn,” whereas the first reads “Shu‘bah, from Abu Awn.” It also changes al-Harith’s father’s name from Amr to Umar. These differences are retained.

[45] **Translator’s note (L3065):** The sequence زهر بن أحمد الفقيه زنجويه بن النيسابوري is apparently corrupt: the relationship between “Zahr ibn Ahmad, the jurist” and “Zanjawayh ibn al-Naysaburi” is unclear, and the latter name is itself awkward. No missing transmission formula or corrected name has been supplied. The subject of “He attributed it to the Prophet” is not explicitly identified in the supplied wording.

gathered}, and {And on the day We raise up in every community a witness against them from among themselves, and bring you as a witness against these. We have sent down to you the Book as an explanation of everything, and as guidance, mercy, and glad tidings for those who submit}, and that the Messenger of Allah ﷺ should then say that something arises in religion which is not found in the Quran.

It is plainly impossible that Allah Most High should say, addressing His Messenger ﷺ, {With clear proofs and scriptures; and We have sent down to you the Reminder so that you may explain to people what has been sent down to them, and so that they may reflect}, and that the Messenger of Allah ﷺ should then say that something occurs in religion which he ﷺ has not explained.

Then it is utterly impossible that the Messenger of Allah ﷺ should say, "So the people took ignorant leaders, who issued legal opinions on the basis of personal opinion, and thus went astray and led others astray"—this has come through a sound chain of transmission to which no objection can be made, and we have mentioned it in the chapter discussing personal opinion—and should then permit unrestricted judgment in religion on the basis of personal opinion. All this is manifest falsehood, without any doubt. Among the Successors who transmitted from the Companions, may Allah be pleased with them, there was much wickedness and manifest lying, such as al-Harith al-A'war and others against whom testimony was given that they lied. It is therefore impermissible to accept a transmission from an unidentified person whose identity and condition are unknown. Some of them have indeed resorted to claiming that this report was transmitted by the community at large.

Abu Muhammed said: Anyone can make such a claim about every report. If he were told, instead, that the report which came through Ibn al-Mubarak—"The factions that will cause the greatest tribulation for my community are people who judge matters by analogy on the basis of their own opinions, and thus forbid what is lawful and permit what is forbidden"—was transmitted by the community at large, would there be any difference between him and …? But whoever feels no shame says whatever he wishes. Yet what is be-

عليه بالكذب، فلا يجوز أن تؤخذ رواية عن مجهول لم يعرف من هو ولا ما حاله. ولقد لجأ بعضهم إلى أن ادعى في هذا الحديث أنه منقول نقل الكافة. قال أبو محمد: ولا يعجز أحد عن أن يدعي في كل حديث مثل هذا، ولو قيل له: بل الحديث الذي جاء من طريق ابن المبارك: إن أشد الفرق فتنة على أمتي قوم يقيسون الأمور برأيهم فيحرمون الحلال ويحلون الحرام هو من نقل الكافة أكان يكون بينه وبين فرق؟. ولكن من لم يستح قال ما شاء، ولكن الذي لا شك فيه أنه من نقل الكواف كلها نقل تواتر يوجب العلم الضروري فقول الله تعالى {يا أيها لذين آمنوا أطيعوا لله وأطيعوا لرسول وأولي لأمر منكم فإن تنازعتم في شيء فردوه إلى لله ولرسول إن كنتم تؤمنون بلله وليوم لآخر ذلك خير وأحسن تأويلا}

yond doubt transmitted by all communities at large, through recurrent mass transmission that yields necessary knowledge, is the saying of Allah Most High: {O you who believe, obey Allah, obey the Messenger, and those vested with authority among you. If you dispute over anything, refer it to Allah and the Messenger, if you believe in Allah and the Last Day. That is better and best in outcome}.[46][47][48]

L3069–3071 This, then, is what is unquestionably sound. It contains no instruction, when there is a dispute, to refer to anything except Allah Most High—that is, the Quran—and the Messenger—that is, his words ﷺ. Nor do I mention analogy in that. It is therefore established that, in a dispute, it is impermissible to refer to anything other than the Quran and the hadith. Analogy is fundamentally neither Quran nor hadith, so it is absolutely impermissible to refer to it. Success comes through Allah Most High.

Furthermore, this report which we mentioned through Mu'adh contains absolutely no mention of analogy in any respect, whether explicitly or by implication. It mentions only personal opinion, and personal opinion is different from analogy. For personal opinion consists in judging according to what is more conducive to good, more precautionary, and safer in its eventual outcome. Analogy consists in giving something for which there is no explicit text the same ruling as something for which there is an explicit text, whether it is more precautionary or not, more conducive to good or not, whether

فهذا هو الذي لا شك في صحته، وليس فيه الرد عند التنازع إلا إلى الله تعالى وهو القرآن وإلى الرسول وهو كلامه صلى الله عليه وسلم ولا أذكر القياس في ذلك فصح أن ما عدا القرآن والحديث لا يحل الرد إليه عند التنازع، والقياس أصلا ليس قرآنا ولا حديثا، فلا يحل الرد إليه أصلا، وبالله تعالى التوفيق. مع أن هذا الحديث الذي ذكرنا من طريق معاذ لا ذكر للقياس فيه البتة بوجه من الوجوه، ولا بنص ولا بدليل، وإنما فيه الرأي، والرأي غير القياس، لأن الرأي إنما هو الحكم بالأصلح والأحوط والأسلم في العاقبة، والقياس هو الحكم بشيء لا نص فيه بمثل الحكم في شيء منصوص عليه، وسواء كان أحوط أو لم يكن أصلح، أو لم يكن كان أسلم أو أقتل، استحسنه القاتل له أو استشنعه وهكذا القول في قوله صلى الله عليه وسلم إذا اجتهد الحاكم فأخطأ فله أجر وإذا اجتهد فأصاب فله أجران ليس فيه للقياس أثر، لا بدليل ولا بنص ولا للرأي أيضا لا يذكر ولا بدليل بوجه من الوجوه، وإنما فيه إباحة الاجتهاد فقط. والاجتهاد ليس قياسا ولا رأيا، وإنما الاجتهاد: إجهاد النفس، واستفراغ الوسع في طلب حكم طلب النازلة في القول والسنة، فمن طلب القرآن وتقرأ آياته، وطلب في السنن وتقرأ الأحاديث في طلب ما نزل به، فقد اجتهد، فإن وجدها منصوصة فقد أصاب فله أجران أجر الطلب وأجر الإصابة، وإن طلبها في القرآن والسنة فلم يفهم موضعا منهما، ولا وقف عليه، وفاتت إدراكه، فقد اجتهد فأخطأ فله أجر. ولا شك أنها هنالك إلا أنه قد يجدها من وفقه الله لها، ولا يجدها من لم يوفقه الله تعالى لها، كما فهم جابر وسعد وغيرهما آية الكلالة ولم يفهمها عمر، وكما قال عثمان في الأختين

[46] **Translator's note (L3066):** The Quranic quotations correspond to 5:3, 6:38, 16:89, and a fragment of 16:44. The supplied transcription repeatedly drops the initial alif of the definite article and contains similar spelling defects; the recognizable words are translated according to their contextual readings. The quotation about ignorant leaders explicitly says "issued legal opinions on the basis of personal opinion" in this text. This wording is retained; it differs from the familiar wording "issued legal opinions without knowledge."

[47] **Translator's note (L3068):** The phrase أكان يكون بينه وبين فرق is incomplete or corrupt: after "between him and," the second term of comparison is missing. The omission is marked rather than silently repaired. The Quranic quotation is 4:59. Its transcription repeatedly omits the initial alif of the definite article; the recognizable wording is translated.

[48] **Qur'an references (L3066):** Qur'an 5:3 (Al-Ma'idah); Qur'an 6:38 (Al-An'am); Qur'an 16:89 (An-Nahl); Qur'an 16:44 (An-Nahl); Qur'an 4:59 (An-Nisa).

it is safer or more deadly, and whether the one who kills by it considers it good or considers it abhorrent.

The same applies to his saying ﷺ, "When the judge exercises independent effort and errs, he has one reward; and when he exercises independent effort and is correct, he has two rewards." There is no trace of analogy in it, whether by implication or explicitly; nor is there anything concerning personal opinion either, whether by mention or by implication, in any respect. It contains only permission to exercise independent effort. Independent effort is neither analogy nor personal opinion. Rather, independent effort means exerting oneself and exhausting one's capacity in seeking the ruling—seeking the case that has arisen—in the discourse and the Sunnah. Whoever searches the Quran and reads through its verses, and searches the transmitted Sunnahs and reads through the hadiths, seeking what has befallen him, has exercised independent effort. If he finds it explicitly stated, he has been correct and has two rewards: the reward for searching and the reward for being correct. If he seeks it in the Quran and the Sunnah but does not understand its location in either, does not discover it, and it escapes his comprehension, he has exercised independent effort and erred, and has one reward. There is no doubt that it is there. Yet someone whom Allah guides to it may find it, while someone whom Allah Most High does not guide to it does not find it, just as Jabir, Sa'd, and others understood the verse concerning collateral inheritance, while Umar did not understand it; and just as Uthman said concerning two sisters held by right-hand possession, "One verse made the two of them lawful, and another verse made the two of them forbidden." He thus stated that he had not discovered where their actual ruling lay, while someone else undoubtedly discovered it. It is impossible for Allah Most High's ruling to be hidden from all Muslims. Success comes through Allah Most High.

They also adduced as proof what Ahmad ibn Qasim related to us: my father, Qasim ibn Muhammed, related to us; my grandfather, Qasim ibn Asbagh, related to us: Muhammed ibn Isma'il al-Tirmidhi related to us: Sa'id ibn Abi Maryam related to us: Salamah ibn 'Ali informed us: al-Awza'i related to me, from Yahya ibn Abi Kathir, from Abu Salamah ibn 'Abd al-Rahman ibn 'Awf, from Abu Hurayrah, who said: "The Messenger of Allah, may Allah bless

بملك اليمين: أحلتهما آية وحرمتهما آية، فأخبر أنه لم يقف على موضع حقيقة حكمهما، ووقف غيره على ذلك بلا شك، ومحال أن يغيب حكم الله تعالى عن جميع المسلمين، وبالله تعالى التوفيق. واحتجوا أيضا بما حدثناه أحمد بن قاسم، ثنا أبي قاسم بن محمد، ثنا جدي قاسم ابن أصبغ، نا محمد بن إسماعيل الترمذي، نا سعيد بن أبي مريم، أنا سلمة بن علي، حدثني الأوزاعي، عن يحيى بن أبي كثير، عن أبي سلمة بن عبد الرحمن بن عوف عن أبي هريرة قال حض رسول الله صلى الله عليه وسلم على تعلم العلم قبل ذهابه

him and grant him peace ﷺ, urged the acquisition of knowledge before its disappearance."[49] [50]

L3072–3075 Safwan ibn ʿAssal said: "How could that be, when the Book of Allah is among us and we teach it to our children?" The Messenger of Allah, may Allah bless him and grant him peace ﷺ, became angry, until this was apparent in him. Then he said: "Are not the Torah and the Gospel in the hands of the Jews and the Christians? What benefit did they afford them when they abandoned what was in them?" Abu Muhammed said: This report is among the strongest arguments against them for the obligation to invalidate analogy, because he, may Allah bless him and grant him peace ﷺ, stated that whoever abandons the Quran and acting upon it has abandoned knowledge or followed the path of the Jews and the Christians. The advocates of analogy fit this description, because they have abandoned the Quran and acting upon it, and have turned to their invalid analogies. We seek refuge in Allah from being forsaken. Then they are to be told: You have merely seized upon the Prophet's—may Allah bless him and grant him peace ﷺ—likening, in this respect, the conduct of those of his community denied divine guidance to the conduct of the Jews and the Christians when they cast aside their scripture. We acknowledge the validity of this comparison. We deny only that the ruling concerning Muslims who do this should be the same as the ruling concerning those Jews and Christians whose conduct theirs resembles. As for the advocates of analogy, since they assign a single ruling to two similar things, they are necessarily obliged to rule concerning those among us who abandon the

قال صفوان بن عسال: وكيف وفينا كتاب الله ونعلمه أولادنا فغضب رسول الله صلى الله عليه وسلم حتى عرف ذلك فيه ثم قال أليست التوراة والإنجيل في أيدي اليهود والنصارى؟ فما أغنت عنهم حين تركوا ما فيهما. قال أبو محمد: هذا الحديث من أعظم الحجج عليهم في وجوب إبطال القياس لأنه صلى الله عليه وسلم أخبر أن من ترك القرآن والعمل به فقد ترك العلم، أو سلك سبيل اليهود والنصارى وأصحاب القياس أهل هذه الصفة، لأنهم تركوا القرآن والعمل به، وأقبلوا على قياساتهم الفاسدة، ونعوذ بالله من الخذلان ثم يقال لهم إنما تعلقتم بتشبيه النبي صلى الله عليه وسلم فعل من حرم التوفيق من أمته في ذلك بفعل اليهود والنصارى، إذ نبذوا كتابهم، ونحن نقر بصحة هذا التشبيه، وإنما ننكر أن يكون حكم من فعل ذلك من المسلمين كحكم من أشبه فعله من اليهود والنصارى. وأما أهل القياس فيلزمهم لزوما ضروريا، إذ حكموا للمشتبهين بحكم واحد، أن يحكموا فيمن ترك أحكام القرآن منا بما نحكم به في اليهود والنصارى، من القتل والسبي للذراري والنساء، وأخذ الجزية إن سالموا، فإن تمادوا على قياسهم لحقوا بالصفرية الأزارقة، وعاد هذا من الحكم عليهم في تركهم لأحكام القرآن، والعمل بالقياس وإن جحدوا عن ذلك تناقضوا وتركوا القياس، وبالله تعالى التوفيق. فهذا كل ما موهوا به من إيراد الحديث الذي قد أوضحنا، بحول الله تعالى وقوته، أنه كله حجة عليهم، وموجب لإبطال القياس، وكل من له أدنى حس يرى أن إيرادهم ما أوردوا لا طريق للقياس فيه، ولأنهم يوهمون الضعفاء أننا ننكر تشابه الأسماء ونحن، ولله الحمد، أعلم بتشابه الأسماء منهم وأشد إقرارا به منهم. وإنما ننكر أن نحكم في الدين للمتشابهين في بعض الصفات بحكم واحد من إيجاب أو تحريم أو تحليل

[49] **Translator's note (L3069):** ولا أذكر القياس literally reads "nor do I mention analogy." This awkward first-person wording is retained rather than changed to "analogy is not mentioned." The text reads أقتل, "more deadly," and القاتل له, literally "the one who kills by/for it." The latter is likely a transcription error for القائل له, "the one who advocates it," but the supplied reading is translated rather than silently corrected.

[50] **Translator's note (L3070):** The phrase في طلب حكم طلب النازلة في القول والسنة is awkward and apparently corrupt, repeating "seeking" and reading القول, "the discourse," where "the Quran" might be expected. These features are retained. "Collateral inheritance" renders الكلالة, a technical inheritance term whose precise scope is disputed, commonly concerning a deceased person without a parent or child. The final "related to us" introduces the next transmitter, whose name occurs in the following segment.

rulings of the Quran as we rule concerning the Jews and the Christians: killing, taking children and women captive, and collecting the poll tax if they make peace. If they persist in their analogy, they join the Sufriyyah and the Azariqah, and this ruling rebounds upon them for their abandonment of the rulings of the Quran and their practice of analogy. If they disavow that, they contradict themselves and abandon analogy. Success comes through Allah Most High. This, then, is everything with which they have sought to mislead by citing reports. Through the power and might of Allah Most High, we have made clear that all of it is evidence against them and requires the invalidation of analogy. Anyone with the slightest sense sees that the material they have cited provides no avenue for analogy. Moreover, they give the weak-minded the impression that we deny similarities between names, whereas, praise be to Allah, we know more about similarities between names than they do and acknowledge them more firmly than they do. We deny only that, in religion, we should assign a single ruling to two things resembling one another in certain attributes by imposing an obligation, a prohibition, or a permission without authorization from Allah Most High or His Messenger, may Allah bless him and grant him peace ﷺ. This is what we have denied, and this is where we have disagreed, rather than over similarities between things. It would be more fitting for them to abandon such feeble obfuscation. Some of them have claimed, without any restraint, that the Companions, may Allah be pleased with them, unanimously agreed to endorse analogy. This is a brazen assertion whose ugliness nothing whatsoever can equal. We know with certainty that the assertion that analogy is valid has never been transmitted from any of the Companions in any manner whatsoever, through either an authentic route of transmission or a weak one, except for a single report that we shall mention, if Allah Most High wills, after finishing our account of their obfuscation using the proofs of consensus. That report is wholly inauthentic.[51]

L3076–3083 If an opponent were to challenge them and say, "The consensus of the Com-

[51] **Translator's note (L3073):** The supplied المسملين is an apparent transposition of letters in المسلمين, rendered "Muslims." The wording وعاد هذا من الحكم عليهم is awkward; it has been understood as saying that this ruling rebounds upon the advocates of analogy.

بغير إذن من الله تعالى أو من رسوله صلى الله عليه وسلم فهذا أنكرنا وفي هذا خالفنا لا في تشابه الأشياء، فلو تركوا التمويه الضعيف لكان أولى بهم. وادعى بعضهم، دون مراقبة، إجماع الصحابة رضي الله عنهم على القول بالقياس، وهذه مجاهرة لا يعدلها في القبح شيء أصلا، وباليقين نعلم أن ما روي قط عن أحد من الصحابة القول بأن القياس حق بوجه من الوجوه، لا من طريق تصح، ولا من طريق ضعيفة، إلا حديثا واحدا، نذكره إن شاء الله تعالى بعد فراغنا من ذكر تمويههم بدلائل الإجماع، وهو لا يصح البتة.

ولو أن معارضا يعارضهم، فقال: قد صح إجماع الصحابة على إبطال القياس، أكان يكون بينه وبينهم فرق في أنها دعوى ودعوى؟ بل إن قائل هذا، من إجماعهم على إبطال القياس، يصح قوله ببرهان نذكره إن شاء الله تعالى. وهو أنه قد صح بلا شك

panions upon the invalidation of analogy has been established," would there be any difference between him and them, insofar as each is merely making a claim? Indeed, the statement of one who asserts their consensus upon the invalidation of analogy is established by a demonstration that we shall mention, if Allah Most High wills. It is this: it is established beyond doubt for every descendant of Adam acquainted with Islam and the Muslims, whether believer or unbeliever, that all the Companions unanimously agreed upon the binding force of whatever Allah Most High said in the Quran whose abrogation has not been established, and upon the binding force of whatever the Messenger of Allah, may Allah bless him and grant him peace ﷺ, said; that no one may prohibit, permit, or impose as obligatory any ruling in religion that neither Allah Most High nor His Messenger, may Allah bless him and grant him peace ﷺ, has brought; that the Messenger of Allah did not obscure for his community the matter of its religion; and that he, may Allah bless him and grant him peace ﷺ, explained it all to the people. All of this was unanimously agreed upon by all the Companions, from the first to the last, without doubt. Otherwise, they would not have been Muslims, for this is unanimously agreed upon without doubt. These premises invalidate analogy, because, according to its advocates, there are new occurrences in religion concerning which Allah Most High has not sent down a clear ruling in the Quran, nor has the Messenger of Allah, may Allah bless him and grant him peace ﷺ, explained their ruling by expressly addressing them in a text. No Muslim doubts that, had the Companions heard someone saying this, they would have disavowed him. Furthermore, the Companions numbered tens of thousands. Reports were transmitted by more than one thousand three hundred of them, identified by name, and jurisprudence and legal opinions were transmitted from some one hundred and forty-odd of them, identified by name, apart from the general matters transmitted from most or all of them, such as performing prayer, paying the obligatory alms, prostrating wherever their imam led them in a prostration occasioned by the Quran, sharing in sacrificial offerings, and performing an obligatory prayer behind someone performing a voluntary prayer. There are many such examples. By the transmission of legal opinions, we have meant only those individuals of whom it is reported by name that they permitted such-and-such a matter,

عند كل أحد من ولد آدم يدري الإسلام والمسلمين، من مؤمن أو كافر، أن جميع الصحابة مجمعون على إيجاب ما قال الله تعالى في القرآن مما لم يصح نسخه وعلى إيجاب ما قال رسول الله صلى الله عليه وسلم وعلى أنه لا يحل لأحد أن يحرم ولا يحلل ولا أن يوجب حكما لم يأت به الله تعالى ولا رسوله صلى الله عليه وسلم في الديانة وعلى أن رسول الله لم يلبس على أمته أمر دينها وأنه صلى الله عليه وسلم قد بينه كله للناس وهذا كله مجمع عليه من جميع الصحابة أولهم عن آخرهم بلا شك. ولولا ذلك ما كانوا مسلمين، فإن هذا مجمع عليه بلا شك، فهذه المقدمات مبطلة للقياس، لأنه عند القائلين به حوادث في الدين لم ينزل الله تعالى فيها حكما في القرآن بينا ولا بين رسول الله صلى الله عليه وسلم ما حكمها بنصه عليها وهذا ما لا يشك مسلم أن الصحابة لو سمعوا قائلا يقول بهذا لبرئوا منه. وأيضا فالصحابة عشرات ألوف، روى الحديث منهم ألف وثلاثمائة ونيف مذكورون بأسمائهم، وروى الفقه والفتيا منهم عن نحو مائة ونيف وأربعين، مسمين بأسمائهم، حاشا الجمل المنقول عن أكثرهم أو جميعهم، كإقامة الصلاة وأداء الزكاة، والسجود فيما سجد بهم إمامهم فيه من سجود القرآن، والاشتراك في الهدى، والصلاة الفريضة خلف التطوع، ومثل هذا كثير، وإنما أوردنا بنقل الفتيا من ذكر عنه باسمه أنه أجاز أمر كذا أو نهى عن أمر كذا، أو أوجب كذا، أو عمل كذا، فما منهم أحد روي عنه إباحة القياس، ولا أمر به البتة بوجه من الوجوه، حاشا الحديث الواحد الذي ذكرنا آنفا، وسنذكره إن شاء الله تعالى بإسناده، ونبين وهيه وسقوطه. وروي أيضا نحو عشر قضايا، فيها العمل بما يظن أنه قياس، فإذا حقق لم يصح أنه قياس، منها صحيح السند، ومنها ساقط السند، ويروى عنهم أكثر من ذلك وأصح في إبطال القياس نصا. وأما القول بالعمل التي يقول بها حذاق القياسيين عند أنفسهم، ولا يرون القياس جائزا إلا عليها، فباليقين ضرورة تعلم، أنه لم

prohibited such-and-such a matter, imposed such-and-such an obligation, or performed such-and-such an act. From none of them has permission to use analogy, or any command to use it, ever been transmitted in any manner whatsoever, except for the single report we mentioned just now. We shall cite it, if Allah Most High wills, with its chain of transmission, and explain its weakness and untenability. Some ten cases have also been transmitted involving action on what is thought to be analogy; upon investigation, however, it is not established that it is analogy. Some of these have sound chains of transmission, while others have untenable chains of transmission. More numerous and more authentic reports are transmitted from them explicitly invalidating analogy. As for the doctrine concerning the operative grounds of rulings which the self-styled experts in analogy maintain, and on which alone they consider analogy permissible, we necessarily know with certainty that none of the Companions ever professed it in any way whatsoever, nor did any of the Successors, nor any of the Successors' successors. It is merely something that arose among the followers of al-Shafiʿi; the followers of Abu Hanifah followed them in it, and then the followers of Malik followed them in it. This is a matter of certainty for them and for us. Nothing has ever appeared in any transmission from any of those we have mentioned—not even in a weak or unsound transmission—to the effect that anyone in those generations accounted for a ruling by an inferred operative ground, making it a marker of the ruling, and then reasoning by analogy from it to cases in which he found that operative ground but concerning whose ruling no text had come. Now, according to the majority of the advocates of analogy, analogy is permissible only on the basis of an operative ground common to the two matters, which is the cause and marker of the ruling; otherwise, the analogy is invalid. Yet both they and we are certain that none of the Companions, their Successors, or their Successors' successors uttered this expression, drew attention to this meaning, or provided any indication of it, knew it, or recognized it. Had they recognized it, they would not have concealed it. Their consensus upon the invalidation of analogy is therefore established beyond doubt. This matter and this demonstration have compelled a group of the advocates of analogy to flee from mentioning operative grounds and from accounting for rulings by operative grounds altogether,

يقل قط بها أحد من الصحابة بوجه من الوجوه، ولا أحد من التابعين، ولا أحد تابعي التابعين، وإنما هو أمر حدث في أصحاب الشافعي، واتبعهم عليه أصحاب أبي حنيفة، ثم تلاهم فيه أصحاب مالك. وهذا أمر متيقن عندهم وعندنا، وما جاء قط في شيء من الروايات عن أحد من كل من ذكرنا أصلا، لا في رواية ضعيفة ولا سقيمة، أن أحدا من تلك الأعصار علل حكما بعلة مستخرجة يجعلها علامة للحكم، ثم يقيس عليها ما وجد تلك العلة فيه، مما لم يأت في حكمه نص، وإذا لا يجوز القياس عند جمهور أصحاب القياس إلا على علة جامعة بين الأمرين هي سبب الحكم وعلامته، وإلا فالقياس باطل، ثم أيقنوا هم ونحن على أن ليس أحد من الصحابة ولا من تابعيهم، ولا من تابعي تابعيهم نطق بهذا اللفظ، ولا نبه على هذا المعنى، ولا دل عليه ولا علمه، ولا عرفه، ولو عرفوه ما كتموه فقد صح إجماعهم على إبطال القياس بلا شك. وقد اضطر هذا الأمر وهذا البرهان طائفة من أصحاب القياس إلى الفرار من ذكر العلل وتعليل الأحكام جملة، وعن لفظ القياس، ولجؤوا إلى التشبيه والتمثيل والتنظير، وهو المعنى الذي فروا منه بعينه، لأنه لا بد لهم من التعريف بالشبه بين الأمرين الموجب تسوية حكم ما لم ينص عليه مع ما نص عليه منهما، فكانوا كالمستجيرين من الرمضاء بالنار، وكمحلل الخمر باسم النبيذ وأكثر ما هي هذه الطائفة فمن أصحاب مالك وأحمد، ومن لم يقلد أحدا من علماء أصحاب الحديث، ومنهم نبذ من أصحاب مالك، ويسير من أصحاب أبي حنيفة، فكيف يستحل من له علم وورع وفرار عن الكذب أن يدعي الإجماع فيما هذه صفته وفي أمر قد روي عن أصحابه أزيد من عشرين ألف قضية، ليس فيها ما يدل على القياس، إلا قضية واحدة لا تصح، ونحو عشر قضايا يظن أنها قياس، وليست عند التحقيق قياسا، وهم مجمعون معنا على أنه لم يحفظ قط عن أحد من الصحابة قياس في حياة النبي صلى الله عليه وسلم فإذ ذلك كذلك فنحن نبرأ إلى الله تعالى من كل دين حدث بعده صلى الله عليه وسلم ولو كان القياس حقا لما أغفل

and from the term "analogy." They have taken refuge in likening, comparison by example, and drawing parallels. Yet this is precisely the meaning from which they fled, because they must identify the resemblance between the two matters that requires equating the ruling of the one not expressly addressed in a text with that of the one expressly addressed. They are thus like those who seek refuge from the scorching ground in fire, or someone who declares wine permissible under the name of steeped-fruit drink. Most of this group belong to the followers of Malik and Ahmad, and to those scholars of the traditionists who do not follow anyone unquestioningly. Among them are also a handful of Malik's followers and a few of Abu Hanifah's followers. How, then, can anyone possessing knowledge, scrupulousness, and an aversion to lying consider it lawful to claim consensus in something of this description, and in a matter concerning which more than twenty thousand cases have been transmitted from its adherents, containing nothing that indicates analogy except a single inauthentic case and some ten cases that are thought to be analogy but, upon investigation, are not analogy. They agree with us that no instance of analogy during the Prophet's ﷺ lifetime has ever been preserved from any of the Companions. Since that is so, we declare ourselves before Allah Most High free of every religion that arose after him ﷺ. Had analogy been true, the Messenger of Allah ﷺ would not have neglected to explain it and how to act upon it. Moreover, it is certainly false that analogy should be permissible in religion and yet the Messenger of Allah ﷺ should not teach us what things we are to reason about by analogy, what we are to take as the basis of analogy, where we are to apply analogy, or how we are to reason by analogy. Thus it is established that analogy is false, without any doubt. As for statements, personal opinion, juristic preference, and individual choice, very many instances of these are transmitted from them, may Allah be pleased with them. But there is no way to find that any one of them made his own opinion a religion that he imposed as a binding ruling. They spoke only to report that this was what first occurred to their minds, and that this was how they thought, by way of reconciling disputants and the like. Moreover, the advocates of analogy have spared us, praise be to Allah, the need to rely on this line of argument, because they—we mean their skilled authorities and dialectical theologians—reject personal opinion

رسول الله صلى الله عليه وسلم بيانه العمل به ثم من الباطل المتيقن أن يكون القياس مباحا في الدين ثم لا يعلمنا رسول الله صلى الله عليه وسلم أي شيء نقيس ولا على ما نقيس ولا أين نقيس ولا كيف نقيس؟ فصح أن القياس باطل لا شك فيه. وأما القول والرأي والاستحسان والاختيار فكثير عنهم رضي الله عنهم جدا، ولكنه لا سبيل إلى أن يوجد لأحد منهم أن جعل رأيه دينا أوجبه حكما، وإنما قالوا إخبارا منهم بأن هذا الذي يسبق إلى قلوبهم، وهكذا يظنون على سبيل الصلح بين المختصمين، ونحو هذا، مع أن أصحاب القياس قد كفونا، ولله الحمد، التعلق بهذا الباب لأنهم، نعني حذاقهم ومتكلميهم، مبطلون للرأي والاستحسان إلا أن يكون قياسا على علة جامعة. وقد أصفق على هذا أكابر المتأخرين من الحنفيين المالكيين وسلكوا في ذلك مسلك الشافعيين، وتركوا طرائق أسلافهم في الاعتماد على الرأي والاستحسان، وقياس التمثيل المطلوب والتشبيه، ولو لم يفعلوا لكان أمرهم أهون مما يظن، لأنه لم يبق إلا بالرأي وحده مجردا، والاستحسان المطلق، فليس رأي زيد أولى من رأي عمرو، ولا استحسان زيد أولى من استحسان رأي عمرو. فحصل الدين وأعوذ بالله لو كان ذلك هملا غير حقيقة وحراما حلالا معا وحقا باطلا معا، وتخليطا فاسدا. وهذا أبين من أن يغلط فيه من له حس، وبالله تعالى التوفيق. واحتجوا بإجماع الأمة على تقديم أبي بكر إلى الخلافة وأن ذلك قياس على تقديم النبي صلى الله عليه وسلم له إلى الصلاة وأن عمر قال للأنصار ارضوا لإمامتكم من رضيه رسول الله صلى الله عليه وسلم لصلاتكم وهي عظم دينكم قال أبو محمد وهذا من الباطل الذي لا يحل، ولو لم يكن في تقديم أبي بكر حجة إلا أن رسول الله صلى الله عليه وسلم قد استخلف عليا على المدينة في غزوة تبوك. وهي آخر غزواته عليه السلام. فقياس الاستخلاف على الاستخلاف اللذين يدخل فيهما الصلاة والأحكام أولى من قياس الاستخلاف على الصلاة وحدها

and juristic preference unless these constitute analogy based on a common operative cause. The leading later Hanafis and Malikis have unanimously agreed upon this, following the course of the Shafiʿis in this matter and abandoning their predecessors' methods of relying on personal opinion, juristic preference, analogy through the comparison sought, and the identification of resemblance. Even had they not done so, their case would have been easier to refute than is supposed, because nothing would remain except reliance on bare personal opinion alone and unrestricted juristic preference. Zayd's opinion has no greater claim than ʿAmr's opinion, nor does Zayd's juristic preference have any greater claim than juristic preference for ʿAmr's opinion. Were that so, religion—I seek refuge in Allah—would become something left without governance or reality: forbidden and lawful at once, true and false at once, and a corrupt muddle. This is too clear for anyone possessed of sense to err about it. Success comes through Allah Most High.

They adduced as an argument the community's consensus on advancing Abu Bakr to the caliphate, claiming that this was an analogy based on the Prophet's ﷺ advancing him to lead the prayer, and that ʿUmar said to the Helpers: "Accept for your leadership the man whom the Messenger of Allah ﷺ accepted for your prayer, which is the chief part of your religion."

Abu Muhammed said: This is falsehood that it is not lawful to maintain. Even if there were no argument concerning the advancement of Abu Bakr except that the Messenger of Allah ﷺ had appointed ʿAli as his deputy over Medina during the expedition of Tabuk, which was the last of his expeditions, peace be upon him, then drawing an analogy between two appointments as deputy, both of which include prayer and judicial rulings, would have a

greater claim than drawing an analogy between appointment as deputy and prayer alone.[525354555657]

L3084–3093 If they say, "The Prophet's ﷺ appointment of Abu Bakr as his deputy was his last action," they are told—and success comes through Allah Most High—that ʿAli's merit did not decline after the Messenger of Allah ﷺ appointed him as his deputy over Medina during the expedition of Tabuk. Rather, he undoubtedly increased in goodness. The Prophet's ﷺ appointment of Abu Bakr as his deputy for prayer was therefore not on account of some deficiency that had arisen in ʿAli which had not been present in him when he appointed him as his deputy over Tabuk, just as his appointment, peace be upon him, of ʿAli as his deputy over Medina in the year of Tabuk was not because ʿAli was superior to Abu Bakr. Thus appointing Abu Bakr as deputy for prayer did not diminish ʿAli's standing. The scholars hold only

فإن قالوا إن استخلاف النبي صلى الله عليه وسلم أبا بكر هو آخر فعله قيل لهم وبالله تعالى التوفيق، إن عليا لم يحبط فضله بعد أن استخلفه رسول الله صلى الله عليه وسلم على المدينة في غزوة تبوك بل زاد خيرا بلا شك فلم يكن استخلاف النبي صلى الله عليه وسلم أبا بكر على الصلاة لأجل نقيصة حدثت في علي، لم تكن فيه إذا استخلفه على تبوك. كما لم يكن استخلافه عليه السلام عليا على المدينة في عام تبوك لأنه كان أفضل من أبي بكر، فليس استخلاف أبي بكر على الصلاة حاطا لعلي. وإنما العلماء في خلافة أبي بكر على قولين أحدهما أن النبي صلى الله عليه وسلم نص عليه وولاه خلافته على الأمة وأقامه بعد موته مقامه صلى الله عليه وسلم في النظر عليه ولها وجعله أميرا على جميع المؤمنين بعد وفاته صلى الله عليه وسلم وهذا هو قولنا الذي ندين الله تعالى به ونلقاه إن شاء الله تعالى عليه مقرونا منا بشهادة التوحيد. وحجتنا الواضحة في ذلك إجماع الأمة حينئذ جميعا على أن سموه خليفة رسول الله صلى الله عليه وسلم ولو كانوا أرادوا ذلك أنه خليفة على الصلاة، لكان أبو بكر مستحقا لهذا الاسم في حياة النبي صلى الله عليه وسلم والأمة كلها مجمعة على أنه لم يستحق أبو بكر هذا الاسم في حياة النبي صلى الله عليه وسلم وأنه إنما استحقه بعد موت النبي صلى الله عليه وسلم إذ ولي خلافته على الحقيقة وأيضا فلو كان المراد بتسميتهم إياه خليفة رسول الله صلى الله عليه وسلم على الصلاة لا على الأمة لما كان بهذا الاسم في ذلك الوقت أولى من أبي زهم وابن أم مكتوم وعلي فكل هؤلاء فقد استخلفه النبي صلى الله عليه وسلم على المدينة ولا من عتاب بن أسيد بن أبي العيص بن أمية بن عبد شمس وقد استخلفه صلى الله عليه وسلم على مكة ولا من عثمان بن أبي العاص الثقفي فقد استخلفه صلى

[52] **Translator's note (L3076):** The clause beginning لأنه عند القائلين به حوادث is syntactically compressed: literally, "because it, according to its advocates, [is] new occurrences." The translation makes explicit the argument that advocates of analogy posit occurrences lacking an explicit revealed ruling.

[53] **Translator's note (L3077):** The supplied الهدى is understood here as sacrificial offerings, conventionally written الهدي, in the expression concerning sharing an offering. The statement concerning obligatory prayer behind voluntary prayer is compressed in Arabic; the translation makes explicit the imam who is performing the voluntary prayer.

[54] **Translator's note (L3078):** The supplied بالعمل التي, literally "concerning the action which," is grammatically and contextually problematic. The discussion that follows strongly suggests بالعلل التي, "concerning the operative grounds of rulings which." The translation follows that probable intended reading while recording the supplied wording here.

[55] **Translator's note (L3080):** The list names Malik's followers both among the principal constituents of the group and again among its smaller constituents. This apparent repetition or textual disturbance has been preserved. The expression "its adherents" translates أصحابه; in context, the intended reference appears to be the Companions whose transmitted cases the author has been discussing. Steeped-fruit drink renders النبيذ, a drink made by steeping fruit whose intoxicating status depends on its preparation and fermentation; the author's comparison concerns relabeling wine.

[56] **Translator's note (L3081):** The opening word completes the preceding segment's statement that certain cases, upon examination, are not analogy.

[57] **Translator's note (L3083):** The expression "analogy through the comparison sought" renders the awkward phrase قياس التمثيل المطلوب without emending it.

two positions concerning Abu Bakr's caliphate. The first is that the Prophet ﷺ explicitly designated him and entrusted him with succession to him over the community, installing him after his death in his own place ﷺ to exercise oversight over it and attend to its interests, and making him commander over all the believers after his death ﷺ. This is our position, which we profess as our religion before Allah Most High and upon which, if Allah Most High wills, we shall meet Him, joining it to our testimony to His oneness. Our clear proof for this is the entire community's consensus at that time in calling him "the successor of the Messenger of Allah ﷺ." Had they meant by this that he was a deputy for prayer, Abu Bakr would have deserved this title during the Prophet's ﷺ lifetime. Yet the entire community agrees that Abu Bakr did not deserve this title during the Prophet's ﷺ lifetime, and that he deserved it only after the Prophet's ﷺ death, when he actually assumed succession to him. Furthermore, had their intention in calling him "the successor of the Messenger of Allah ﷺ" concerned prayer rather than the community, he would have had no greater claim to this title at that time than Abu Zahm, Ibn Umm Maktum, or ʿAli, for each of these had been appointed as deputy by the Prophet—may Allah bless him and grant him peace—over Medina; nor would he have had any greater claim than ʿAttab ibn Asid ibn Abi al-ʿIs ibn Umayya ibn ʿAbd Shams, whom he ﷺ appointed as deputy over Mecca; nor than ʿUthman ibn Abi al-ʿAs al-Thaqafi, whom he ﷺ appointed as deputy over al-Taʾif; nor than Khalid ibn Saʿid ibn al-ʿAs ibn Umayya ibn ʿAbd Shams, whom he ﷺ appointed as deputy over Sanaʿa. Since the entire community agreed that none of those we have mentioned is called "the successor of the Messenger of Allah," either during the Prophet's ﷺ lifetime or after his death—ʿAli being called that when he assumed the caliphate—we know necessarily that Abu Bakr was called "the successor of the Messenger of Allah ﷺ" because he appointed him to full succession after his death, with authority over all the community's affairs. This is clear, and success comes through Allah Most High. The meaning of "successor," khalīfa, is a word on the pattern faʿīla derived from "one who is succeeded," makhlūf. This final hāʾ serves for intensification, as when you say ʿaqīr and ʿaqīra, "slaughtered," transferred from maʿqūra. This, then, is one position. The second position is that the Muslims advanced him only because he was

الله عليه وسلم على الطائف ولا من خالد بن سعيد بن العاص بن أمية بن عبد شمس فقد استخلفه صلى الله عليه وسلم على صنعاء فلما اتفقت الأمة كلها على أنه لا يسمى أحد ممن ذكرنا خليفة رسول الله لا في حياة النبي صلى الله عليه وسلم ولا بعد موته يسمى بذلك علي إذ ولي الخلافة، علمنا ضرورة أنه سمي أبو بكر خليفة رسول الله صلى الله عليه وسلم لأنه استخلفه على الخلافة التامة بعد موته في ولاية جميع أمور الأمة وهذا بين. وبالله تعالى التوفيق. ومعنى خليفة فعيلة من مخلوف وهذا الهاء للمبالغة، كقولك عقير وعقيرة منقول عن معقورة، فهذا قول. والقول الثاني: أنه إنما قدمه المسلمون لأنه كان أفضلهم، وحكم الإمامة أن يكون في الأفضل. واحتجوا بامتناع الأنصار في أول الأمر، وبقول عمر: إن أستخلف فقد استخلف من هو خير مني، وإن لا أستخلف فلم يستخلف من هو خير مني يعني النبي صلى الله عليه وسلم قال أبو محمد وهذا لا حجة لهم فيه بل بعضه عائد عليهم، لأن الأنصار لم يكونوا ليتركوا رأيهم، وهم أهل الدار والمنعة السابقة، الذين لم يبالوا بمخالفة أهل المشرق والمغرب، وحاربوا جميع العرب حتى أدخلوهم في الإسلام طوعا وكرها إلا لنص من النبي صلى الله عليه وسلم لا لرأي أضافهم النزاع إليهم من المهاجرين. وأما قول عمر فظن منه، وقد قال رضي الله عنه، إذ بشره ابن عباس عند موته بالجنة: والله إن علمك بذلك يا ابن عباس لقليل نخفي عليه شهادة النبي صلى الله عليه وسلم بالجنة مع ما في القرآن من ذلك لأهل الحديبية وهم منهم فهكذا خفي عليه نص النبي صلى الله عليه وسلم على أبي بكر وهذا من عمر مضاف إلى ما قلنا آنفا ومضاف إلى قول يوم مات النبي صلى الله عليه وسلم والله ما مات رسول الله وإلى قوله يوم أراد رسول الله صلى الله عليه وسلم أن يكتب في مرضه الذي مات فيه كما حدثنا حمام بن أحمد، ثنا عبد

the best of them, and the rule governing leadership is that it should belong to the best. They adduced as arguments the Helpers' initial refusal and ʿUmar's statement: "If I appoint a successor, someone better than I has appointed a successor; and if I do not appoint a successor, someone better than I did not appoint a successor," meaning the Prophet ﷺ.

Abu Muhammed said: They have no proof in this. Rather, part of it turns against them, because the Helpers would not have been prepared to abandon their opinion—they being the people of the abode and of the protection afforded from the outset, who had not cared about opposing the people of the East and West and had fought all the Arabs until they brought them into Islam, willingly and unwillingly—except on account of an explicit designation by the Prophet ﷺ, not on account of an opinion held by those Emigrants to whom the dispute had brought them. As for ʿUmar's statement, it was a supposition on his part. When Ibn ʿAbbas gave him glad tidings of Paradise at his death, he, may Allah be pleased with him, said: "By Allah, your knowledge of that, Ibn ʿAbbas, is indeed slight." Thus the Prophet's ﷺ testimony that he would enter Paradise escaped his notice, together with what the Qurʾan contains to that effect concerning the people of al-Hudaybiya, of whom he was one. In the same way, the Prophet's ﷺ explicit designation of Abu Bakr escaped his notice. This from ʿUmar is to be added to what we said just now, and to his statement on the day the Prophet ﷺ died, "By Allah, the Messenger of Allah has not died," and to his statement on the day the Messenger of Allah ﷺ wished to write during the illness in which he died, as Ḥammam ibn Ahmad related to us: ʿAbd Allah ibn Ibrahim related to us: Abu Zayd al-Marwazi related to us: Muhammed ibn Yusuf related to us: al-Bukhari related to us: Yahya ibn Sulayman al-Juʿfi related to us: Ibn Wahb related to us: Yunus informed me, from Ibn Shihab, from ʿUbayd Allah ibn ʿAbd Allah ibn ʿUtba, from Ibn ʿAbbas, who said:

"When the Messenger of Allah's ﷺ pain became severe, he said: 'Bring me writing material, so that I may write you a document after which you will not go astray after me.' ʿUmar said: 'The Prophet ﷺ has been overcome by pain, and we have the Book of Allah; it suffices us.' They disagreed, and the clamour grew. He said: 'Get up and leave me. Disputing in my presence is

الله بن إبراهيم، ثنا أبو زيد المروزي، ثنا محمد بن يوسف، ثنا البخاري، ثنا يحيى بن سليمان الجعفي، ثنا ابن وهب، أخبرني يونس، عن ابن شهاب، عن عبيد الله بن عبد الله بن عتبة عن ابن عباس قال لما اشتد برسول الله صلى الله عليه وسلم وجعه قال ائتوني بكتاب اكتب لكم كتابا لا تضلوا بعدي فقال عمر إن النبي صلى الله عليه وسلم غلبه الوجع وعندنا كتاب الله حسبنا فاختلفوا وكثر اللغط، فقال: قوموا عني، ولا ينبغي عندي التنازع. فخرج ابن عباس يقول: إن الرزية ما حال بين رسول الله وبين كتابه. وحدثناه عبد الله بن ربيع، ثنا محمد بن معاوية، ثنا أحمد بن شعيب، أنا محمد بن منصور، عن سفيان الثوري، سمعت سليمان هو الأحول عن سعيد بن جبير، عن ابن عباس فذكر الحديث وفيه إن قوما قالوا عن النبي صلى الله عليه وسلم في ذلك اليوم ما شأنه هجر قال أبو محمد هذه زلة العالم التي حذر منها الناس قديما، وقد كان في سابق علم الله تعالى أن يكون بيننا الاختلاف، وتضل طائفة وتهتدي بهدى الله أخرى. فلذلك نطق عمر ومن وافقه بما نطقوا به، مما كان سببا إلى حرمان الخير بالكتاب الذي لو كتبه لم يضل بعده، ولم يزل أمر هذا الحديث مهما لنا وشجى في نفوسنا، وغصة نألم لها، وكنا على يقين من أن الله تعالى لا يدع الكتاب الذي أراد نبيه صلى الله عليه وسلم أن يكتبه فلن يضل بعده دون بيان ليحيا من حي عن بينة، إلى أن من الله تعالى بأن أوجدناه فانجلت الكربة، والله المحمود. وهو ما حدثناه عبد الله بن يوسف، ثنا أحمد بن فتح، ثنا عبد الوهاب بن عيسى، ثنا أحمد بن محمد، ثنا أحمد بن علي، ثنا مسلم بن الحجاج، ثنا عبيد الله بن سعيد، ثنا يزيد بن هارون، ثنا إبراهيم بن سعد، ثنا صالح بن كيسان، عن الزهري عن عروة عن عائشة قالت قال لي رسول الله صلى الله عليه وسلم في مرضه ادعي لي أبا بكر وأخاك حتى أكتب كتابا، فإني

not fitting.' Ibn ʿAbbas went out saying: 'The calamity is what came between the Messenger of Allah and his writing.'"

ʿAbd Allah ibn Rabiʿ also related it to us: Muhammed ibn Muʿawiya related to us: Ahmad ibn Shuʿayb related to us: Muhammed ibn Mansur informed us, from Sufyan al-Thawri: "I heard Sulayman—that is, al-Ahwal—" from Saʿid ibn Jubayr, from Ibn Abbas, who related the report, which includes the statement that some people said of the Prophet ﷺ that day, "What is the matter with him? Has he become delirious?" Abu Muhammed said: This is the scholar's lapse against which people were warned long ago. It was already within Allah Most High's foreknowledge that disagreement would arise among us, that one group would go astray, and that another would be guided by Allah's guidance. That is why Umar and those who agreed with him uttered what they uttered, which was a cause of our being deprived of the good contained in the document which, had he written it, no one would have gone astray afterward. The matter of this report continued to trouble us, like something lodged painfully in our souls and a choking obstruction that caused us suffering. We were certain that Allah Most High would not leave without clarification the document that His Prophet ﷺ intended to write, after which no one would go astray, so that whoever lived might live upon clear evidence—until Allah Most High graciously enabled us to find it, and the distress was dispelled. To Allah belongs praise. It is what Abd Allah ibn Yusuf related to us: Ahmad ibn Fath related to us: Abd al-Wahhab ibn Isa related to us: Ahmad ibn Muhammed related to us: Ahmad ibn Ali related to us: Muslim ibn al-Hajjaj related to us: Ubayd Allah ibn Said related to us: Yazid ibn Harun related to us: Ibrahim ibn Sad related to us: Salih ibn Kaysan related to us, from al-Zuhri, from Urwa, from Aisha, who said: The Messenger of Allah ﷺ said to me during his illness, "Summon Abu Bakr and your brother for me, so that I may write a document, for I fear that someone may entertain an ambition and someone may make a claim; but Allah and the prophets refuse anyone except Abu Bakr." Abu Muhammed said: This is

أخاف أن يتمنى متمن ويقول قائل ويأبى الله والنبيون إلا أبا بكر. قال أبو محمد: هكذا في كتابي عن عبد الله بن يوسف، وفي أم أخرى، ويأبى الله والمؤمنون.

how it appears in my book transmitted from Abd Allah ibn Yusuf. In another master copy it reads, “But Allah and the believers refuse.”[58]596061626364

L3094–3104 Abd Allah ibn Rabi likewise related it to us: Muhammed ibn Muawiya related to us: Ahmad ibn Shuayb related to us: Abd al-Rahman ibn Muhammed ibn Sallam al-Tarsusi related to us: Yazid ibn Harun related to us: Ibrahim

وهكذا حدثناه عبد الله بن ربيع، ثنا محمد بن معاوية، ثنا أحمد بن شعيب، ثنا عبد الرحمن بن محمد بن سلام الطرسوسي، ثنا يزيد بن هارون، ثنا إبراهيم بن سعد، عن صالح بن كيسان عن الزهري عن عروة عن عائشة عن النبي صلى الله عليه وسلم بمثله وفيه إن ذلك كان في اليوم الذي بدىء فيه عليه السلام بوجعه الذي مات فيه بأبي هو وأمي. قال أبو محمد: فعلمنا أن الكتاب المراد يوم الخميس قبل موته صلى الله عليه وسلم بأربعة أيام كما روينا عن ابن عباس يوم قال عمر ما ذكرنا إنما كان في معنى الكتاب الذي أراد صلى الله عليه وسلم أن يكتبه في أول مرضه قبل يوم الخميس المذكور بسبع ليال لأنه صلى الله عليه وسلم ابتدأه وجعه يوم الخميس في بيت ميمونة أم المؤمنين وأراد صلى الله عليه وسلم يوم الاثنين وكانت مدة علته صلى الله عليه وسلم اثني عشر يوما فصح أن ذلك الكتاب كان في استخلاف أبي بكر لئلا يقع ضلال في الأمة بعده صلى الله عليه وسلم فإن ذكر ذاكر معنى ما روي عن عائشة إذ سئلت من كان رسول الله مستخلفا لو استخلف؟ فإنما معناه: لو كتب الكتاب في ذلك. قال أبو محمد: فهذا قول ثان، وقالت الزيدية: إنما استخلف أبو بكر استيلانا للناس كلهم، لأنه كان هنالك قوم ينافرون عليا، فرأى علي أن قطع الشغب أن يسلم الأمر إلى أبي بكر، وإن كان دونه في الفضل. قال أبو محمد: وأما أن يقول أحد من الأمة: إن أبا بكر إنما قدم قياسا على تقديمه إلى الصلاة فيأبى الله ذلك، وما قاله أحد قط يومئذ، وإنما تشبث بهذا القول الساقط المتأخرون من أصحاب القياس، الذين لا يبالون بما نصروا به أقوالهم، مع أنه أيضا في القياس فاسد، لو كان القياس حقا، لما بينا قبل، ولأن الخلافة ليست علتها علة الصلاة، لأن الصلاة جائز أن يليها العربي والمولى والعبد، والذي لا يحسن سياسة الجيوش والأموال والأحكام والسير الفاضلة، وأما الخلافة

[58]**Translator’s note (L3084):** The text says “over Tabuk” here, although the preceding wording describes appointment over Medina during the expedition of Tabuk. The supplied wording has been retained.

[59]**Translator’s note (L3086):** The phrase rendered “to exercise oversight over it and attend to its interests” contains a masculine pronoun in عليه followed by a feminine pronoun in لها. The intended referent appears to be the community, but the supplied Arabic is grammatically inconsistent. The name أبو زهم is rendered “Abu Zahm” as supplied. The final word begins a salutation that continues in the next unit.

[60]**Translator’s note (L3087):** The opening completes the salutation begun in the preceding unit. The clause “‘Ali being called that when he assumed the caliphate” follows a categorical denial that anyone mentioned bore the title. The supplied Arabic lacks an explicit exception or negation linking these clauses; the apparent textual difficulty has been retained. Asid renders the supplied أسيد/أَسِيد spelling without silently substituting another form.

[61]**Translator’s note (L3088):** The derivation of khalīfa from makhlūf, and the explanation of the final hāʾ as intensive, reproduce the author’s grammatical claims. The Arabic examples are retained alongside their English meanings because their forms are the subject of the argument.

[62]**Translator’s note (L3090):** The wording describing the Helpers as أهل الدار والمنعة السابقة is compressed; “the protection afforded from the outset” reflects the stated precedence of their protection. The phrase أضافهم النزاع إليهم, rendered “to whom the dispute had brought them,” is awkward but has not been emended. In the Qurʾan-related clause, the supplied Arabic says وهم منهم, literally “and they were among them,” although the immediate argument concerns ʿUmar individually. The translation follows that apparent individual reference.

[63]**Translator’s note (L3091):** The unvocalized word rendered “Has he become delirious?” can also be read as the assertion “He has become delirious.” The supplied text does not explicitly mark the interrogative.

[64]**Translator’s note (L3093):** The author explicitly records the variant “the prophets” in his own transmitted copy and “the believers” in another master copy; both are preserved here.

ibn Sad related to us, from Salih ibn Kaysan, from al-Zuhri, from Urwa, from Aisha, from the Prophet ﷺ, with the same wording. It includes the statement that this occurred on the day when the illness from which he died first afflicted him, peace be upon him—may my father and mother be his ransom. Abu Muhammed said: Thus we learned that the document intended on the Thursday four days before his death ﷺ, as we related from Ibn Abbas—the day when Umar said what we have mentioned—was concerned with the same matter as the document that he ﷺ intended to write at the beginning of his illness, seven nights before the Thursday in question. For his illness ﷺ began on a Thursday in the house of Maymuna, Mother of the Believers, and he ﷺ intended on Monday; the duration of his illness ﷺ was twelve days. It is therefore established that this document concerned appointing Abu Bakr as successor, so that no going astray would occur within the community after him ﷺ. If someone mentions the meaning of what was related from Aisha when she was asked, "Whom would the Messenger of Allah have appointed as successor, had he appointed a successor?" its meaning is only "had he written the document concerning that." Abu Muhammed said: This, then, is a second position. The Zaydis said: Abu Bakr was appointed successor only to conciliate all the people, because there were people there who were hostile to Ali. Ali therefore considered that the way to put an end to disorder was to surrender authority to Abu Bakr, even though he was inferior to him in merit. Abu Muhammed said: As for anyone in the community saying that Abu Bakr was advanced only by analogy with his being advanced to lead the prayer, Allah rejects that. No one whatsoever said it at the time. Only the later adherents of analogy clung to this worthless assertion, caring nothing about what they used to support their positions. Moreover, it would also be invalid as an analogy, even if analogy were valid, for the reasons we explained earlier, and because the effective cause governing the caliphate is not the effective cause governing prayer. For an Arab, a freed client, a slave, or someone who does not know how to manage armies, finances, legal judgments, and virtuous practices may lead the prayer. As for the caliphate, however, none may hold it except a Qurashi by direct descent who knows governance and its various aspects, even if he is not proficient in recitation. Prayer is subordinate to supreme leadership; supreme leadership is not subordinate to prayer.

فلا يجوز أن يتولاها، إلا قرشي صليبة، عالم بالسياسة ووجوهها. وإن لم يكن محكما للقراءة. وإنما الصلاة تبع للإمامة، وليست الإمامة تبعا للصلاة، فكيف يجوز عند أحد من أصحاب القياس أن تقاس الإمامة التي هي أصل، على الصلاة التي هي فرع من فروع الإمامة؟ هذا ما لا يجوز عند أحد من القائلين بالقياس. وقد كان سالم مولى أبي حذيفة يؤم أكابر المهاجرين وفيهم عمرو وغيره أيام النبي صلى الله عليه وسلم ولم يكن ممن تجوز له الخلافة فكان أحقهم بالصلاة، لأنه كان أقرأهم، وقد كان أبو ذر، وأبي بن كعب، ومعاذ بن جبل، وزيد بن ثابت، وابن مسعود أولى الناس بالصلاة إذا حضرت، إذا لم يكونوا بحضرة أمير أو صاحب منزل، لفضل أبي ذر وزهده وورعه وسابقته، وفضل سائر من ذكرنا وقراءتهم ولم يكونوا من أهل الخلافة، ولا كان أبو ذر من أهل الخلافة، ولا كان أبو ذر من أهل الولايات ولا من أهل الاضطلاع بها وقد قال له رسول الله صلى الله عليه وسلم يا أبا ذر إني أحب لك ما أحب لنفسي وإنك ضعيف، فلا تأمرن على اثنين ولا تولين مال يتيم وقد أمر رسول الله صلى الله عليه وسلم خالد بن الوليد وعمرو بن العاص وأسامة بن زيد على من هو أفضل منهم وأقرأ، وأقدم هجرة وأفقه وأسن، وهذه هي شروط الاستحقاق للإمامة في الصلاة، وليست هذه شروط الإمارة. وإنما شروط الإمارة حسن السياسة، ونجدة النفس، والرفق في غير مهانة، والشدة في غير عنف، والعدل والجود بغير إسراف، وتمييز صفات الناس في أخلاقهم وسعة الصدر، مع البراءة من المعاصي، والمعرفة بما يخصه في نفسه في دينه، وإن لم يكن صاحب عبارة، ولا واسع العلم، ولو حضر عمرو وخالد وأسامة مع أبي ذر وهم غير أمراء ما ساغ لهم أن يؤموا تلك الجماعة، ولا أن يتقدموا أبا ذر ولا أبي بن كعب. ولو حضروا في مواضع يحتاج فيها إلى السياسة في السلم والحرب لكان عمرو وخالد وأسامة أحق بذلك من أبي ذر وأبي ولما كان لأبي ذر وأبي من ذلك حق مع عمرو وخالد وأسامة وبرهان ذلك استعمال رسول الله صلى

How, then, can any adherent of analogy permit supreme leadership, which is a principal matter, to be analogically assimilated to prayer, which is one of the subsidiary matters of supreme leadership? This is something none of those who uphold analogy permits. Salim, the freed client of Abu Hudhayfa, used to lead the foremost Emigrants in prayer, including Amr and others, in the days of the Prophet ﷺ, although he was not among those eligible for the caliphate. He had the greatest right among them to lead the prayer because he was the most proficient of them in recitation. Abu Dharr, Ubayy ibn Kab, Muadh ibn Jabal, Zayd ibn Thabit, and Ibn Masud likewise had the greatest right to lead people in prayer when its time came, provided that they were not in the presence of a commander or the master of a house, because of Abu Dharr's merit, asceticism, scrupulous piety, and precedence, and because of the merit and recitation of the others we have mentioned. They were not eligible for the caliphate, nor was Abu Dharr eligible for the caliphate, nor was Abu Dharr suited to offices of authority or capable of shouldering them. The Messenger of Allah ﷺ said to him, "Abu Dharr, I love for you what I love for myself. You are weak, so never take command over two people, and never administer an orphan's property." The Messenger of Allah ﷺ appointed Khalid ibn al-Walid, Amr ibn al-As, and Usama ibn Zayd as commanders over men who surpassed them in merit, were more proficient in recitation, had emigrated earlier, were more learned in religious law, and were older. These are the conditions of entitlement to lead the prayer; they are not the conditions of command. The conditions of command are sound governance, personal courage, gentleness without abasement, firmness without violence, justice, generosity without extravagance, discernment of people's qualities of character, and forbearance, together with freedom from acts of disobedience and knowledge of what concerns him personally in his religion, even if he is neither eloquent nor extensively learned. If Amr, Khalid, and Usama were present with Abu Dharr without holding command, it would not be permissible for them to lead that congregation in prayer or to take precedence over Abu Dharr or Ubayy ibn Kab. If, however, they were present in situations requiring governance in peace and war, Amr, Khalid, and Usama would have a greater right to that than Abu Dharr and Ubayy, and Abu Dharr and Ubayy would have no entitlement to it in the presence of Amr, Khalid, and

الله عليه وسلم خالدا وأسامة وعمرا دون أبي ذر وأبي وأبو ذر وأبي أفضل من عمرو وأسامة وخالد بدرج عظيمة جدا. وقد حضر الصحابة يوم غزوة مؤتة فقتل الأمراء وأشرف المسلمون على الهلكة، فما قام منهم أحد مقام خالد بن الوليد، كلهم، إلا الأقل، أقدم إسلاما وهجرة ونصرا، وهو حديث الإسلام يومئذ، فما ثبت أحد ثباته، وأخذ الراية ودبر الأمر، حتى انحاز بالناس أجمل انحياز، فليست الإمامة والخلافة من باب الصلاة في ورد ولا صدر، فبطل تمويههم بأن خلافة أبي بكر كانت قياسا على الصلاة أصلا. فإن قالوا: لو كانت خلافة أبي بكر منصوصا عليه من النبي صلى الله عليه وسلم ما اختلفوا فيها قال أبو محمد فيقال لهم وبالله تعالى التوفيق: هذا تمويه ضعيف لا يجوز إلا على جاهل بما اختلف فيه الناس، وهل اختلف الناس إلا في المنصوصات. والله العظيم قسما برا ما اختلف اثنان قط فصاعدا في شيء من الدين إلا في منصوص بين في القرآن والسنة، فمن قائل: ليس عليه العمل، ومن قائل: هذا تلقى بخلاف ظاهره، ومن قائل: هذا خصوص، ومن قائل: هذا منسوخ. ومن قائل: هذا تأويل، وكل هذا منهم بلا دليل في أكثر دعواهم كاختلافهم في وجوب الوصية لمن لا يرث من الأقارب والإشهاد في البيع، وإيجاب الكتابة، وقسمة الخمس، وقسمة الصدقات وممن تؤخذ الجزية، والقراءات في الصلوات والتكبير فيها، والاعتدال، والنيات في الأعمال والصوم، ومقدار الزكاة وما يؤخذ فيها المتعة في الحج، والقرآن والفسخ، وسائر ما اختلف الناس فيه، وكل ذلك منصوص في القرآن والصحيح عن رسول الله صلى الله عليه وسلم فعلى هذا وعلى النسيان للنص كان اختلاف من اختلف في خلافة أبي بكر. وأما الأنصار فإنهم لما ذكروا، وكان قبل ذلك قد نسوا، حتى قال قائلهم: منا أمير ومنكم أمير، ودعا بعضهم إلى المداولة، وبرهان ما قلنا أن عبادة بن الصامت الأنصاري روى عن رسول الله صلى الله عليه وسلم أن الأنصار بايعوه على ألا ينازعوا الأمر أهله وأنس بن مالك الأنصاري روى عن رسول الله

Usama. The demonstration of this is that the Messenger of Allah ﷺ appointed Khalid, Usama, and Amr to office rather than Abu Dharr and Ubayy, although Abu Dharr and Ubayy surpassed Amr, Usama, and Khalid in merit by very great degrees. The Companions were present at the battle of Muta, when the commanders were killed and the Muslims stood on the brink of destruction. None of them took the position that Khalid ibn al-Walid took, although all but a very few of them had preceded him in embracing Islam, emigrating, and giving support, while he had only recently embraced Islam at that time. No one stood firm as he did. He took the standard and managed affairs until he withdrew with the people in the finest manner of withdrawal. Supreme leadership and the caliphate therefore have no connection whatsoever with the category of prayer. Their deceptive claim that Abu Bakr's caliphate was based on analogy with prayer is thus utterly invalidated. If they say, "Had Abu Bakr's caliphate been explicitly stipulated by the Prophet ﷺ, they would not have disagreed about it," Abu Muhammed said: They should be told—and success comes through Allah Most High—this is a weak deception that can pass muster only with someone ignorant of the matters about which people have disagreed. Have people disagreed about anything other than matters explicitly stipulated in the texts? By Allah the Magnificent, in a truthful oath, never have two or more people disagreed about anything in religion except something clearly stipulated in the Quran and the Sunna. One says, "Practice does not follow it"; another says, "This has been received in a sense contrary to its apparent meaning"; another says, "This is specific in scope"; another says, "This is abrogated"; and another says, "This is a figurative interpretation." All this they say without evidence for most of their claims, as in their disagreements concerning the obligation to make a bequest to relatives who do not inherit, calling witnesses to a sale, making a contract of manumission obligatory, distributing the fifth, distributing obligatory alms, from whom the poll tax is to be collected, recitations in the prayers, pronouncing "Allah is greatest" in them, assuming an upright posture, intentions in acts of worship, fasting, the amount of obligatory alms and what is to be taken in payment of them, combining pilgrimage with a preceding lesser pilgrimage with a release from consecration between them, the Quran, annulling the pilgrimage consecration, and all the other matters

صلى الله عليه وسلم أن الأئمة من قريش فبهذا ونحوه رجعت الأنصار عن رأيهم، ولا ذلك ما رجعوا إلى رأي غيرهم، ومعاذ الله أن يكون رأي المهاجرين أولى من رأي الأنصار، بل النظر والتدبير بينهم سواء، وكلهم فاضل سابق وقد قال عمر يوم مات النبي صلى الله عليه وسلم والله ما مات رسول الله وهو يحفظ قول الله عز وجل: {إنك ميت وإنهم ميتون} فلما ذكر بها خر مغشيا عليه، وهكذا عرض للأنصار. وقد روينا ذلك نصا. كما حدثنا عبد الله بن ربيع، نا عبد الله بن محمد بن عثمان الأسدي، نا أحمد بن خالد، نا علي بن عبد العزيز، نا الحجاج بن المنهال، نا أبو عوانة، عن داود بن عبد الله الأودي، عن حميد بن عبد الرحمن الحميري فذكر حديث وفاة رسول الله صلى الله عليه وسلم قال فقال رجال أدركناهم فذكر باقي الحديث وفيه، أن أبا بكر قال وقد علمت يا سعد أن رسول الله صلى الله عليه وسلم قال وأنت قاعد إن الأئمة من قريش والناس برهم تبع لبرهم، وفاجرهم تبع لفاجرهم قال: صدقت أو قال: نعم. قال أبو محمد: ومن أعاجيب أهل القياس: أنهم في هذا المكان يحتجون بأن إمامة أبي بكر كانت قياسا لا نصا، ثم نسوا أنفسهم أو تناسوا عمدا؟ فإذا أرادوا إثبات التقليد للمصاحب قالوا قال رسول الله صلى الله عليه وسلم اقتدوا باللذين من بعدي أبي بكر وعمر قال أبو محمد: وهذا اعجب ما شئت منه فإن كان هذا الحديث صحيحا فقد صح النص من رسول الله صلى الله عليه وسلم على خلافة أبي بكر بعده ثم على خلافة عمر بعد أبي بكر، وبطل قولهم: إن بيعة أبي بكر كانت قياسا على صلاته بالناس، وإن كان هذا الحديث لا يصح فلم احتجوا به في تقليد الإمام من الصحابة؟ أفيكون أقبح من هذه المناقضات بما يبطل بعضه بعضا؟ ولكن إنما شأن القوم نصر المسألة التي يتكلمون فيها بما أمكن، من حق أو باطل أو ضحكة، أو بما يهدم عليهم سائر مذاهبهم، ليوهموا من بحضرتهم من المغرورين بهم أنهم غالبون فقط، فإذا تركوها وأخذوا في غيرها، لم

about which people have disagreed. All this is explicitly stipulated in the Quran and in what is authentically transmitted from the Messenger of Allah—may blessings of Allah be upon him, and peace. It was on this basis, and because of forgetting the explicit text, that those who differed over Abu Bakr's caliphate differed. As for the Helpers, when they were reminded—for before that they had forgotten, to the point that their spokesman said, "An emir from among us and an emir from among you," and some of them called for rotation in office—the demonstration of what we have said is that ʿUbadah ibn al-Samit al-Ansari transmitted from the Messenger of Allah ﷺ that the Helpers pledged allegiance to him on the condition that they would not contest authority with those entitled to it. Anas ibn Malik al-Ansari transmitted from the Messenger of Allah ﷺ that the leaders are to be from Quraysh. Through this and similar evidence, the Helpers abandoned their opinion. Were it not for that, they would not have abandoned it for the opinion of others. And Allah forbid that the opinion of the Emigrants should be more entitled to acceptance than the opinion of the Helpers. Rather, they were equal in deliberation and management, and every one of them was a person of merit and an early adherent. On the day the Prophet ﷺ died, ʿUmar said, "By Allah, the Messenger of Allah has not died," although he had memorized the words of Allah, Mighty and Majestic: {You will indeed die, and they will indeed die}. When he was reminded of them, he fell down unconscious. The same thing befell the Helpers. We have transmitted an explicit report of this, as ʿAbd Allah ibn Rabiʿ narrated to us: ʿAbd Allah ibn Muhammed ibn ʿUthman al-Asadi narrated to us: Ahmad ibn Khalid narrated to us: ʿAli ibn ʿAbd al-ʿAziz narrated to us: al-Hajjaj ibn al-Minhal narrated to us: Abu ʿAwanah narrated to us, from Dawud ibn ʿAbd Allah al-Awdi, from Humayd ibn ʿAbd al-Rahman al-Himyari. He related the account of the death of the Messenger of Allah ﷺ, saying, "Men whom we met said"—and he related the remainder of the account. It includes Abu Bakr's statement: "You know, Saʿd, that the Messenger of Allah ﷺ said, while you were sitting there, 'The leaders are to be from Quraysh, and the people—the righteous among them follow their righteous, and the wicked among them follow their wicked.'" He said, "You have spoken the truth," or he said, "Yes." Abu Muhammed said: Among the astonishing things about the proponents of analogy is that, at

يبالوا أن ينصروها أيضا بما يبطل قولهم في المسألة التي تركوا، وهكذا أبدا ونعوذ بالله من الخذلان.

this point, they argue that Abu Bakr's leadership rested on analogy, not an explicit text. Then they forget themselves, or deliberately pretend to forget, and when they wish to establish uncritical adherence to a Companion, they say: The Messenger of Allah ﷺ said, "Follow the two who come after me, Abu Bakr and ʿUmar." Abu Muhammed said: This is as astonishing as you could wish. If this report is authentic, then an explicit designation by the Messenger of Allah ﷺ of Abu Bakr's caliphate after him, and then of ʿUmar's caliphate after Abu Bakr, is established, and their statement that allegiance was pledged to Abu Bakr by analogy with his leading the people in prayer is invalid. If this report is not authentic, why did they invoke it as evidence for uncritical adherence to a leader from among the Companions? Could anything be uglier than these contradictions, in which one assertion invalidates another? These people's sole concern, however, is to defend the issue they are discussing by whatever means are available: truth, falsehood, a laughable argument, or something that demolishes all their other doctrines, merely to make those present who have been taken in by them imagine that they have prevailed. Then, when they leave that issue and take up another, they have no qualms about defending it too with something that invalidates their po-

sition on the issue they have left. Thus it goes forever. We seek refuge in Allah from abandonment.[65666768697071]

L3105–3106 They argued that Abu Bakr, together with all the Companions, fought the people of apostasy by analogy with withholding prayer. As evidence for this, they invoked his reported statement, “I shall certainly fight anyone who distinguishes between prayer and almsgiving.” One proponent of analogy even said, “It was on this that Abu Bakr relied, not on the verse in Bara’ah.” Abu Muhammed said: This reaches the utmost limit of audacity, treating lying as lawful, and attributing error to Abu Bakr. Whoever attributes this to Abu Bakr has attributed to him misguidance, from which Allah protected him. The demonstration of their lying in this objection is clearer than anything clear. Abu Bakr did not say, “I shall certainly fight them because they distinguished between prayer and almsgiving.” He said only, “I shall certainly fight those who distinguish between prayer and almsgiving.” Without doubt, he did this solely in observance of what Allah Most High has made binding

واحتجوا بأن أبا بكر قاتل أهل الردة مع جميع الصحابة قياسا على منع الصلاة، واحتجوا في ذلك بما روي من قوله: لأقاتلن من فرق بين الصلاة والزكاة، حتى إن بعض أصحاب القياس قال: على هذا عول أبو بكر، لا على الآية التي في براءة. قال أبو محمد: وهذا من الجرأة واستحلال الكذب، ونسب الضلال إلى أبي بكر بحيث لا مرمى وراءه، ومن نسب هذا إلى أبي بكر فقد نسب إليه الضلالة، وقد أعاذه الله من ذلك، وبيان كذبهم في هذا الاعتراض أوضح من كل واضح لأن أبا بكر لم يقل لأقاتلنهم لأنهم فرقوا بين الصلاة والزكاة وإنما قال: لأقاتلن المفرقين بين الصلاة والزكاة، وإنما فعل ذلك بلا شك وقوفا عند إلزام الله تعالى لنا وللمسلمين قديما وحديثا إذ يقول تعالى {فإذا نسلخ لأشهر لحرم فقتلوا لمشركين حيث وجدتموهم وخذوهم وحصروهم وقعدوا لهم كل مرصد فإن تابوا وأقاموا لصلاة وآتوا لزكاة فخلوا سبيلهم إن لله غفور رحيم} فلم يبح الله تعالى لنا ترك سبيلهم إلا بإقامة الصلاة، وإيتاء الزكاة، فهذا الذي حمل أبا بكر على قتالهم لا ما يدعونه من الكذب المفضوح من القياس الذي لا طريق له ههنا وصدق أبو بكر في إيجابه قتال من فرق بين الصلاة والزكاة، لأن نص الله تعالى عليهما سواء، وليست إحداهما أصلا والأخرى فرعا فيجب قياس الفرع على الأصل. وهذا تخليط ما شئت منه ولو اتعظوا بهذا القول من أبي بكر، فلم يفرقوا ما ساوى النص بينه، لكان أولى بهم، لكنهم لم يفعلوا، بل قالت طائفة منهم، الزكاة تجزىء إلا بنية، والصلاة تلزم العبد، والزكاة لا تلزمه وإن كان ذا مال. وأما في سائر النصوص فلا يبالون أن يقولوا في بعض النص: هذا مخصوص، وفي بعضه: هذا عموم، وفي بعضه: هذا واجب، وفي بعضه هذا ندب، ومثل هذا لهم كثير وقد

[65] **Translator’s note (L3094):** The wording “and he intended on Monday” is incomplete as supplied: no object of “intended” is given. The surrounding chronology may suggest a corruption for wording about his death on Monday, but the translation preserves the supplied reading.

[66] **Translator’s note (L3097):** The supplied text names “Amr” among those led in prayer by Salim. This has been retained rather than silently changed to the similar name “Umar.”

[67] **Translator’s note (L3100):** The wording rendered “This is a figurative interpretation” is literally “This is an interpretation” (ta’wil); the precise intended contrast with the preceding appeal to a meaning contrary to the apparent wording is not explicit.

[68] **Translator’s note (L3101):** The supplied text reads “the Quran” in the list of pilgrimage matters. This appears to be an erroneous reading for “performing the greater and lesser pilgrimages together” (qiran), but the supplied wording is retained. “Making a contract of manumission obligatory” refers to kitaba, a contractual arrangement by which an enslaved person purchases freedom. The segment ends partway through the salutation; only its opening fragment is translated.

[69] **Translator’s note (L3102):** The opening continues a salutation begun in the preceding segment; only its remaining fragment is translated. The wording “wa-la dhalika” appears defective; the translation takes it as the contextually indicated “wa-lawla dhalika,” meaning “were it not for that.”

[70] **Translator’s note (L3104):** The supplied “al-musahib” is unusual here; it has been understood as referring to a Companion, as the subsequent wording explicitly does.

[71] **Qur’an references (L3094):** Qur’an 39:30 (Az-Zumar).

عارض الصحابة أبا بكر بقول النبي صلى الله عليه وسلم أمرت أن أقاتل الناس حتى يقولوا لا إله إلا الله، فإذا عصموا مني دماءهم وأموالهم إلا بحقها وحسابهم على الله.

upon us and upon Muslims, past and present, when He, Most High, says: {Then, when the sacred months have passed, kill the polytheists wherever you find them, seize them, besiege them, and lie in wait for them at every place of ambush. But if they repent, establish prayer, and give almsgiving, then let them go their way. Indeed, Allah is forgiving, merciful}. Allah Most High did not permit us to let them go their way except upon their establishing prayer and giving almsgiving. This is what prompted Abu Bakr to fight them, rather than the exposed falsehood they claim concerning analogy, for which there is no avenue here. Abu Bakr spoke truly in declaring it obligatory to fight anyone who distinguishes between prayer and almsgiving, because Allah Most High's explicit text concerning the two is equal. One is not an original case and the other a derivative case, such that the derivative case must be assimilated to the original case by analogy. This is as much muddled thinking as you could wish. Had they taken heed of this statement by Abu Bakr and refrained from distinguishing between things that the explicit text places on an equal footing, that would have been more fitting for them. But they did not. Rather, one group of them said, "Almsgiving is valid only with an intention; prayer is binding upon the slave, whereas almsgiving is not binding upon him, even if he possesses wealth." As for the other explicit texts, they have no qualms about saying of one part of a text, "This has a restricted application," and of another, "This is general"; of one part, "This is obligatory," and of another, "This is recommended." They have many such instances. The Companions opposed Abu Bakr with the Prophet's ﷺ statement: "I have been commanded to fight the people until they say, 'There is no deity but Allah.' Then they have protected their blood and property from me, except where a right pertaining to it applies, and their reckoning rests with Allah."[72][73]

[72] **Translator's note (L3106):** The Qur'anic quotation, corresponding to 9:5, contains numerous defective spellings and omitted letters in the supplied transcription; the translation follows its recoverable wording. "Almsgiving is valid only with an intention" translates the supplied wording. Its relationship to the author's criticism is unclear, and a transcription defect is possible. The transmitted prophetic quotation reads "then they have protected," without the usual intervening conditional wording. The omission is preserved.

[73] **Qur'an references (L3105):** Qur'an 9:5 (At-Tawbah).

قال أبو محمد: ونسبوا رضي الله عنهم الآية التي ذكرنا آنفا في براءة، وكلهم قد سمعها لأنها في سورة براءة التي قرئت على الناس كلهم في الموسم في حجة أبي بكر سنة تسع.

وفي الجملة أيضا أبو هريرة وابن عمر وكلاهما قد روى عن رسول الله صلى الله عليه وسلم الأمر بقتال الناس حتى يقيموا الصلاة ويؤتوا الزكاة، كما حدثنا ابن يوسف، ثنا أحمد بن فتح، ثنا عبد الوهاب بن عيسى، نا أحمد بن محمد، ثنا أحمد بن علي، ثنا مسلم بن الحجاج، ثنا أبو غسان مالك بن عبد الواحد المسمعي، ثنا عبد الملك بن الصباح، عن شعبة، عن واقد بن محمد بن زيد بن عبد الله بن عمر عن أبيه عن عبد الله بن عمر قال قال رسول الله صلى الله عليه وسلم أمرت أن أقاتل الناس حتى يشهدوا أن لا إله إلا الله وأن محمدا رسول الله ويقيموا الصلاة ويؤتوا الزكاة فإذا فعلوا عصموا مني دماءهم وأموالهم وحسابهم على الله. قال مسلم: وحدثنا أمية بن بسطام، ثنا يزيد بن زريع، نا روح، عن العلاء بن عبد الرحمن بن يعقوب عن أبيه عن أبي هريرة عن رسول الله صلى الله عليه وسلم قال أمرت أن أقاتل الناس حتى يشهدوا أن لا إله إلا الله ويؤمنوا بي وبما جئت به، فإذا فعلوا ذلك عصموا مني دماءهم وأموالهم إلا بحقها وحسابهم على الله. قال أبو محمد: فلولا هذه النصوص من القرآن وكلام النبي صلى الله عليه وسلم ما ترك الصحابة الحديث الذي تعلقوا به ولكن ليس كل أحد يحضره في كل حين ذكر كل ما عنده، واحتجوا بإجماع الأمة على استخلاف إمام إذا مات إمام ولا نص على المستخلف. قال أبو محمد: وهذا لا حجة لهم فيه، لأن النص قد صح بطاعة أولي الأمر منا وجاءت الآثار الصحاح عن النبي صلى الله عليه وسلم بوجوب الطاعة للأئمة ولزوم البيعة وهذا ما يوجب استخلاف إمام إذا مات الإمام، فهو نص صحيح على وجوب الاستخلاف لمن يوثق بدينه ويقوم بأمور المسلمين من قريش،

L3107 Abu Muhammed said: And they attributed—may Allah be pleased with them—the verse we mentioned just above in Bara'ah. Every one of them had heard it, because it is in Surat Bara'ah, which was recited to all the people at the pilgrimage gathering during Abu Bakr's pilgrimage in the year nine.[74]

L3108–3111 Among them, too, were Abu Hurayrah and Ibn ʿUmar. Both transmitted from the Messenger of Allah ﷺ the command to fight the people until they establish prayer and give almsgiving, as Ibn Yusuf narrated to us: Ahmad ibn Fath narrated to us: ʿAbd al-Wahhab ibn ʿIsa narrated to us: Ahmad ibn Muhammed narrated to us: Ahmad ibn ʿAli narrated to us: Muslim ibn al-Hajjaj narrated to us: Abu Ghassan Malik ibn ʿAbd al-Wahid al-Mismaʿi narrated to us: ʿAbd al-Malik ibn al-Sabbah narrated to us, from Shuʿbah, from Waqid ibn Muhammed ibn Zayd ibn ʿAbd Allah ibn ʿUmar, from his father, from ʿAbd Allah ibn ʿUmar, who said: The Messenger of Allah ﷺ said, "I have been commanded to fight the people until they testify that there is no deity but Allah and that Muhammed is the Messenger of Allah, establish prayer, and give almsgiving. When they do so, they have protected their blood and property from me, and their reckoning rests with Allah." Muslim said: Umayyah ibn Bistam also narrated to us: Yazid ibn Zurayʿ narrated to us: Rawh narrated to us, from al-ʿAla' ibn ʿAbd al-Rahman ibn Yaʿqub, from his father, from Abu Hurayrah, from the Messenger of Allah ﷺ, who said, "I have been commanded to fight the people until they testify that there is no deity but Allah and believe in me and in what I have brought. When they do that, they have protected their blood and property from me, except where a right pertaining to it applies, and their reckoning rests with Allah." Abu Muhammed said: Were it not for these explicit texts from the Qur'an and the words of the Prophet ﷺ, the Companions would not have relinquished the report to which they had attached themselves. But not everyone has present in his mind, at every moment, the recollection of everything he knows. They also invoked the community's consensus on

[74]**Translator's note (L3107):** The supplied verb means "they attributed," leaving the sentence defective. The context strongly suggests "they forgot," but the supplied reading has been preserved rather than silently corrected.

appointing a successor as leader when a leader dies, although there is no explicit text designating the successor. Abu Muhammed said: This contains no proof for them, because the explicit text commanding obedience to those vested with authority among us is established, and authentic reports have come from the Prophet ﷺ concerning the obligation of obedience to the leaders and the binding requirement of the pledge of allegiance. This is what makes appointing a successor as leader obligatory when the leader dies. It is therefore an authentic explicit text establishing the obligation to appoint as successor someone from Quraysh whose religious commitment is trusted and who attends to the Muslims' affairs—clear explicit texts establishing the leader's obligation to act justly, treat his subjects gently, and sincerely seek their welfare. Thus the leader's qualities are explicitly stated on the authority of the Messenger of Allah ﷺ, plainly and clearly. Whoever possesses those qualities is explicitly designated for advancement and for being entrusted alone with authority for as long as he acts justly. It is like the command to emancipate a slave: we have no need to name the person to be emancipated; or the obligation of the sacrificial offering and the ritual sacrifice: we have no need to a description of its color. The same applies to the entirety of the revealed law. If only I knew what place analogy has in this! This is something that any rational person ought to be ashamed to adduce as an argument.

They also adduced the statement of the Messenger of Allah ﷺ, "There is no prophet after me." They said to us: "Then say that there may be a messenger after him, since he stated that there would be no prophet after him, but did not say, 'There is no messenger after me.'"

Abu Muhammed said: This is benighted ignorance; it is possible that this is what produced such a claim. For this is among the comprehensive utterances with which the Messenger of Allah ﷺ was endowed. Every messenger is a prophet, but not every prophet is a messenger. Had he, peace be upon him, said, "There is no messenger after me," it would have been possible to say that there could be a prophet after him. But since he said, "There is no prophet after me," it is established that there is no messenger after him, because every messenger is undoubtedly a prophet, and there is no possibility of a messenger who is not a prophet. This feeble obfuscation is

نصوصا بينة على وجوب العدل على الإمام، والرفق بالرعية، والنصح لهم فصفات الإمام منصوصة عن رسول الله صلى الله عليه وسلم بينة واضحة فمن كانت فيه تلك الصفات فقد نص على تقديمه وإفراده بالأمر ما عدل. كالأمر بالعتق، ولا حاجة بنا إلى تسمية المعتق، وإيجاب الأضحية والنسك، ولا حاجة بنا إلى صفة لونها، وهكذا جمع الشريعة، وليت شعري أي مدخل للقياس في هذا؟ إن هذا الأمر كان ينبغي لكل ذي عقل أن يستحي من الاحتجاج بمثله واحتجوا بقول رسول الله صلى الله عليه وسلم لا نبي بعدي قالوا لنا فقولوا إنه يكون بعده رسول، لأنه أخبر بأنه لا يكون بعده نبي، ولم يقل لا رسول بعدي. قال أبو محمد: وهذا جهل مظلم ممكن أتى بهذا، لأن هذا من جوامع الكلم التي أوتيها رسول الله صلى الله عليه وسلم وكل رسول نبي وليس كل نبي رسولا فلو قال عليه السلام: لا رسول بعدي، لأمكن أن يقول بعده نبي، لكن إذ قال: لا نبي بعدي فقد صح أنه لا رسول بعده، لأن كل رسول فهو نبي بلا شك. ولا سبيل إلى وجود رسول ليس نبيا، فبطل هذا التمويه الضعيف على أن هذا كله لو صح لهم كما ادعوه، ومعاذ الله من ذلك، لما كان من شيء منه دليل على قياس التين على البر، ولا على وجوب القياس في الشرائع، فكيف وكل ما أوتوا به عليهم هو لا لهم، والحمد لله رب العالمين. وقد حدثنا أحمد بن محمد بن الحسن، ثنا وهب بن مسرة، ثنا ابن وضاح، حدثنا أبو بكر بن أبي شيبة، حدثنا عبد الله بن إدريس الأودي عن المختار بن فلفل عن أنس قال قال النبي صلى الله عليه وسلم إن النبوة والرسالة قد انقطعت

therefore invalidated. Moreover, even if all this were established in their favor as they claim—and Allah forbid that it should be—nothing in any of it would provide evidence for drawing an analogy between figs and wheat, or for the obligation to employ analogy in revealed laws. How much less so when everything they have brought forward counts against them, rather than in their favor! Praise belongs to Allah, Lord of all worlds.

Ahmad ibn Muhammed ibn al-Hasan related to us: Wahb ibn Masarrah related to us: Ibn Waddah related to us: Abu Bakr ibn Abi Shaybah related to us: Abd Allah ibn Idris al-Awdi related to us, from al-Mukhtar ibn Fulful, from Anas, who said: The Prophet ﷺ said, "Prophethood and messengership have come to an end."[75][76][77][78]

L3112–3113 The people were distressed, so he said, "Glad tidings remain, and they are a part of prophethood."

Abu Muhammed said: They argued that a menstruating woman was commanded to perform purification with earth when she could find no water while traveling only by analogy with a person in a state of major ritual impurity following sexual activity.

Abu Muhammed said: This is feeble obfuscation. Allah forbid that we should command a menstruating woman to do this on the basis of analogy! Rather, it is on the basis of the explicit text, namely His statement, exalted is He, when He commanded abstention from menstruating women until they become pure: "They ask you about menstruation. Say: It is a hurt, so keep away

فجزع الناس، فقال: قد بقيت مبشرات، وهن جزء من النبوة. قال أبو محمد: واحتجوا بأن الحائض إنما أمرت بالتيمم إذ عدمت الماء في السفر قياسا على الجنب. قال أبو محمد: هذا تمويه ضعيف، ومعاذ الله أن نأمر الحائض بذلك قياسا، بل بالنص، وهو قوله تعالى إذ أمر باعتزال الحيض حتى يطهرن {ويسألونك عن لمحيض قل هو أذى فعتزلوا لنسآء في لمحيض ولا تقربوهن حتى يطهرن فإذا تطهرن فأتوهن من حيث أمركم لله إن لله يحب لتوابين ويحب لمتطهرين} فأمرهن الله تعالى بالطهور جملة وقال رسول الله صلى الله عليه وسلم جعلت لي الأرض مسجدا وطهورا فالتراب طهور، والماء طهور بالنص، وفسر الإجماع أن التراب لا يستعمل ما دام يوجد الماء لغير المريض، أو من أوجبه له النص، فدخلت الحائض في هذا النص، ولقد كان ينبغي لمن فرق بين الحائض والجنب فيما أباح لها من قراءة القرآن، ومنعه الجنب من ذلك، أن يعلم أنه ترك القياس.

[75] **Translator's note (L3109):** The transition to "clear explicit texts" is grammatically abrupt in the supplied Arabic; the translation preserves that transition without supplying an unexpressed reporting verb.

[76] **Translator's note (L3110):** The unvocalized word referring to emancipation can denote either the person emancipated or the person performing the emancipation; the former is adopted here in light of the argument.

[77] **Translator's note (L3111):** The opening continues a sentence from the preceding segment. The wording «وهذا جهل مظلم ممكن أتى بهذا» is syntactically awkward and possibly corrupt. The translation provisionally takes «ممكن أتى بهذا» to mean that such ignorance could have produced the claim.

[78] **Hadith references (L3108):** Sahih Muslim 21b.

from women during menstruation, and do not approach them until they become pure. Then, when they have purified themselves, go in to them from where Allah has commanded you. Indeed, Allah loves those who repeatedly repent and loves those who purify themselves." Thus Allah, exalted is He, commanded them to use a means of purification in general. The Messenger of Allah ﷺ said, "The earth has been made for me a place of prayer and a means of purification." Thus earth is a means of purification, and water is a means of purification, by explicit text. Consensus has clarified that earth is not to be used while water is available, except by someone ill or someone for whom the explicit text makes it obligatory. A menstruating woman is therefore included within this explicit text. Anyone who distinguishes between a menstruating woman and a person in a state of major ritual impurity following sexual activity, permitting her to recite the Quran while forbidding that person to do so, really ought to recognize that he has abandoned analogy.[79]

L3114–3115 They also argued from the obligation of alms-tax on buffalo, saying that this became obligatory only by analogy with cattle.

Abu Muhammed said: This is fallacious disputation, because buffalo are a kind of cattle. The explicit text establishes the obligation of alms-tax on cattle, and alms-tax applies to buffalo because they are cattle and the designation "cattle" applies to them. Were that not so, no alms-tax would be due on them. Likewise, Bactrian camels, Mahri camels, and falij camels are kinds of camels. Similarly, sheep and goats fall under the designation "small livestock." Some people have said, "Bactrian camels are the sheep of the camels, and buffalo are the sheep of the cattle." We have seen that Marisi donkeys, the donkeys of radish growers, and the donkeys of the Masamidah nomadic Arabs constitute a single kind, although the differences among them are greater than those between buffalo and other cattle. The same applies to all kinds.

They argued that people drew an analogy with Dhu al-Hulayfah, and that they drew an analogy between Dhat Irq and Qarn.

[79]**Qur'an references (L3112):** Qur'an 2:222 (Al-Baqarah).

واحتجوا أيضا بإيجاب الزكاة في الجواميس، وأنه إنما وجب ذلك قياسا على البقر.
قال أبو محمد: وهذا شغب فاسد، لأن الجواميس نوع من أنواع البقر، وقد جاء النص بإيجاب الزكاة في البقر، والزكاة في الجواميس، لأنها بقر، واسم البقر يقع عليها. ولولا ذلك ما وجدت فيها زكاة، وكذلك البخت والمهاري والفوالج، هي أنواع من الإبل، وكذا الضأن والماعز يقع عليها اسم الغنم. وقد قال بعض الناس: البخت ضأن الإبل، والجواميس ضأن البقر، وقد رأينا الحمر المريسية، وحمر الفجالين، وحمر الأعراب المصامدة نوعا واحدا وبينها من الاختلاف أكثر مما بين الجواميس وسائر البقر، وكذلك جميع الأنواع. واحتجوا بأن الناس قاسوا على ذي الحليفة، وأنهم قاسوا ذات عرق على قرن. قال أبو محمد: وهذا كذب وباطل، لأن الحديث في توقيت ذات عرق لأهل العراق مشهور ثابت مسند لا يجهله من له بصر بالحديث. حدثنا عبد الله بن ربيع، ثنا محمد بن إسحاق بن السليم القاضي، ومحمد بن معاوية، قال ابن إسحاق، ثنا أبو سعيد الأعرابي، ثنا سليمان بن الأشعث، ثنا هشام بن بهرام، وقال ابن معاوية: ثنا أحمد بن شعيب، أخبرني محمد بن عبد الله عمار، ثنا أبو هاشم محمد بن

Abu Muhammed said: This is a lie and falsehood, because the report designating Dhat Irq as the point for entering the consecrated state for the people of Iraq is well known, established, and transmitted through a chain of authorities. No one with discernment in hadith is ignorant of it.

Abd Allah ibn Rabi related to us: Muhammed ibn Ishaq ibn al-Salim, the judge, and Muhammed ibn Muawiyah related to us. Ibn Ishaq said: Abu Said al-Arabi related to us: Sulayman ibn al-Ashath related to us: Hisham ibn Bahram related to us. Ibn Muawiyah said: Ahmad ibn Shuayb related to us: Muhammed ibn Abd Allah Ammar informed me: Abu Hashim Muhammed ibn Ali related to us. Bahram said: al-Muafa ibn Imran related to us; and Abu Hashim said: from al-Muafa ibn Imran. Then the two agreed: from Aflah ibn Humayd, from al-Qasim ibn Muhammed ibn Abi Bakr, from Aishah, that the Messenger of Allah ﷺ designated Dhat Irq as the point for entering the consecrated state for the people of Iraq.

Abu Muhammed said: Hisham ibn Bahram is trustworthy, al-Muafa is trustworthy and eminent, and Aflah ibn Humayd is likewise.[8081]

L3116–3117 As for their analogy with Dhu al-Hulayfah, it is delirious talk: no one knows what it is or what has been compared with it. The designated points for entering the consecrated state differ: among them is Dhu al-Hulayfah, ten nights' journey away; al-Juhfah, three nights' journey away; Qarn, more than one night's journey away; and Yalamlam, one night's journey away. With which of these, then, is an analogy to be drawn? Only a person of understanding comprehends this matter.

[80]**Translator's note (L3114):** The camel varieties «البخت والمهاري والفوالج» are distinguished as Bactrian, Mahri, and falij camels; the last is retained as a breed designation rather than assigned an uncertain English equivalent.

[81]**Translator's note (L3115):** «الغنم» is a collective designation covering both sheep and goats, rendered here as "small livestock" to preserve the author's argument about the scope of the designation. «حمر الأعراب المصامدة» has an uncertain relationship between its terms; the translation provisionally understands al-Masamidah as identifying the nomadic Arabs. The transmission chain says «قال بهرام», "Bahram said," although the transmitter was previously named Hisham ibn Bahram. This discrepancy is retained. The name «محمد بن عبد الله عمار» is reproduced as supplied, without inserting an additional "ibn" before Ammar.

علي، قال بهرام: ثنا المعافى بن عمران، وقال أبو هاشم: عن المعافى بن عمران، ثم اتفقا: عن أفلح بن حميد، عن القاسم بن محمد بن أبي بكر عن عائشة أن رسول الله صلى الله عليه وسلم وقت لأهل العراق ذات عرق قال أبو محمد هشام بن بهرام ثقة، والمعافى ثقة جليل، وأفلح بن حميد كذلك،

وأما قياسهم على ذي الحليفة فهذيان لا يدرى ما هو؟ ولا ماذا قيس عليه؟ والمواقيت مختلفة، فمنها ذو الحليفة على عشر ليال، ومنها الجحفة على ثلاث ليال، ومنها قرن على أكثر من ليلة، ومنها يلملم على ليلة، فعلى أي هذا يقاس؟ إن هذا الأمر لا يفهمه إلا ذو لب؟. واحتجوا بما روي من قول ابن عمر: فعدل الناس بصاع من شعير مدين من بر. قال أبو محمد: وهذا من طرائف ما احتجوا به لأن المحتج بهذا إن كان مالكيا أو شافعيا فهو مخالف لهذا الإجماع عنده، ومن أقر على نفسه بأنه مخالف للإجماع فأقل ما عليه اعترافه بأنه مخالف للحق، ثابت على الباطل غير تائب عنه، وهذا فسق مجرد.

They argued from the reported statement of Ibn Umar: "The people reckoned two mudds of wheat equivalent to one sa of barley."

Abu Muhammed said: This is among the curiosities of their arguments, because if the person adducing this is a Maliki or a Shafii, he is opposing this consensus, as he himself regards it. Whoever acknowledges that he opposes consensus has, at the very least, admitted that he opposes the truth and persists in falsehood without repenting of it. This is sheer flagrant disobedience.[82]

L3118–3121 Among the most astonishing things is a person's adducing as proof something he does not regard as proof. Yet this is nothing novel on their part. Here is Abu Hanifah arguing, on the basis of the report about an animal whose milk has been allowed to accumulate in its udder to deceive a buyer, that the option to rescind a sale may last only three days, no longer. But when he is asked, "Do you follow this report that you adduce as proof?" he says, "No." And here is Malik arguing that the person leading an animal and the person driving it are liable for the damage done by the animal being driven or led, on the grounds that Umar required Banu Sad ibn Layth to pay half the blood money for a man of Juhaynah whose finger had been struck by a man of Banu Sad ibn Layth who was making his horse run, whereupon the Juhani died. But when he is asked, "Do you begin with the defendants in this case, as Umar did?" he says, "That is not permissible." When he is asked, "Do you require the defendants to pay without the claimants taking an oath, as Umar did in this case?" he says, "That is not permissible." And when he is asked, "Do you limit the award in this case to half the blood money, as Umar did?" he says, "That is permissible." When he is asked, "Do you impose liability for the injury caused by the man making his horse run upon his blood-money-paying kin in this case, as Umar did?" he says, "That is not permissible." Then he makes this very report proof for holding the person leading an animal and the person driving it liable by analogy with its rider. This is astonishing indeed!

[82] **Translator's note (L3116):** The distances are expressed in nights of travel; the Arabic does not expressly name the destination. A sa and a mudd are measures of capacity; the distinction between them is retained.

ومن أعجب العجب احتجاج المرء بما لا يراه حجة ولكن هذا غير بديع منهم فهذا أبو حنيفة يحتج أن الخيار لا يكون إلا ثلاثة أيام لا أكثر، بحديث المصراة، فإذا قيل له فهذا الذي تحتج به أتأخذ به؟ قال: لا. وهذا مالك احتج في تضمين القائد والسائق ما تجنيه الدابة المسوقة والمقودة، بأن عمر غرم بني سعد بن ليث نصف دية رجل من جهينة، أصاب أصبعه رجل من بني سعد بن ليث، كان يجري فرسه فمات الجهني، فإذا سئل أتبدي المدعى عليهم في هذا المكان كما فعل عمر؟ قال: لا يجوز ذلك، وإذا قيل له: أتغرم المدعى عليهم بغير أن يحلف المدعون كما فعل عمر في هذا المكان؟ قال: لا يجوز ذلك، وإذا قيل له: أتقتصر في هذا المكان على نصف الدية كما فعل عمر؟ قال: يجوز ذلك، وإذا قيل له: أتجعل ما جنى الذي يجري فرسه على عاقلته في هذا المكان كما فعل عمر؟ قال: لا يجوز ذلك، ثم يجعل هذا الحديث نفسه حجة في تضمين القائد والسائق قياسا على الراكب وهذا عجب عجيب. ثم تلاه في ذلك ابن الجهم، فاحتج أنه لا يجزئه من ذبح الهدي أو الأضحية ليلا بالنهي عن حصاد الليل وجذاذه، فإذا قيل له: أتمنع من حصاد الليل وجذاذه؟ قال: لا، فهو يخالف ما أقر أنه حجة فيما ورد فيه، ويحتج به فيما ليس منه في ورد ولا صدر. ثم تلاه في ذلك ابن أبي زيد فاحتج في مخالفته نهي النبي صلى الله عليه وسلم عن الصلاة على القبر بصلاته صلى الله عليه وسلم على قبر المسكينة السوداء رضي الله عنها فإذا سئل أتأخذ بصلاته صلى الله عليه

وسلم على قبر المسكينة السوداء قال لا قال أبو محمد: وهذا كثير منهم جدا، كاحتجاج المالكيين في شق زقاق الخمر، وكسر أوانيها بالحديث الوارد في إحراق رجل الغال، فإذا قيل لهم: أتحرقون رجل الغال؟ قالوا: لا. وقد رأيت لرجل منهم يدعى الأبهر، ويكنى بأبي جعفر احتجاجا أن الصداق لا يكون أقل من ثلاثة دراهم بحديث رواه: إن الصداق لا يكون أقل من عشرة دراهم. ومثل هذا من نوادرهم كثير، وحسبنا الله ونعم الوكيل. ثم نرجع إلى ما احتجوا به من قول ابن عمر: فعدل الناس بصاع من شعير نصف صاع بر فأول ذلك أن ابن عمر الذي يروون عنه هذا القول لا يرضى به ولا يقول به.

Then Ibn al-Jahm followed him in this, arguing that slaughtering a pilgrimage offering or a sacrificial animal at night does not discharge one's obligation, on the basis of the prohibition of harvesting crops and gathering dates at night. But when he is asked, "Do you prohibit harvesting crops and gathering dates at night?" he says, "No." Thus he opposes what he has acknowledged as proof in the very matter to which it applies, while adducing it as proof in something with which it has no connection whatsoever.

Then Ibn Abi Zayd followed him in this, adducing, in support of his opposition to the Prophet's ﷺ prohibition of praying over a grave, his ﷺ prayer over the grave of the poor black woman, may Allah be pleased with her. But when he is asked, "Do you follow his ﷺ prayer over the grave of the poor black woman?" he says, "No."

Abu Muhammed said: This is exceedingly frequent among them. An example is the Malikis' adducing, in support of slitting wineskins and breaking wine vessels, the report concerning burning the leg of someone who misappropriates war booty. But when they are asked, "Do you burn the leg of someone who misappropriates war booty?" they say, "No." I have seen a man among them called al-Abhar, whose honorific name is Abu Jafar, argue that the marriage payment cannot be less than three dirhams, on the basis of a report he transmitted stating, "The marriage payment cannot be less than ten dirhams." There are many such curiosities among them. Allah is sufficient for us, and an excellent Trustee is He.

We now return to their adducing the statement of Ibn Umar: "The people reckoned half a sa of wheat equivalent to one sa of barley." The first point

is that Ibn Umar himself, from whom they transmit this statement, neither approves of it nor holds this view.[838485]

L3122–3123 Ahmad ibn Muhammed al-Jasur narrated to us: Ahmad ibn Mutarrif narrated to us: Abd Allah ibn Yahya narrated to us: My father narrated to us: Malik narrated to us, from Nafi, from Ibn Umar, that he would give only dates as the alms of breaking the fast, except on one occasion, when he gave barley.

Muhammed ibn Said ibn Nabat narrated to us: Abd Allah ibn Nasr al-Zahid narrated to us: Qasim ibn Asbagh narrated to us: Ibn Waddah narrated to us: Musa ibn Muawiyah narrated to us: Waki ibn Imran ibn Hudayr narrated to us, from Abu Mijlaz, who said: I said to Ibn Umar, "Allah Most High has bestowed abundance, and wheat is better than dates." He said, "My companions followed a path, and I wish to follow it."

Ahmad ibn Umar ibn Anas narrated to us: Abd Allah ibn Husayn ibn Iqal narrated to us: Ibrahim ibn Muhammed al-Dinawari narrated to us: Ibn Ajham narrated to us: Muadh ibn al-Muthanna narrated to us: Musaddad narrated to us: Ismail ibn Ibrahim narrated to us: Muhammed ibn Ishaq narrated to us: Abd Allah ibn Uthman ibn Hakim ibn Hizam narrated to me, from Iyad ibn Sad, who said: I mentioned the alms of breaking the fast to Abu Said al-Khudri, and he said, "I give only what I used to give during the time of the Messenger of Allah ﷺ: one sa of dates, or one sa of barley, or

حدثنا أحمد بن محمد الجسور، ثنا أحمد بن مطرف، نا عبد الله بن يحيى، نا أبي، ثنا مالك عن نافع، عن ابن عمر: أنه كان لا يخرج في زكاة الفطر إلا التمر مرة واحدة، فإنه أخرج شعيرا. حدثنا محمد بن سعيد بن نبات، نا عبد الله بن نصر الزاهد، نا قاسم بن أصبغ، ثنا ابن وضاح، نا موسى بن معاوية، نا وكيع بن عمران بن حدير، عن أبي مجلز قال: قلت لابن عمر: إن الله تعالى قد أوسع والبر أفضل من التمر، قال: إن أصحابي سلكوا طريقا فأنا أحب أن أسلكه. حدثنا أحمد بن عمر بن أنس، نا عبد الله بن حسين بن عقال، نا إبراهيم بن محمد الدينوري، نا ابن اجهم، نا معاذ بن المثنى، نا مسدد، نا إسماعيل بن إبراهيم، نا محمد بن إسحاق، حدثني عبد الله بن عثمان بن حكيم بن حزام، عن عياض بن سعد قال: ذكرت لأبي سعيد الخدري صدقة الفطر، فقال: لا أخرج إلا ما كنت أخرج في عهد رسول الله صلى الله عليه وسلم صاعا من تمر أو صاعا من شعير أو صاع زبيب أو صاع أقط، فقلت له: أو مدين من قمح؟ قال: لا، تلك قيمة معاوية لا أقبلها، ولا أعمل بها. قال أبو محمد: أفيكون أعجب ممن يدعى الإجماع على قول يقول به ابن عمر إن الصحابة على خلاف ذلك الإجماع كما ذكرنا، وإنه لا يخرج البر أصلا اتباعا لطريق أصحابه ثم يقول أبو سعيد: تلك قيمة معاوية، لا أقبلها ولا أعمل بها فأين الإجماع لولا الجنون وقلة الدين. ومن طرائف الدهر قول الطحاوي ههنا: إنما أنكر أبو سعيد المقوم لا القيمة فيكون أعجب من هذه المهاجرة وهو يذكر أنه قال أبو سعيد وقد ذكر القيمة لا أقبلها ولا أعمل بها، فهل ضمير المؤنث راجع إلى القيمة؟ وهذا ما لا يشك فيه ذو بصر بشيء من مخاطبات الناس، ولكن الهوى يعمي ويصم.

[83] **Translator's note (L3118):** "Begin with the defendants" concerns the order of proceeding, apparently in administering oaths; the Arabic leaves the action unstated. The report describes the man's finger as having been struck, without expressly specifying how the horse or rider struck it.

[84] **Translator's note (L3119):** The supplied text says «قال يجوز ذلك», "he says, 'That is permissible,'" concerning half the blood money. This affirmative answer is retained despite the surrounding sequence of negative answers and the author's polemical argument. «رجل الغال», read as "the leg of someone who misappropriates war booty," appears to be a transcription error for «رحل الغال», "the baggage of someone who misappropriates war booty." The supplied wording is retained here and in the next unit.

[85] **Translator's note (L3120):** «رجل الغال» repeats the apparent transcription error discussed in the preceding unit; "leg" preserves the supplied reading. The name is supplied as «الأبهر», al-Abhar, and has not been silently changed to the possible intended form al-Abhari.

one sa of raisins, or one sa of dried curds." I said to him, "Or two mudds of wheat?" He said, "No. That is Muawiyah's valuation. I neither accept it nor act upon it."

Abu Muhammed said: Could anyone be more astonishing than someone who claims consensus on a position concerning which Ibn Umar says that the Companions opposed that consensus, as we have mentioned, and that he gives no wheat at all, following the path of his companions? Then Abu Said says, "That is Muawiyah's valuation. I neither accept it nor act upon it." Where, then, is the consensus, were it not for madness and lack of religion?

Among the curiosities of the age is al-Tahawi's statement here: "Abu Said objected only to the person making the valuation, not to the valuation." Could anything be more astonishing than this contentious wrangling? He himself reports that Abu Said said, having mentioned the valuation, "I neither accept it nor act upon it." Does the feminine pronoun, then, refer back to the valuation? This is something about which no one with any understanding of how people address one another could have any doubt. But desire blinds and deafens.[86][87]

L3124 Ahmad ibn Umar al-Udhri narrated to us: Abd Allah ibn Husayn ibn Iqal narrated to us: Ibrahim ibn Muhammed al-Dinawari narrated to us: Muhammed ibn Ahmad ibn al-Jahm narrated to us: Musa ibn Ishaq al-Ansari narrated to us: Abu Bakr ibn Abi Shaybah narrated to us: Jarir narrated to

حدثنا أحمد بن عمر العذري، ثنا عبد الله بن حسين بن عقال، ثنا إبراهيم بن محمد الدينوري، ثنا محمد بن أحمد بن الجهم، ثنا موسى بن إسحاق الأنصاري، ثنا أبو بكر بن أبي شيبة، نا جرير، عن منصور، عن إبراهيم، عن الأسود، عن عائشة أم المؤمنين قالت: كان الناس يعطون زكاة رمضان نصف صاع، فأما إذا وسع الله تعالى على الناس فإني أرى أن يتصدق بصاع.

[86] **Translator's note (L3122):** The transmission chain reads "Waki ibn Imran ibn Hudayr," making Imran Waki's father. This may be a transcription error for "Waki, from Imran ibn Hudayr," but the supplied wording is preserved. The transmitter's name "Ibn Ajham" follows the supplied ابن اجهم; the nearby transmission chain in unit 3124:0 has "Muhammed ibn Ahmad ibn al-Jahm." A sa is a measure of capacity; the mudd mentioned in the next unit is one quarter of a sa.

[87] **Translator's note (L3123):** The wording "a position concerning which Ibn Umar says…" is syntactically awkward in the supplied Arabic; the translation preserves the apparent argument that Ibn Umar's reported practice contradicts the claimed consensus. المهاجرة is unusual here; "contentious wrangling" renders its apparent polemical sense. The supplied فهل introduces a question about whether the feminine pronoun refers to "valuation"; the following sentence plainly treats that reference as indisputable. The interrogative wording is preserved.

us, from Mansur, from Ibrahim, from al-Aswad, from Aishah, Mother of the Believers, who said: “People used to give half a sa as the Ramadan alms. But when Allah Most High grants people abundance, I consider that one should give a sa in charity.”

L3125–3126 Thus, what we have mentioned establishes that the statement of Ibn Umar and Aishah, “People then reckoned two mudds of wheat as equivalent to that,” expresses disapproval of the action of those who did so. The demonstration of this is that Ibn Umar and Aishah persisted in giving a sa apiece, rather than following the practice of the people that they reported. For had the practice of the people been correct in their judgment, they would not have been at liberty to oppose it. Their obfuscation is therefore invalidated, and success comes through Allah Most High. Moreover, Aishah did not say, “Half a sa of wheat.” Perhaps she meant someone who could find no more than half a sa of barley. Nevertheless, there is no doubt that the practice of the people which she related in this matter was, in her judgment, neither an authoritative proof nor an acceptable practice. Rather, it was like her statement when she and the Mothers of the Believers ordered that Sad’s bier be brought past their chambers, and people objected to that. She said, “How quick people are to object to something of which they have no knowledge!”

They said: “We have found questions on which there is consensus although there is no explicit text concerning them. It is therefore established that they are matters of analogy.”

Abu Muhammed said: We have already mentioned this question in the chapter on consensus in this work of ours, discussed it, and, with the help of Allah Most High, explained it with the utmost clarity. We have presented conclusive demonstrations that this is absolutely impossible, and that these were simply circumstances that existed during the time of the Messenger of Allah ﷺ, which he approved with knowledge of them. Among these is the profit-sharing investment partnership. There is nothing here upon which the permissibility of the profit-sharing investment partnership could be based by analogy. Indeed, analogy precludes its permissibility, since it is a hiring arrangement without a fixed term, without specified work, and with invalid remuneration. He may receive nothing, so that his work is wasted, or he

فصح بما ذكرنا أن قول ابن عمر وعائشة فعدل الناس بذلك مدين من بر إنما هو على الإنكار لفعل من فعل ذلك وبرهان هذا ثبات ابن عمر وعائشة على صاع صاع، لا على ما ذكروا من عمل الناس، فلو كان عمل الناس عندهما حقا لما وسعهما خلافه، فبطل تمويههم، وبالله تعالى التوفيق. مع أن عائشة لم تقل نصف صاع من بر، ولعلها عنت من لا يجد أكثر من نصف صاع شعير، إلا أنه لا شك أن ما حكته من فعل الناس في ذلك لم يكن عندها حجة، ولا عملا مرضيا، ولكن كقولها، إذا أمرت هي وأمهات المؤمنين أن يخطر على حجرهن بجنازة سعد، فأنكر الناس ذلك، فقالت: ما أسرع الناس إلى إنكار ما لا علم لهم به. وقالوا: وقد وجدنا مسائل مجمع عليها ولا نص فيها، فصح أنها قياس. قال أبو محمد: قد ذكرنا هذه المسألة في باب الإجماع من ديواننا هذا وتكلمنا عليها، وبيناها بعون الله تعالى غاية البيان، وأرينا البراهين الضرورية، على أن ذلك لا يجوز البتة، وأنها إنما هي أحوال كانت على عهد رسول الله صلى الله عليه وسلم فأقر بها وقد علمها ومن ذلك القراض وليس ههنا شيء يقاس عليه جواز القراض، بل القياس يمنع من جوازه، لأنه إجازة إلى غير أجل، وعلى غير عمل موصوف، وبأجرة فاسدة، وربما لم يأخذ شيئا فضاع عمله، وربما أخذ قليلا أو كثيرا، وهكذا القول في سائر الإجماعيات من المسائل. مع أن قولهم: إنها عن قياس، خبر كاذب، ودعوى بلا دليل والبرهان قد قام على أن الرسول صلى الله عليه وسلم قد بين جميع واجبات الإسلام وحلاله وحرامه، فكل ما أجمع عليه فعن الرسول وبيانه بلا شك، هذا هو اليقين، إذ لا يجوز إجماع الناس على شريعة لم يأت بها نص، فبطل أن يكون قياس وبالله تعالى التوفيق. واعترضوا ههنا على من أجاب من أصحابنا في

may receive little or much. The same applies to all the other questions on which there is consensus. Furthermore, their statement that these derive from analogy is a false report and a claim without evidence. Demonstration has established that the Messenger ﷺ explained all the obligations of Islam, what it permits, and what it prohibits. Everything on which there is consensus therefore derives, without doubt, from the Messenger and his explanation. This is certainty, since people cannot reach consensus upon a religious ordinance for which no explicit text has come. Thus, its being analogy is invalidated, and success comes through Allah Most High.

Here they raised an objection against one of our companions who answered this question by saying, "People unquestionably disagree about analogy. How, then, could they reach consensus upon something about which they disagree?" "This is manifest confusion."[88]

L3127–3141 Abu Muhammed said: This is a correct answer, evident to direct observation, with no room for doubt. One of the proponents of analogy objected to it, saying to us, "You allow consensus to derive from numerous prophetic practices conveyed in solitary reports, although you know that the acceptance of solitary reports is disputed. This is precisely what you have rejected."

Abu Muhammed said: This is weak obfuscation, unsound and manifestly untenable, because we have not claimed that people have reached consensus on the disputed matter of accepting the report of a single transmitter. We have only said, and continue to say, that the entire community agrees on accepting what the Messenger of Allah ﷺ said. There is no disagreement about this among any who belong to Islam, of any sect whatsoever, from first to last. They then disagreed about the means leading to knowledge of the authenticity of what the Messenger of Allah ﷺ said. We said that the report of a single upright transmitter is among those means, while others said that it is not.

[88] **Translator's note (L3126):** The Arabic reads إجازة, ordinarily "permission" or "authorization," where the argument appears to require إجارة, "hiring." "Hiring arrangement" reflects that apparent intended sense; the supplied reading is not silently treated as unproblematic. The unmarked final statement "This is manifest confusion" is attributed here to the objectors, since the next unit has Abu Muhammed defend his companion's answer as correct. The Arabic punctuation does not explicitly settle the attribution.

هذه المسألة بأن قال: الناس مختلفون في القياس بلا شك، فكيف يجوز أن يجمعوا على ما اختلفوا فيه؟ وهذا تخليط ظاهر.

قال أبو محمد: وهذا جواب صحيح عياني، لا مجال للشك فيه، فاعترض بعض أصحاب القياس فيه بأن قال لنا: إنكم تجيزون الإجماع عن سنن كثيرة أتت في أخبار الآحاد، وقد علمتم أن أخبار الآحاد مختلف في قبولها، وهذا هو الذي أنكرتم. قال أبو محمد: وهذا تمويه ضعيف منحل ظاهر الانحلال، لأننا لم ندع إجماع الناس على ما اختلفوا عليه من قبول خبر الواحد وإنما قلنا ونقول: إن الأمة كلها مجمعة على قبول ما قاله رسول الله صلى الله عليه وسلم لا خلاف بين أحد ممن ينتمي إلى الإسلام في ذلك من جميع الفرق أولها عن آخرها، ثم اختلفوا في الطريق المؤدية إلى معرفة صحة ما قاله رسول الله صلى الله عليه وسلم فقلنا نحن خبر الواحد العدل من جملة ذلك وقال آخرون: ليس من جملة ذلك، ثم تأتي سنن قلنا نحن: صحت عندنا من طريق من الآحاد، وقال من خالفنا، إنما صحت عندنا من طريق التواتر، ولو لم تأت إلا من طريق الآحاد فقط ما أخذنا بها. فهذه الصفة النقل هو الذي اتفق الناس كلهم من المسلمين على قبوله، وأجمعوا على الأخذ به، كإجماع الناس على أن في خمس من الإبل شاة، وعلى أن فيما سقي بالنضح من القمح والشعير نصف العشر، وسائر ما

أجمعوا عليه من آيات النبوة التي جاءت من طريق الكافة، وجاءت أيضا من طريق الآحاد، وليس هكذا أمر القياس الذي ادعوه. ولكنا لا ننكر أن تأتي مسائل تستوي في حكم القياس على أصولهم، وقد صح بها نص أو إجماع أيضا، فأخذنا نحن بها، لأن النص أتى بها، أو لأنها إجماع ولم نبال وافقت القياس أو خالفته. وأيضا فإن من ينكر القياس ينكره على كل حال، وبكل وجه، وفي كل وقت، وليس في فرقة من فرق المسلمين أحد ينكر الخبر جملة، بوجه من الوجوه، بل كلها مجمعة بلا خلاف عن أن الديانة لا تعرف إلا بالخبر، وإنما أنكرت طوائف خبر الواحد وقالت بخبر التواتر. وقال آخرون بالخبر المشتهر، وقال آخرون بخبر الواحد العدل، فالفرق بين ما أنكرنا وبين ما نظروه به بين واضح، وبالله تعالى التوفيق. واحتجوا بإيجاب التحرير على المسيء قالوا: وهذا قياس. قال أبو محمد: وهذا من ذلك المرار، ليت شعري على أي شيء قيس التعزير إن كانوا إنما قالوا به قياسا؟ وأما نحن فإنما قلنا به للنص الوارد في ذلك عن رسول الله صلى الله عليه وسلم ألا يجلد أحد في غير حد أكثر من عشر جلدات وأما السجن فإنما هو منع المسجون من الأذى للناس، أو من الفرار بحق لزمه، وهو قادر على أدائه فقط وهذا وقع تحت قوله تعالى {يا أيها لذين آمنوا أوفوا بلعقود أحلت لكم بهيمة لأنعام إلا ما يتلى عليكم غير محلي لصيد وأنتم حرم إن لله يحكم ما يريد} وله حد لا يتجاوز وهو توبة المسجون وإقلاعه أو خروجه عما لزمه من الحق، أو موته إن فعل به ذلك قصاصا. واحتجوا أيضا بالتوجه إلى القبلة عند المعاينة، فإذا غبنا عنها فبالاجتهاد. قال أبو محمد: وهذا من ذلك التخليط، وليس ههنا شيء قيس عليه ذلك بوجه من الوجوه، ولا هو أيضا موكول إلى الرأي، ولا إلى الاستحسان، ولكنه نص من الله تعالى {قد نرى تقلب وجهك في لسمآء فلنولينك قبلة ترضاها فول وجهك شطر لمسجد لحرام وحيث ما كنتم فولوا وجوهكم شطره وإن لذين أوتوا لكتاب ليعلمون أنه لحق من ربهم وما لله بغافل عما يعملون} فأما وصولنا إلى معرفة

Then prophetic practices are transmitted concerning which we say, "Their authenticity has been established for us through solitary transmitters," while those who disagree with us say, "Their authenticity has been established for us only through recurrent mass transmission. Had they come solely through solitary transmitters, we would not have adopted them." Transmission of this description is what all Muslims have agreed to accept and have reached consensus upon adopting. Examples include people's consensus that one sheep is due on five camels, and that one twentieth is due on wheat and barley irrigated by drawing water, and all the other signs of prophethood on which they have reached consensus, which have come through transmission by the whole body and have also come through solitary transmitters. The analogy they claim is not of this kind.

We do not, however, deny that questions may arise whose rulings coincide with analogy according to their principles, and concerning which an explicit text or consensus has also been established. We adopt these rulings because an explicit text has conveyed them or because they are matters of consensus, and we pay no heed to whether they accord with analogy or oppose it. Furthermore, whoever rejects analogy rejects it in every circumstance, in every respect, and at every time. Yet in no Muslim sect is there anyone who rejects transmitted reports altogether in any respect. Rather, all of them agree, without disagreement, that religious observance can be known only through transmitted reports. Certain groups have rejected only the report of a single transmitter and have upheld reports conveyed by recurrent mass transmission. Others have upheld widely circulated reports, and others the report of a single upright transmitter. The distinction between what we rejected and what they have compared it to is therefore clear and manifest, and success comes through Allah Most High.

They also argued from imposing emancipation upon the wrongdoer, saying, "This is analogy."

Abu Muhammed said: This is more of that bitterness. Would that I knew what discretionary punishment was based upon by analogy, if they advocated it solely by analogy. As for us, we advocate it only because of the explicit text transmitted concerning it from the Messenger of Allah ﷺ: "No one is

to be flogged more than ten lashes except in a prescribed punishment." As for imprisonment, it consists solely in preventing the prisoner from harming people or from evading an obligation incumbent upon him which he is capable of discharging. This falls under His saying, the Exalted: {O you who believe, fulfill your contracts. Livestock animals have been made lawful for you, except what is recited to you, without deeming hunting lawful while you are in a state of pilgrimage consecration. Indeed, Allah rules as He wills.} It has a limit that must not be exceeded: the prisoner's repentance and desistance, his discharge of the obligation incumbent upon him, or his death if this is done to him as legal retaliation. They also argued from facing the prayer direction when it is directly visible, and then, when we are absent from it, proceeding by independent judgment. Abu Muhammed said: This is more of that confusion. Here there is nothing upon which this has been based by analogy in any respect whatsoever. Nor is it entrusted to personal opinion or discretionary preference; rather, it is an explicit text from Allah the Exalted: {We certainly see your face turning toward heaven. We shall therefore turn you toward a prayer direction that pleases you. So turn your face toward the Sacred Mosque; and wherever you may be, turn your faces toward it. Indeed, those who were given the Scripture certainly know that it is the truth from their Lord, and Allah is not heedless of what they do.} As for our attaining knowledge of the direction of prayer, this is through the evidence that they have disputed with us, without knowing what it is, supposing it to be analogy. This is a question in which the distinction between evidence and analogy becomes apparent to anyone with the slightest discernment. For the manner of seeking the prayer direction is not analogy at all, nor is there anything here upon which an analogy is based. Nor is it entrusted to each person's opinion, so that he may face whatever direction he wishes, or to his discretionary preference. Thus it is established that this is reached through evidence that is neither personal opinion, analogy, nor discretionary preference. It would constitute analogy only if, when the Kaaba was hidden from us, we faced Jerusalem by analogy with it, because Jerusalem had also been a prayer direction, or faced Medina. Such a statement constitutes unbelief on the part of whoever says it. This resembles your saying: 'Since exchanging wheat for wheat on deferred terms was prohibited,

جهة القبلة فبالدليل الذي أنكروه علينا، ولم يعرفوا ما هو وظنوه قياسا، وهذه مسألة يلوح فيها، لمن له أدنى حس، الفرق بين الدليل والقياس، لأن جهة طلب القبلة ليس قياسا أصلا، ولا ههنا شيء يقاس عليه، ولا هو موكول إلى رأي كل إنسان، فيستقبل أي جهة شاء، ولا إلى استحسانه، فصح أنه يتوصل إلى ذلك بدليل ليس رأيا ولا قياسا ولا استحسانا، وإنما كان يكون قياسا إذا خفيت عنا الكعبة توجهنا إلى بيت المقدس قياسا عليها، لأنها قد كانت أيضا قبلة، أو إلى المدينة، وهذا كفر من قائله، وهذا نحو قولكم لما حرم البر بالبر نسيئة حرمنا التبن بالتبن نسيئة، وإنما الدليل على جهتها مطالع الكواكب والشمس ومعرفة نسبة العرض من الطول. وقالوا أيضا: قد أسقطتم الزكاة عن الثياب، قياسا على سقوطها عن الحمير وتركتم أخذ الزكاة من الثياب بعموم قول الله تعالى: {خذ من أموالهم صدقة تطهرهم وتزكيهم بها وصل عليهم إن صلواتك سكن لهم ولله سميع عليم} وقوله تعالى {وأقيموا لصلاة وآتوا لزكاة وركعوا مع لراكعين} قال أبو محمد وكذبوا في ذلك ما شاؤوا، ومعاذ الله أن نترك أخذ الزكاة من الثياب قياسا على الحمير، ولكن لما كانت الآيتان المذكورتان لم ينص عز وجل فيهما على مقدار ما يؤخذ في الزكاة، ولا متى يؤخذ، لم يحل لأحد العمل بما لم يبين له، إذ لا يدري أيأخذ الأقل أو الأكثر، أو كل يوم أو كل شهر أو كل سنة أو مرة من الدهر، ووجب عليه طلب بيان الزكاة في نص آخر فوجدناه صلى الله عليه وسلم قد قال إن دماءكم وأموالكم عليكم حرام قال هذا في حجة الوداع بعد نزول {وأقيموا لصلاة وآتوا لزكاة وركعوا مع لراكعين} بيقين وبعد نزول {خذ من أموالهم صدقة تطهرهم وتزكيهم بها وصل عليهم إن صلواتك سكن لهم ولله سميع عليم} بيقين لا شك فيه عند أحد من المسلمين، لأن هاتين الآيتين نزلتا في صدر الهجرة، فوجب بهذا النص ألا يؤخذ من مال أحد شيء إلا بنص على ما أخذه باسمه فما نص صلى الله عليه وسلم في واجب أخذه في الزكاة وجب قبوله وما لم ينص على وجوبه فلا يحل

we prohibited exchanging straw for straw on deferred terms.' The evidence indicating its direction consists only of the rising points of the stars and the sun, and knowledge of the relationship of latitude to longitude. They also said: 'You have exempted clothing from obligatory alms by analogy with the exemption of donkeys, and you have abandoned collecting obligatory alms from clothing under the general wording of Allah the Exalted's statement: {Take from their wealth an alms payment by which you purify them and cause them to grow in purity, and pray for them. Indeed, your prayers are a source of reassurance for them; and Allah is All-Hearing, All-Knowing,} and His statement, exalted is He: {Establish prayer, give obligatory alms, and bow with those who bow.}' Abu Muhammed said: They have lied about this as much as they pleased. Allah forbid that we should abandon collecting obligatory alms from clothing by analogy with donkeys! Rather, since in the two aforementioned verses He, mighty and majestic, did not explicitly specify the amount to be collected as obligatory alms or when it was to be collected, no one was permitted to act upon something that had not been explained to him. For he would not know whether to collect the smaller amount or the larger, or whether to do so every day, every month, every year, or once in a lifetime. He was therefore obliged to seek an explanation of obligatory alms in another explicit text. We found that he, may Allah bless him and grant him peace ﷺ, had said: 'Indeed, your blood and your property are inviolable among you.' He said this during the Farewell Pilgrimage, certainly after the revelation of {Establish prayer, give obligatory alms, and bow with those who bow,} and after the revelation of {Take from their wealth an alms payment by which you purify them and cause them to grow in purity, and pray for them. Indeed, your prayers are a source of reassurance for them; and Allah is All-Hearing, All-Knowing,} with a certainty concerning which there is no doubt among any of the Muslims, because these two verses were revealed early in the period following the Emigration. This explicit text therefore requires that nothing be taken from anyone's property except on the authority of an explicit text identifying by name what is to be taken. Whatever he, may Allah bless him and grant him peace ﷺ, explicitly stated must be collected as obligatory alms must be accepted; and whatever he did not explicitly declare obligatory, no one may lawfully collect. This is how clothing

أخذه لأحد، فهكذا سقطت الزكاة عن الثياب والعروض كلها على كل حال وأيضا فقد قال صلى الله عليه وسلم ليس فيما دون خمسة أوسق من حب أو تمر صدقة ودون في لغة العرب بمعنى: غير، وبمعنى أقل، قال تعالى: {من ورآئهم جهنم ولا يغني عنهم ما كسبوا شيئا ولا ما تخذوا من دون الله أولياآء ولهم عذاب عظيم} يريد من غير الله، فوجب بهذا الحديث أن لا يؤخذ شيء من غير التمر والحب إلا ما جاء النص على وجوب أخذه بعينه واسمه وليس حمل لفظه دون على بعض ما تقتضيه أولى من حملها على كل ما تقتضيه. وأيضا: فإن سقوط الزكاة عن الثياب المتخذة لغير التجارة إجماع لا خلاف فيه من أحد، والإجماع الانقياد وكان يلزمهم، وهو الموجبون لاستعمال القياس والتدين به، أن يوجبوا الزكاة في الثياب، قياسا على وجوبها في القمح والتمر، والذهب والفضة، لأن هذا كله موات لا حيوان، فالثياب بالذهب والفضة والقمح والتمر أشبه منها بالحمير، وليت شعري ما الذي أوجب عندهم قياس الثياب على الحمير، دون أن يقيسوها على الغنم والإبل، فيوجبوا فيها الزكاة؟ لأن الثياب لا تكون إلا من جلود أو نبات، إلا من شذ كالحرير، وهو أيضا من حيوان، فقياسها على ما هي مأخوذة منه أولى من قياسها على ما لا شبه بينها وبينه. هذا إن كان القياس حقا بل ههنا قياس هو أقرب وأشبه على أصولهم، وهو قياس المنتقاة على الثياب المتخذة للتجارة، وكما أوجب المالكيون الزكاة في غير السائمة قياسا على السائمة، وكما قالوا: يجمع بين الذهب والفضة في غير التجارة، كما يجمع بينهما في التجارة وبين سائر العروض المتخذة للتجارة، فبطل تمويههم والحمد لله رب العالمين. واحتجوا أيضا بوجوب الزكاة في الذهب، وقالوا: هو قياس على الفضة. قال أبو محمد: وهذا في الفساد كالذي قبله، لأن الخبر في زكاة الذهب ووجوب حق الله تعالى فيه، أشهر من أن يجهله ذو علم بالآثار، ثم اختلف العلماء فقالت طائفة: بيان المأخوذ منه مرجوع فيه إلى الإجماع، إذ لم يصح فيه أثر فما أجمع المسلمون على وجوب تزكيته من الذهب قلنا به، وما اختلفوا

and all merchandise became exempt from obligatory alms in every circumstance. Moreover, he, may Allah bless him and grant him peace ﷺ, said: 'On less than five load-measures of grain or dates, no alms are due.' In the Arabic language, 'dūna' means both 'other than' and 'less than.' He, exalted is He, said: {Beyond them is Hell, and neither what they have earned nor those whom they have taken as protectors other than Allah will avail them at all; and theirs is a tremendous punishment.} He means 'other than Allah.' This report therefore requires that nothing be collected from anything other than dates and grain, except whatever an explicit text states must be collected, specifying its identity and name. There is no greater justification for construing his word 'dūna' according to some of the meanings it bears than for construing it according to all the meanings it bears. Moreover, the exemption from obligatory alms of clothing acquired for purposes other than trade is a matter of consensus, disputed by no one; and consensus requires submission. They, who require the use of analogy and adherence to it as a religious duty, would have been obliged to impose obligatory alms on clothing by analogy with its being obligatory on wheat, dates, gold, and silver, because all these are inanimate, not animals. Clothing therefore resembles gold, silver, wheat, and dates more than it resembles donkeys. Would that I knew what required them to draw an analogy between clothing and donkeys, rather than between clothing and sheep and camels, thereby imposing obligatory alms on it! For clothing is made only from hides or plants, apart from exceptional instances such as silk, which also comes from an animal. Drawing an analogy between it and that from which it is derived would therefore be more appropriate than drawing an analogy between it and something with which it has no resemblance—if analogy were valid. Indeed, there is an analogy here that is closer and more similar according to their principles: drawing an analogy between selected clothing and clothing acquired for trade, just as the Malikis imposed obligatory alms on livestock that does not graze freely by analogy with livestock that does graze freely, and just as they said that gold and silver held for purposes other than trade are combined, as they are combined when held for trade, together with all other merchandise acquired for trade. Their obfuscation is thus refuted, and praise belongs to Allah, Lord of the worlds. They also argued from the obligation of alms on gold, saying:

فيه لم نوجبه إلا بنص، وما اتفقوا فيه ثم اختلفوا لم نزل عن إجماعهم إلا بنص وبالله التوفيق. وقالت طائفة: بل في المقدار الذي يجب فيه الزكاة من المذهب نص صحيح، فالواجب الوقوف عنده بهذا نقول: واحتجوا أيضا بتسويتنا في حديث عتق الشقص واشتراط مال العبد، بأننا سوينا بين العبد والأمة في ذلك، وهذا خطأ، بل النص قد جاء في ذلك بلفظ مملوك، وهذا اسم يقع على الأمة كوقوعه على العبد. وأيضا: فإن لفظة العبد واقعة على الجنس، وقولنا عبيد يقع على الذكور والإناث، لأنك تقول: عبد وعبدة بلا خوف من أهل اللغة، ولهم علينا في خاصتنا اعتراض ننبه عليه، وهو: أن أصحابنا لا يجوزون المزارعة، ونحن نجيزها، وهذا الاعتراض علينا على أصحابنا في المساقاة فإنهم يقولون إن الشروط فاسدة بقوله صلى الله عليه وسلم كل شرط ليس في كتاب الله فهو باطل فأنتم إذا أجزتم المساقاة والمزارعة على النصف فكلم مقال لفعله صلى الله عليه وسلم في خيبر فلم أجزتموها بالثلث والربع وقد جاء النهي نصا عن ذلك، فهل هذا إلا قياس الثلث والربع على النصف قال أبو محمد ومعاذ الله أن نقول قياسا وما قلنا ذلك اتباعا للإجماع، فإن الأمة كلها، بلا خلاف من أحد منها، مساوية بين النصف وبين سائر الأجزاء يقينا، فمن مانع من كل ذلك، قاطع على أن حكم كل ذلك سواء، مبيح لكل ذلك، قاطع على أن كل ذلك سواء؛ فقد صح الإجماع يقينا على أن حكم النصف وسائر الأجزاء سواء، ثم وجدنا النص قد جاء بالمساقاة والمزارع على النصف، فوجب القول به، وصح بالإجماع أن حكم سائر الأجزاء كحكم النصف، والنصف حلال، فسائر الأجزاء حلال، وهذا برهان متيقن، لا يجوز خلافه. وبالله تعالى التوفيق. وأيضا: فإن المتعاقدين على النصف والنصف، فقد تعاقدا على ما دون النصف بدخول ذلك في النصف؛ فإذا اقتصر أحدهما على بعض ماله أن يعاقد عليه مع سائره فذلك جائز له بالنص المجيز له أن يعاقد على ما دون النصف مع قوله تعالى: {وإن طلقتموهن من قبل أن تمسوهن وقد فرضتم لهن فريضة فنصف ما فرضتم إلا

أن يعفون أو يعفوا لذي بيده عقدة لنكاح وأن تعفوا أقرب للتقوى ولا تنسوا لفضل بينكم إن لله بما تعملون بصير} فتجافيه عن بعض ماله أن يشترطه فضل منه.

'It is an analogy with silver.' Abu Muhammed said: This, in its invalidity, is like the preceding argument, because the transmitted report concerning obligatory alms on gold and the obligation of Allah the Exalted's due upon it is too well known for anyone knowledgeable about transmitted traditions to be ignorant of it. Then the scholars differed and one group said: 'For clarification of what is to be collected from it, recourse must be had to consensus, since no transmitted tradition concerning this has been established as authentic. Thus, whatever the Muslims have agreed must be subject to obligatory alms from gold, we affirm; whatever they have differed about, we do not impose except on the authority of an explicit text. Concerning that upon which they agreed and subsequently differed, we do not depart from their consensus except on the authority of an explicit text. Success is through Allah.' Another group said: 'Rather, there is an authentic explicit text concerning the amount of the school upon which obligatory alms become due, and it is obligatory to adhere to it.' This is the position we affirm. They also argued against our equal treatment, in the report about emancipating a share in a slave and stipulating entitlement to a slave's property, on the grounds that we treated male and female slaves equally in this matter. This is an error. Rather, the explicit text concerning this uses the expression 'an owned person,' a designation that applies to a female slave just as it applies to a male slave. Furthermore, the word 'slave' applies to the genus, and our expression 'slaves' encompasses males and females, because one says 'ʿabd' and 'ʿabda,' without any fear on the part of the philologists. They have an objection directed particularly against us, to which we draw attention: our companions do not permit sharecropping, whereas we permit it. This objection is directed against us, and against our companions concerning orchard tending for a share of the produce. They say: 'Conditions are invalid by virtue of his statement, may Allah bless him and grant him peace ﷺ: "Every condition that is not in the Book of Allah is void." Thus, when you permit orchard tending and sharecropping for a half share, you have an argument, because he, may Allah bless him and grant him peace ﷺ, did this at Khaybar. Why, then, have you permitted them for a third or a quarter, when an explicit prohibition of this has been transmitted? Is this anything other than drawing an analogy between a third or a quarter and a half?' Abu Muhammed

said: Allah forbid that we should pronounce a ruling by analogy! We did not state this in adherence to consensus. For the entire community, without dissent from any of its members, certainly treats a half and all other fractions equally: some prohibit all of this, affirming decisively that the ruling on all of it is the same, and some permit all of this, affirming decisively that all of it is the same. Thus consensus has certainly been established that the ruling on a half and all other fractions is the same. We then found that an explicit text had sanctioned orchard tending and sharecropping for a half share, so it was obligatory to affirm it; and it was established by consensus that the ruling on all other fractions is like the ruling on a half. A half is lawful; therefore all other fractions are lawful. This is a demonstration established with certainty, which may not be contradicted. Success is through Allah the Exalted. Moreover, the two parties contracting on the basis of one half and one half have thereby contracted for what is less than one half, since that is included within one half. Thus, if either confines himself to part of what he is entitled to contract for together with the remainder, that is permissible for him under the text permitting him to contract for less than one half, together with His statement, exalted is He: "And if you divorce them before you have touched them, having already stipulated an obligatory payment for them, then half of what you stipulated, unless they forgo it or the one in whose hand is the marriage bond forgoes it. And that you forgo is nearer to mindfulness of Allah. And do not forget graciousness among yourselves.

Indeed, Allah sees what you do.” His relinquishing part of what he is entitled to stipulate is therefore graciousness on his part.[8990919293949596]

L3142–3145 They argued from the assessed values of destroyed property, the bridal payment appropriate to a woman of comparable standing, the amount of the divorce provision, and maintenance, asserting that there is no text concern-

واحتجوا بقيم المتلفات ومهر المثل، ومقدار المتعة والنفقات، وإن كل ذلك لا نص فيه، قالوا: فوجب الرجوع إلى القياس. قال أبو محمد: وهذا لا حجة لهم فيه البتة، ولا للقياس هنا مدخل أصلا لأنه ليس ههنا شيء آخر منصوص عليه يقيسون عليه هذه الأشياء، وهذا هو القياس عندهم، فبطل تمويههم، إن هذا القياس، وما هو إلا نص جلي لا داخلة فيه وهو قول الله تعالى {لشهر لحرام بلشهر لحرام ولحرمات قصاص فمن عتدى عليكم فعتدوا عليه بمثل ما عتدى عليكم وتقوا لله وعلموا أن لله مع لمتقين} فهل في البيان أكثر من هذا وهل هذا إلا نص على كل قصة وجب فيها ضمان المثل؟. فأي معنى للقياس فيمن أتلف الآخر ثوبا قيمته دينار فقضى عليه بثوب مثله، فإن لم يوجد فمثله من القيمة في سوق البلد الذي وقع فيه الغصب، أو الذي وقع فيه الحكم؟. وكذلك امرأة وجب لها مهر مثلها بالنص، فعلم مقدار ما تطيب به نفس مثلها في المعهود الذي أحالنا الله تعالى عليه على لسان نبيه صلى الله عليه وسلم وكذلك نص الرسول صلى الله عليه وسلم على أن للأزواج والأقارب والمماليك النفقة والكسوة بالمعروف، وساوى في ذلك بين الأقارب وبين من ذكرنا وأحالنا على المعروف، والمعروف هو غير المنكر، فهو ما تعارفه الناس في نفقات من ذكرنا، وما فيه مصالحهم من كسوة معروفة لأمثالهم، وإسكان وغير ذلك، مما لا قوم للمعاش إلا به، مما لا جوع فيه ولا عري ولا عطش ولا برد، ولا شهرة ولا اتضاع، ولا إسراف ولا تبذير، ولا تقصير ولا تقتير، فهذا هو المنكر، وضده هو المعروف، فأين القياس ههنا؟ وعلى أي شيء قاسوا ما ذكرنا فإذ ليس ههنا شيء يقاس عليه ما ذكرنا البتة فقد بطل أن يكون قياسا، وبطل تمويههم في ذلك. واحتجوا أيضا بأروش الجراحات والجنايات والديات. قال أبو محمد: وهذا في التمويه كالذي قبله، وقولنا في ذلك: إن كل ما أوجبه من ذلك نص وقف عنده، وما لم يوجبه نص فهو ساقط لا يقضى

[89] **Translator’s note (L3129):** The phrase “signs of prophethood” follows the supplied آيات النبوة, although its connection to the immediately preceding examples of alms rulings is awkward.

[90] **Translator’s note (L3130):** The supplied التحرير means “emancipation,” but the discussion immediately turns to التعزير, “discretionary punishment,” and continues with flogging and imprisonment. The apparent transcription error is preserved rather than silently corrected. المرار literally denotes bitterness; its polemical application here is unusual, and the translation retains that wording.

[91] **Translator’s note (L3132):** The opening completes the preceding segment’s phrase introducing Allah’s words. The pronoun in ’It has a limit’ refers to imprisonment. The Quranic quotations contain numerous defective spellings and missing letters, including forms of ’those,’ ’contracts,’ and ’Allah’; their recognizable wording has been translated without reproducing these orthographic defects.

[92] **Translator’s note (L3134):** The Quranic quotations have defective spellings, particularly omitted initial letters in definite articles and the name Allah; the recognizable wording is translated.

[93] **Translator’s note (L3135):** The load-measure is the wasq, plural awsuq. The following segment’s argument depends on the multiple meanings of dūna, rendered here as ’less than.’

[94] **Translator’s note (L3136):** The text reads al-muntaqāt, ’selected [items],’ rendered as ’selected clothing.’ The context suggests a possible corruption of al-muqtaнāt, ’items retained for use,’ but that reading has not been substituted. The Quranic quotation contains defective spellings of ’they have taken’ and ’Allah’; its recognizable wording is translated.

[95] **Translator’s note (L3139):** The text reads al-madhhab, ’the school [of thought],’ in the phrase about the amount subject to alms. The context strongly suggests a corruption of al-dhahab, ’gold’; the supplied reading is retained. The phrase bilā khawf min ahl al-lugha literally reads ’without any fear on the part of the philologists.’ It may be corrupt for bilā khilāf, ’without disagreement among the philologists.’ The phrase fa-kallim maqāl is corrupt or malformed. ’You have an argument’ is a contextual rendering of its apparent intended sense. The text explicitly says ’We did not state this in adherence to consensus,’ although the ensuing argument grounds the ruling in consensus. An omitted ’except’ is possible, but has not been inserted. The text has al-muzāriʿ, ’the cultivator,’ where the preceding discussion calls for al-muzāraʿa, ’sharecropping’; the contextual activity is rendered in the translation.

[96] **Qur’an references (L3127):** Qur’an 5:1 (Al-Ma’idah); Qur’an 2:144 (Al-Baqarah); Qur’an 9:103 (At-Tawbah); Qur’an 45:10 (Al-Jathiyah); Qur’an 2:237 (Al-Baqarah).

به للنص الوارد: إن دماءنا وأموالنا علينا حرام، وما تيقن أنه أجمع عليه واختلف في مقداره: وجب من ذلك أقل ما قيل فقط، وما عدا ذلك فتحكم في الدين لا يحل. وأي شيء في معرفة مقدار شبع الناس في الجمهور في أقواتهم في ذلك البلد، مما يكون فيه للقياس معنى، وكذلك ما اتفقوا على وجوبه في المتعة، وهل شيء من هذا يوجب تحريم البلوط بالبلوط متفاضلا، إن انطلاق اللسان بمثل هذا لعظيم، ونعوذ بالله من نصر الباطل والتمادي عليه. فهذا كل ما احتجوا به من دلائل الإجماع، فقد بينا بحول الله وقوته أنه عائد عليهم، ومبطل للقياس، والحمد لله كثيرا كما هو أهله. واحتجوا أيضا بأحاديث وردت عن الصحابة رضي الله عنهم، كرسالة منسوبة إلى عمر رضي الله عنه، ذكروا أنه كتب بها إلى أبي موسى، وكقول ابن عباس: ولا أرى كل شيء إلا مثله، ولو لم يعتبروا ذلك إلا بالأصابع، أرأيت من ادهن، وعن سعد: أينقص الرطب إذا يبس، وعن معمر بن عبد الله أخشى أن يضارع، وعن أبي سعيد، فأيما أولى، التمر أو الورق،

ing any of these. They said: "It is therefore obligatory to resort to analogy." Abu Muhammed said: This affords them absolutely no proof, and analogy has no place here whatsoever, because there is no other thing specified by a text to which they apply these matters by analogy—and that is what analogy means according to them. Their deceptive claim that this is analogy is therefore invalid. It is nothing but an explicit text containing no hidden complication, namely Allah's statement, exalted is He: "The sacred month for the sacred month, and sacred inviolabilities are subject to retaliation. Whoever transgresses against you, transgress against him in the like of that in which he transgressed against you. And be mindful of Allah, and know that Allah is with those who are mindful of Him." Could anything be more explicit than this? Is this anything other than a text concerning every case in which compensation with an equivalent is obligatory? What relevance, then, does analogy have to someone who destroys another person's garment worth one dinar and is ordered to provide a garment like it, or, if none can be found, its equivalent in value in the market of the town where the wrongful seizure occurred or where judgment was delivered? Likewise, in the case of a woman for whom the text makes obligatory the bridal payment appropriate to a woman of comparable standing, the amount that would satisfy a woman like her is ascertained from the established custom to which Allah, exalted is He, referred us through the tongue of His Prophet, may Allah bless him and grant him peace ﷺ. Likewise, the Messenger, may Allah bless him and grant him peace ﷺ, explicitly stipulated that spouses, relatives, and slaves are entitled to maintenance and clothing according to what is recognized as proper. In this he placed relatives on an equal footing with the others we have mentioned, and referred us to what is recognized as proper. What is recognized as proper is the opposite of what is objectionable: it is what people customarily recognize concerning the maintenance of those we have mentioned and what serves their welfare in the way of clothing customary for people like them, housing, and other things without which life cannot be sustained, involving neither hunger, nakedness, thirst, cold, conspicuousness, degradation, extravagance, squandering, inadequacy, nor stinginess. This, then, is what is objectionable, and its opposite is what is recognized as proper. Where is analogy here? To what did they analogically

assimilate what we have mentioned? Since there is absolutely nothing here to which what we have mentioned is being analogically assimilated, its being analogy is disproved, and their deceptive representation of it is invalid. They also argued from compensation for wounds and bodily injuries, and blood money. Abu Muhammed said: In its deceptiveness, this is like the preceding argument. Our position concerning this is that, wherever a text makes any of these obligatory, one stops at that text; whatever no text makes obligatory is excluded and may not be awarded by judgment, because of the transmitted text that our blood and our property are inviolable among us. And whatever is known with certainty to have been agreed upon by consensus but whose amount is disputed, only the lowest amount proposed is obligatory. Anything beyond that is arbitrary prescription in religion and is unlawful. And what is there in determining the amount that generally satisfies people's hunger, from their staple foods in that town, in which there could be any relevance for analogy? Likewise with what they agree is obligatory in the divorce provision. Does anything of this entail prohibiting the exchange of acorns for acorns in unequal quantities? To let one's tongue utter such a thing is indeed grave. We seek refuge in Allah from supporting falsehood and persisting in it. This, then, is everything they have adduced as evidence from consensus. Through Allah's power and strength, we have explained that it turns against them and invalidates analogy. Abundant praise belongs to Allah, as He deserves. They also argued from reports transmitted from the Companions, may Allah be pleased with them, such as a letter attributed to Umar, may Allah be pleased with him, which they said he wrote to Abu Musa; and such statements of Ibn Abbas as, "I consider everything to be just like it," "Even if they assessed that only by means of their fingers," and "What do you think of someone who has applied oil?"; and from Sa'd, "Do fresh dates come apart when they dry?"; and from Ma'mar ibn Abd Allah, "I fear

that it may resemble it”; and from Abu Sa‘id, “Which, then, has the greater claim: dates or silver?”[97][98]

L3146–3151 and from Ali ibn Abi Talib, may Allah be pleased with him, “When he becomes drunk, he speaks incoherently”; and from Ali and Zayd concerning the grandfather; and from Ali, “If this were so, the Messenger of Allah, may Allah bless him and grant him peace ﷺ, would have been Hamza’s killer”; and from Ibn Abbas, “Allah has commanded arbitration between spouses and concerning a hare worth a quarter of a dirham”; and from Ali, in his arguing for erasing his name from the document by reference to the Prophet’s erasing his name on the day of al-Hudaybiyyah, may Allah bless him and grant him peace ﷺ, “from the Companions”; and from Ali and Umar concerning executing a group for one person, and amputation for theft. Abu Muhammed said: This is everything we presently recall that they might seize upon. Allah willing, exalted is He, we shall mention everything we presently recall, all of it with its transmission chains, and explain, with the help of Allah, mighty and majestic, that none of it affords them any proof even if it were authentic—how much less, then, when most of it is not authentic! As for Umar’s letter, Ahmad ibn Umar al-Udhri related it to us: Abu Dharr Abd ibn Ahmad al-Harawi narrated to us; Abu Sa‘id al-Khalil ibn Ahmad, the judge of Sijistan, narrated to us; Yahya ibn Muhammed ibn Sa‘id narrated to us; Yusuf ibn Musa al-Qattan narrated to us; Ubayd Allah ibn Musa narrated to us; Ubayd Allah ibn Musa narrated to us; Abd al-Malik ibn al-Walid ibn Ma‘dan narrated to us, from his father, who said: Umar ibn al-Khattab wrote to Abu Musa al-Ash‘ari. He then recounted the letter, which includes: “Understanding, understanding”—meaning concerning what turns over within your

[97] **Translator’s note (L3143):** The wording “without which life cannot be sustained” contains the apparently defective reading “qawm,” probably for “qiwām,” meaning sustenance or support. After listing conditions that proper maintenance excludes, the Arabic says, “This, then, is what is objectionable.” The demonstrative appears to refer back to the listed objectionable conditions; the awkward wording has been retained.

[98] **Translator’s note (L3145):** The brief quotations attributed to Ibn Abbas and the other Companions are allusive excerpts whose objects and full contexts are not supplied here. The question attributed to Sa‘d reads “come apart” or “be undone” rather than “decrease.” It appears to contain a transcription error for the familiar question about whether fresh dates decrease when dried; the supplied wording has been retained.

وعن علي بن أبي طالب رضي الله عنه: إذا سكر هذى، وعن علي وزيد في الجد وعن علي لو كان هذا كان رسول الله صلى الله عليه وسلم قاتل حمزة وعن ابن عباس قد أمر الله بالتحكيم بين الزوجين، وفي أرنب قيمتها ربع درهم، وعن علي في احتجاجه بمحو اسمه من الصحيفة بمحو النبي صلى الله عليه وسلم اسمه يوم الحديبية من الصحابة وعن علي وعمر في قتل الجماعة بالواحد، وبالقطع في السرقة. قال أبو محمد: هذا كل ما يحضرنا ذكره مما يمكنهم أن يتعلقوا به، ونحن إن شاء الله تعالى، نذكر كل ما يحضرنا ذكر كل ذلك بأسانيده، ونبين، بعون الله عز وجل، أنه لا حجة لهم في شيء منه لو صح، فكيف وأكثر ذلك لا يصح. فأما رسالة عمر، فحدثنا بها أحمد بن عمر العذري، نا أبو ذر عبد بن أحمد الهروي، نا أبو سعيد الخليل بن أحمد القاضي السجستاني، نا يحيى بن محمد بن صاعد، نا يوسف بن موسى القطان، نا عبيد الله بن موسى، نا عبيد الله بن موسى، نا عبد الملك بن الوليد بن معدان عن أبيه قال: كتب عمر بن الخطاب إلى أبي موسى الأشعري فذكر الرسالة وفيها: الفهم الفهم، يعني فيما يتلجلج في صدرك، مما ليس في كتاب ولا سنة، ثم اعرف الأمثال والأشكال، فقس الأمور عند ذلك، ثم اعمد إلى أشبهها بالحق، وأقربها إلى الله عز وجل، وذكر باقي الرسالة. وحدثناها أحمد بن عمر، نا عبد الرحمن بن الحسن الشافعي، نا القاضي أحمد بن محمد الكرخي، نا محمد بن عبد الله العلاف، نا أحمد بن علي بن محمد الوراق، نا عبد الله بن سعد، نا أبو عبد الله محمد بن يحيى بن أبي عمر العدني، نا سفيان، عن إدريس بن يزيد الأودي، عن سعيد بن أبي موسى الأشعري بن أبي بردى عن أبيه قال: كتب عمر بن الخطاب إلى أبي موسى، فذكر الرسالة وفيها، الفهم فيما يتلجلج في نفسك مما ليس في الكتاب ولا السنة، ثم قس الأمور بعضها ببعض، ثم انظر أشبهها بالحق وأحبها إلى

breast for which there is nothing in a Book or a Sunnah—"then recognize comparable and similar cases, and at that point compare matters by analogy. Then turn to whichever most resembles the truth and is nearest to Allah, mighty and majestic." He recounted the remainder of the letter. Ahmad ibn Umar also related it to us: Abd al-Rahman ibn al-Hasan al-Shafi'i narrated to us; Judge Ahmad ibn Muhammed al-Karkhi narrated to us; Muhammed ibn Abd Allah al-Allaf narrated to us; Ahmad ibn Ali ibn Muhammed al-Warraq narrated to us; Abd Allah ibn Sa'd narrated to us; Abu Abd Allah Muhammed ibn Yahya ibn Abi Umar al-Adani narrated to us; Sufyan narrated to us, from Idris ibn Yazid al-Awdi, from Sa'id ibn Abi Musa al-Ash'ari ibn Abi Burda, from his father, who said: Umar ibn al-Khattab wrote to Abu Musa. He recounted the letter, which includes: "Understanding concerning what turns over within yourself for which there is nothing in the Book or the Sunnah; then compare matters with one another by analogy, then consider whichever most resembles the truth and is most beloved to Allah, exalted is He, and act upon it." It also includes: "Muslims are upright witnesses with respect to one another, except someone flogged as a prescribed punishment, someone against whom false testimony has been recorded, or someone suspected of partiality because of a bond of clientage or kinship." He recounted the remainder. Abu Muhammed said: This is not authentic, because the first transmission chain contains Abd al-Malik ibn al-Walid ibn Ma'dan, a Kufan whose reports are abandoned and who is discredited without disagreement; his father is unknown. As for the second transmission chain, those between al-Karaji and Sufyan are unknown, and it is also interrupted. Reliance upon it is therefore wholly invalid. It is sufficient in this matter that no one's statement constitutes authoritative proof apart from the Prophet's, may Allah bless him and grant him peace ﷺ. How many cases there are in which they have opposed Umar! Furthermore, it must be either authentic or inauthentic. If it is inauthentic, that is our position, and it contains no proof against us. If it is authentic and establishes authoritative proof, then Abu Hanifa, Malik, al-Shafi'i, and those of our opponents present who invoke it as proof have contradicted its contents. They have admitted the testimony of someone flogged for wine drinking or unlawful sexual intercourse if he repents. Malik and al-Shafi'i have admitted the testimony of someone flogged

الله تعالى فاعمل به. وفيها أيضا: المسلمون عدول بعضهم على بعض إلا مجلودا في حد، أو مجربا عليه شهادة زور، أو ظنينا في ولاء أو قرابة وذكر باقيها. قال أبو محمد: وهذا لا يصح، لأن السند الأول فيه عبد الملك بن الوليد بن معدان وهو كوفي متروك الحديث، ساقط بلا خلاف، وأبوه مجهول، وأما السند الثاني فمن بين الكرجي إلى سفيان مجهولون، وهو أيضا منقطع، فبطل القول به جملة. ويكفي من هذا أنه لا حجة في قول أحد دون النبي صلى الله عليه وسلم وكم قصة خالفوا فيها عمر وأيضا فلا يخلو من أن تكون صحيحة أو غير صحيحة، فإن كانت غير صحيحة، فهو قولنا ولا حجة علينا فيها، وإن كانت صحيحة تقوم بها الحجة، فقد خالف أبو حنيفة ومالك والشافعي والحاضرون من خصومنا المحتجين بها، ما فيها، فأجازوا شهادة المجلود في الخمر والزنى إذا تاب. وأجاز مالك والشافعي شهادة المجلود في حد القذف إذا تاب، وهذا خلاف ما في رسالة عمر، وإن ادعوا إجماعا كذبهم الأوزاعي، فإنه لا يجيز شهادة مجلود في شيء من الحدود أصلا، كما في رسالة عمر التي صححوا. وأجازوا شهادة الأخ لأخيه، والمولى لذي ولائه، ولم يجعلوهما ظنينين في ولاء وقرابة، وردوا شهادة الأب العدل لابنه، وجعلوه ظنين في قرابة، وليس إجماعا، لأن عثمان البتي وغيره يجيز شهادته له، وردوا شهادة العبد وهو مسلم. وكل هذا خلاف ما في رسالة عمر، ومن الباطل المحال أن تكون حجة علينا في القياس، ولا تكون حجة عليهم فيما خالفوها فيه، ويكفي في هذا إقرارهم بأنها حق وحجة، ثم خلافهم ما فيها، فقد أقروا بأنهم خالفوا الحق والحجة، ونحن لا نقر بها. ولله الحمد.

with the prescribed punishment for accusing another of unlawful sexual intercourse, if he repents. This contradicts what is in Umar's letter. If they claim consensus, al-Awza'i gives the lie to their claim, for he does not admit the testimony of anyone flogged under any prescribed punishment whatsoever, in accordance with Umar's letter, which they have declared authentic. They have admitted a brother's testimony for his brother and the testimony of a client for the person with whom he has a bond of clientage, and have not regarded either as suspected of partiality because of clientage or kinship. Yet they have rejected the testimony of a father who is upright, on behalf of his son, and have deemed him suspected of partiality because of kinship. This is not a matter of consensus, because Uthman al-Batti and others admit his testimony on his son's behalf. They have rejected the testimony of a slave, although he is a Muslim. All of this contradicts what is in Umar's letter. It is false and absurd that it should constitute authoritative proof against us concerning analogy but should not constitute authoritative proof against them in those matters in which they have contradicted it. Their acknowledgment that it is true and constitutes authoritative proof, followed by their contravention of its contents, suffices here: they have acknowledged that they have contradicted the jinn and the authoritative proof. We, however, do not acknowledge its authority, and praise belongs to Allah.[99][100][101][102]

L3152–3157 What is authentically transmitted from Umar is something other than this:

والصحيح عن عمر غير هذا من إنكار القياس، مما سنذكره في هذا الباب إن شاء الله تعالى. وأما الرسالة التي تصح عن عمر فهي غير هذه، وهي التي حدثنا بها عبد الله بن ربيع التميمي، نا محمد بن معاوية المرواني، نا أحمد بن شعيب النسائي، نا محمد بن بشار، نا أبو عامر العقدي، نا سفيان الثوري، عن أبي إسحاق الشيباني، عن الشعبي عن شريح أنه كتب إلى عمر يسأله، فكتب إليه عمر: أن اقض بما في كتاب الله تعالى فإن لم يكن في كتاب الله فسنة رسول الله صلى الله عليه وسلم فإن لم يكن في كتاب الله ولا في سنة رسول الله صلى الله عليه وسلم فاقض بما قضى الصالحون فإن لم يكن في كتاب الله، ولا في سنة رسول الله، ولم يقض به الصالحون، فإن شئت فتقدم،

[99] **Translator's note (L3146):** The supplied Arabic says that the Prophet erased his name "from the Companions," an apparent corruption, probably of "from the document." The anomalous phrase has been preserved. The transmission chain repeats "Ubayd Allah ibn Musa narrated to us." Both occurrences have been retained. The report concerning "the grandfather" alludes to an inheritance question without specifying it here.

[100] **Translator's note (L3148):** The genealogy "Sa'id ibn Abi Musa al-Ash'ari ibn Abi Burda" is anomalous as supplied. Its order has been retained without correction.

[101] **Translator's note (L3149):** The phrase rendered "someone against whom false testimony has been recorded" is awkward as supplied. In context it appears intended to identify a person established to have borne false witness. The name appears here as "al-Karaji," whereas the preceding transmission chain has "al-Karkhi." The variation has been preserved.

[102] **Translator's note (L3151):** The supplied text reads "the jinn" (al-jinn), which is anomalous here and may be a corruption of "the truth" (al-ḥaqq). The supplied reading has been retained.

his rejection of analogy, some of which we shall mention in this chapter, if Allah Most High wills. As for the letter authentically attributable to Umar, it is a different letter, namely the one transmitted to us by Abd Allah ibn Rabi al-Tamimi, who said: Muhammed ibn Muawiya al-Marwani related to us; Ahmad ibn Shuayb al-Nasai related to us; Muhammed ibn Bashshar related to us; Abu Amir al-Aqadi related to us; Sufyan al-Thawri related to us, from Abu Ishaq al-Shaybani, from al-Shabi, from Shurayh, that he wrote to Umar asking him a question. Umar wrote to him: "Judge according to what is in the Book of Allah Most High. If it is not in the Book of Allah, then according to the practice of the Messenger of Allah ﷺ. If it is neither in the Book of Allah nor in the practice of the Messenger of Allah ﷺ, then judge according to what the righteous have adjudicated. If it is neither in the Book of Allah nor in the practice of the Messenger of Allah, and the righteous have not adjudicated it, then proceed if you wish, or hold back if you wish. I consider holding back to be nothing but better for you. And peace." Abu Muhammed said: This is an abandonment of judgment by analogy altogether, and Umar's preference for refraining from judgment when a person does not find the particular case in a Book, a prophetic practice, or a consensus. Thus the report attributing an instruction to employ analogy to Umar falls because its transmitter is discredited, and for a second, compelling reason that exposes the falsehood of that letter and establishes that it is unquestionably fabricated: the wording in it, "Then turn to whichever of them most resembles the truth, is nearest to Allah, Mighty and Majestic, and is most beloved to Him Most High, and judge according to it." Abu Muhammed said: This is false and fabricated. How does the practitioner of analogy know, when he likens the various possibilities to one another, which is most beloved to Allah, Mighty and Majestic, or which is nearest to Him? Yet this is something they assert with certainty, although no one with any share of knowledge would assert it with certainty. Then there is his statement, "Turn to whichever of them most resembles the truth." We know only truth or falsehood; thus whatever resembles the truth must necessarily be either true or false. It is unlawful to judge according to falsehood; and if it is true, it is impermissible to say of the truth that, among its class and its counterparts, it most resembles the truth. Rather, one says of the truth that it is unquestionably true, and it is

وإن شئت فتأخر، ولا أرى التأخر إلا خيرا لك، والسلام. قال أبو محمد: وهذا ترك الحكم بالقياس جملة، واختيار عمر لترك الحكم إذا لم يجد المرء تلك النازلة في كتاب ولا سنة ولا إجماع، فسقطت الرواية عن عمر في الأمر بالقياس، لسقوط راويها. ولوجه ثان ضروري مبين لكذب تلك الرسالة، وأنها موضوعة بلا شك، وهو اللفظ الذي فيها، ثم اعمد لأشبهها بالحق وأقربها إلى الله عز وجل، وأحبها إليه تعالى فاقض به. قال أبو محمد: وهذا باطل موضوع: وما يدري القايس إذا شبهت الوجوه أيها أحب إلى الله عز وجل، أو أيها أقرب إليه؟ وهذا ما يقطعون به، ولا يقطع به أحد له حظ من علم. ثم قوله: اعمد إلى أشبهها بالحق، ولا نعلم إلا حقا أو باطلا، فما أشبه الحق فلا يخلو من أن يكون حقا أو باطلا، فالباطل لا يحل الحكم به، وإن كان حقا فلا يجوز أن يقال في الحق إنه أشبه طبقته ونظرائه بالحق، ولكن يقال في الحق إنه حق بلا شك، ولا يجوز أن يقال فيه يشبه الحق، فصح أن القياس باطل بلا شك، وبطلت تلك الرسالة بلا شك. وبالله تعالى التوفيق. فإن قال قائل: افتقطعون في خبر الواحد العدل أنه حق إذا قضيتم به أم تقولون: إنه باطل، أم تقولون: إنه يشبه الحق، وهذا نفس ما دخلتم علينا؟. قال أبو محمد: والجواب، وبالله التوفيق: إن خبر الواحد العدل المتصل، وشهادة العدلين حق عند الله عز وجل، مقطوع به، إلا أننا نحن نقول: إن كل خبر صح مسندا بنقل من اتفق على عدالته، فهو حق عند الله، بخلاف الشهادات، وقال غيرنا: إن كل شخص من أشخاص الأخبار وأشخاص الشهادات، إما حق عند الله فهو حق مطلق، وإما باطل عند الله فهو باطل مطلق. ولا يجوز أن يقال: إنه يشبه الحق، ولا إنه أشبه بالحق من غيره، ولسنا نوقفهم في هذه المراجعة على مذهبهم في أشخاص القياس، وإنما نتكلم على ما رووا عن عمر من لفظ، أشبهها بالحق، فعلى هذه اللفظة تكلمنا، وفسادها بينا لنرى بعون الله كذب الرواية في ذلك عن عمر. وأما: ولا أحسب كل شيء إلا مثله فحدثنا عبد الله بن يوسف بن نامي،

impermissible to say that it resembles the truth. Thus analogy is established to be unquestionably invalid, and that letter is unquestionably invalidated. Success comes through Allah Most High. If someone says, "When you judge according to a report from a single upright transmitter, do you assert with certainty that it is true, or do you say that it is false, or do you say that it resembles the truth? This is precisely the objection you have brought against us." Abu Muhammed said: The answer —and success comes through Allah—is that a report from a single upright transmitter with a connected chain of transmission, and the testimony of two upright witnesses, are true in the sight of Allah, Mighty and Majestic, with certainty. However, we ourselves maintain that every report authentically established with a chain of transmission through the transmission of someone whose uprightness is agreed upon is true in the sight of Allah, unlike witness testimonies. Others maintain that every individual instance of a report or a witness testimony is either true in the sight of Allah, in which case it is true without qualification, or false in the sight of Allah, in which case it is false without qualification. It is impermissible to say that it resembles the truth or that it resembles the truth more than something else does. In this exchange, we are not confronting them with their doctrine concerning individual instances of analogy. We are discussing only the expression they transmit from Umar: "whichever of them most resembles the truth." It is this expression that we have discussed and whose invalidity we have explained, so that, with Allah's help, we may see the falsehood of the report attributing this to Umar. As for "I consider everything to be nothing other than like it," Abd Allah ibn Yusuf ibn Nami related to us: Ahmad ibn Fath related to us; Abd al-Wahhab ibn Isa related to us; Ahmad ibn Muhammed al-Ashqar related to us; Ahmad ibn Ali al-Qalansi related to us; Muslim related to us; Qutayba related to us; Hammad—that is, Ibn Zayd—related to us, from Umar ibn Dinar, from Tawus, from Ibn Abbas, that the Messenger of Allah ﷺ said: "Whoever purchases food must not sell it until he has received it in full." Ibn Abbas said: "I consider everything to be like it." Abu Muhammed said: They have no authoritative proof in this, because many proponents of analogy do not accept this position and do not consider things other than food to fall under the ruling governing food in this matter. Rather, they hold that anything other than food may

ثنا أحمد بن فتح، ثنا عبد الوهاب بن عيسى، ثنا أحمد بن محمد الأشقر، ثنا أحمد بن علي القلانسي، ثنا مسلم، ثنا قتيبة، ثنا حماد وهو ابن زيد عن عمر بن دينار عن طاوس عن ابن عباسأن رسول الله صلى الله عليه وسلم قال من ابتاع طعاما فلا يبعه حتى يستوفيه قال ابن عباس: واحسب كل شيء مثله. قال أبو محمد: ولا حجة لهم في هذا، لأن كثيرا من أصحاب القياس لا يقولون بهذا، ولا يرون غير الطعام داخلا في حكم الطعام في ذلك، بل يرون ما عدا الطعام جائز بيعه قبل أن يستوفى، وهذا قول المالكيين، فمن المحال أن يحتج امرؤ بشيء يقر أنه خطأ لا يجوز أن يؤخذ به. وأيضا فإن ابن عباس لم يقطع بصحة ظنه في ذلك، وإنما أخبر أنه يحسب كل شيء مثل الطعام في ذلك، وهذا هو الذي قلنا عنهم رضي الله عنهم: إنهم لا يقطعون برأيهم فيما رأوه، وإنما هو ظن لا يثبتونه دينا، وليس حكم القياس عند القائلين به من باب الحسبان الذي ذكره ابن عباس في هذا الحديث، فصح يقينا أنه لا مدخل للقياس في هذا الحديث، فاحتجاجهم به باطل، وبالله تعالى التوفيق. وأما: لو لم تعتبروا ذلك إلا بالأصابع لحدثناه حمام بن أحمد، ثنا محمد بن أبي مفرج، ثنا ابن الأعرابي، ثنا أبو يعقوب الدبري، ثنا عبد الرزاق، ثنا مالك، عن داود بن الحصين، عن أبي غطفان، أن مروان أرسله إلى ابن عباس يسأله: ماذا جعل في الضرس، قال: فيه خمس من الإبل، قال: فردني إلى ابن عباس: فقال: أتجعل مقدم الفم مثل الأضراس، فقال ابن عباس: لو أنك لا تعتبر ذلك إلا بالأصابع عقلها سواء.

lawfully be sold before it has been received in full. This is the position of the Malikis. It is therefore absurd for someone to invoke as proof something he acknowledges to be erroneous and impermissible to adopt. Furthermore, Ibn Abbas did not assert with certainty that his supposition in this matter was correct. He merely reported that he considered everything to be like food in this respect. This is precisely what we have said about them—may Allah be pleased with them—that they did not assert with certainty the opinions they formed. Rather, these were suppositions that they did not establish as religion. According to those who advocate analogy, a judgment reached by analogy does not belong to the category of supposition mentioned by Ibn Abbas in this report. Thus it is established with certainty that analogy has no place in this report, and their invocation of it as proof is invalid. Success comes through Allah Most High. As for "Even if you were to assess that only by reference to the fingers," Hammam ibn Ahmad related it to us: Muhammed ibn Abi Mufarrij related to us; Ibn al-Arabi related to us; Abu Yaqub al-Dabari related to us; Abd al-Razzaq related to us; Malik related to us, from Dawud ibn al-Husayn, from Abu Ghatafan, that Marwan sent him to Ibn Abbas to ask him what compensation he had prescribed for a molar. He said: "Five camels for it." He said: "He sent me back to Ibn Abbas, saying, 'Do you make the front teeth equivalent to the molars?' Ibn Abbas said: 'Even if you were to assess that only by reference to the fingers, the compensation for them is equal.'"[103]

L3158–3160 Abu Muhammed said: Analogy has absolutely no place in this. Rather, it invalidates reasoning by effective causes altogether. Marwan assigned an effective cause to the compensation, namely that it is an incidental attribute of the injured bodily member, so the compensation for the more valuable member ought to be greater. These are precisely the effective causes employed by proponents of analogy. Ibn Abbas therefore showed him the invalidity of this and the inconsistency in his position, by stating that fingers differ in

قال أبو محمد: وهذا لا مدخل للقياس فيه البتة، بل هو إبطال للتعليل جملة، لأن مروان علل الدية بأنها عرض من العضو المصاب، فينبغي أن تكون دية العضو الأفضل أكثر، وهذه هي علل أصحاب القياس على الحقيقة، فأراه ابن عباس بطلان هذا، وتناقضه في قوله: بأن الأصابع منافعها متفاضلة، وديتها سواء. وهذا إبطال العلل على الحقيقة وفي إبطال العلل إبطال للقياس، إذ لا قياس إلا على علة جامعة عند حذاق القائلين به، فهذا الحديث مبطل للقياس كما ذكرنا، وراد إلى النص، وألا يتعقب بتعليل، وبالله تعالى التوفيق، وبرهان واضح فيما ذكرنا هو أن القياس بلا خلاف، إنما هو أن يحكم لما نص فيه بالحكم فيما نص، أو فيما اختلف فيه بالحكم فيما اجتمع عليه،

[103] **Translator's note (L3155):** The introductory quotation uses a negative construction meaning "I consider everything to be nothing other than like it," whereas Ibn Abbas's wording in the ensuing report is simply "I consider everything to be like it." Both forms have been retained. The supplied chain names Umar ibn Dinar. This appears to be an error for Amr ibn Dinar; the supplied name has been retained.

their usefulness while their compensation is equal. This is an actual invalidation of effective causes; and invalidating effective causes invalidates analogy, since, according to its proficient proponents, there can be no analogy without a shared effective cause. Thus this report invalidates analogy, as we have mentioned, and directs one back to the explicit text and to refraining from subjecting it to further examination by assigning an effective cause. Success comes through Allah Most High. A clear demonstration of what we have mentioned is that analogy, without dispute, consists only in assigning to that for which there is an explicit text the ruling applying to that for which an explicit text exists, or assigning to a disputed matter the ruling applying to a matter on which there is consensus. There is no consensus concerning fingers upon which an analogy concerning molars could be based. Rather, disagreement exists concerning them just as it does concerning molars. Nor is there an explicit text concerning fingers to the exclusion of molars. Rather, disagreement exists concerning them just as it does concerning molars. Nor is there an explicit text concerning fingers to the exclusion of molars. Rather, the explicit text concerns both alike. It is therefore invalid to make fingers the original case upon which an analogy concerning molars is based. As for the disagreement concerning all of this, it is as Hammam ibn Ahmad related to us: Ibn Mufarrij related to us; Ibn al-Arabi related to us; al-Dayri related to us; Abd al-Razzaq related to us; Ibn Jurayj related to us: Yahya ibn Said—that is, al-Ansari—informed me, saying: Ibn al-Musayyab said: "Umar ibn al-Khattab adjudged five young she-camels for the teeth at the front of the mouth, in its upper and lower parts, and one camel apiece for the molars." Abd al-Razzaq also reported, from Sufyan al-Thawri, from Yahya ibn Said al-Ansari, from Said ibn al-Musayyab, that Umar ibn al-Khattab prescribed fifteen for the thumb, ten apiece for the index and middle fingers, nine for the ring finger, and seven for the little finger. Thus there is demonstrably no consensus here concerning fingers upon which the matter of teeth and molars could be based by analogy. As for the explicit text, Abd Allah ibn Rabi related to us, saying: He related to us: Umar ibn Abd al-Malik; Muhammed ibn Bakr related to us; Abu Dawud al-Sijistani related to us; Abbas ibn Abd al-Azim al-Anbari related to us; Abd al-Samad ibn Abd al-Warith al-Tannuri related to us; Shuba related to us: Qatada related to us, from Ikrima, from

وليس في الأصابع إجماع، فيقاس عليه الأضراس، بل الخلاف موجود فيها كما هو في الأضراس، وليس في الأصابع نص دون الأضراس، بل الخلاف موجود فيها كما هو في الأضراس، وليس في الأصابع نص دون الأضراس، بل النص فيهما جميعا، فبطل أن تكون الأصابع أصلا يقاس عليه الأضراس. فأما الخلاف في كل ذلك فكما حدثنا حمام بن أحمد، ثنا ابن مفرج، ثنا ابن الأعرابي، ثنا الديري، ثنا عبد الرزاق، ثنا ابن جريج، أخبرني يحيى بن سعيد هو الأنصاري قال: قال ابن المسيب قضى عمر بن الخطاب فيما أقبل من الفم أعلى الفم وأسفله خمس قلانص، وفي الأضراس بعير بعير. وقال عبد الرزاق أيضا: عن سفيان الثوري، عن يحيى بن سعيد الأنصاري، عن سعيد بن المسيب: أن عمر بن الخطاب جعل في الإبهام خمس عشرة، وفي السبابة والوسطى عشرا عشرا، وفي البنصر تسعا، وفي الخنصر سبعا. فبطل أن يكون ههنا إجماع في الأصابع يقاس عليه أمر الأسنان والأضراس. وأما النص فإن عبد الله بن ربيع ثنا قال: حدثنا عمر بن عبد الملك، ثنا محمد بن بكر، ثنا أبو داود السجستاني، ثنا عباس بن عبد العظيم العنبري، ثنا عبد الصمد بن عبد الوارث التنوري، ثنا شعبة، حدثنا قتادة عن عكرمة عن ابن عباس أن رسول الله صلى الله عليه وسلم قال الأصابع سواء والأسنان سواء الثنية والضرس سواء، هذه وهذه سواء. فصح أن النص عند ابن عباس في الأضراس، كما هو في الأصابع، بأصح إسناد وأجوده، وشعبة لم يسمع قتادة حديثا إلا فقه على سماعه، إلا حديثا واحدا في الصلاة،

Ibn Abbas, that the Messenger of Allah ﷺ said: “The fingers are equal, and the teeth are equal. The incisor and the molar are equal. This one and this one are equal.” Thus it is established, through the soundest and finest chain of transmission, that Ibn Abbas possessed an explicit text concerning molars just as he did concerning fingers. Shuba did not hear a single report from Qatada without ascertaining that he had heard it, except for one report concerning prayer.[104][105][106]

L3161 Thus it is altogether disproved that Ibn Abbas intended any analogy by his statement, “Even if you did not assess that by comparison with the fingers.”

L3162–3164 And through Allah Most High comes success. Indeed, Amr ibn Shuayb also transmitted the equal treatment of molars and other teeth, and of fingers, from his father, from his grandfather, with a chain reaching the Prophet; it also appears in the document of Amr ibn Hazm. Thus their supposition is disproved with certainty. Praise be to Allah, Lord of all worlds. As for “Consider if he applied oil,” Hammam ibn Ahmad related it to us: Ibn Mufarrij related to us: Ibn al-Arabi related to us: al-Diri related to us: Abd al-Razzaq related to us, from Mamar, from Jafar ibn Yarqan, who said: Abu Hurayra used to perform ablution after consuming anything that fire had touched. This reached Ibn Abbas, who sent him the following message: “Consider: if I took some fragrant oil and anointed my beard with it, would I have to

[104]**Translator’s note (L3158):** The supplied wording calls compensation an “incidental attribute” (ʿaraḍ) of the injured member. This is awkward in context and may be a corruption of ʿiwaḍ, “compensation” or “substitute.” The supplied reading has been retained.

[105]**Translator’s note (L3159):** Read together with the preceding unit, the supplied text defines analogy as assigning a ruling to something “for which there is an explicit text.” The argument appears to require “for which there is no explicit text,” but the negative is absent and has not been supplied. The passage repeats the statements about disagreement and the absence of a text concerning fingers alone. The repetition has been retained. The supplied word for “young she-camels” is qalāniṣ, apparently an erroneous form of qalāʾiṣ. The final transmission formula is redundant and awkward in the supplied text; both occurrences of “related to us” have been retained.

[106]**Translator’s note (L3160):** The wording translated as “without ascertaining that he had heard it” is compressed and awkward. It apparently means that Shuba verified Qatada’s direct hearing of each report from his source, with the stated exception. The supplied transmitter’s epithet is al-Tannuri; it has been retained rather than silently normalized.

فبطل أن يكون ابن عباس أراد بقوله: ولو لم تعتبروا ذلك، بالأصابع، قياسا البتة،

وبالله تعالى التوفيق. نعم: قد روى التسوية أيضا بين الأضراس والأسنان، وبين الأصابع، عمرو بن شعيب، عن أبيه، عن جده مسندا: وفي كتاب عمرو بن حزم أيضا فبطل ما ظنوه بيقين، والحمد لله رب العالمين. وأما: أرأيت لو ادهن فحدثناه حمام بن أحمد، حدثنا ابن مفرج، حدثنا ابن الأعرابي، حدثنا الديري، حدثنا عبد الرزاق، عن معمر، عن جعفر بن يرقان قال: كان أبو هريرة يتوضأ مما مست النار، فبلغ ذلك ابن عباس فأرسل إليه: أرأيت لو أخذت دهنة طيبة فدهنت بها لحيتي أكنت متوضئا؟ قال أبو هريرة يا ابن أخي إذا حدثت بالحديث عن النبي صلى الله عليه وسلم فلا تضرب له الأمثال جدلا قال أبو محمد وليس ههنا للقياس مدخل البتة بوجه من الوجوه وابن عباس قد روى عن النبي صلى الله عليه وسلم أنه شاهده أكل شيئا مما مست النار فلم يتوضأ، وهذا الحديث عنه مشهور، فلم يترك ابن عباس الوضوء مما مست النار قياسا، لكن اتباعا للنص، وإنما عارض أبا هريرة بأمر الدهن في هذا الحديث ليعلم: أيطرد أبو هريرة قوله، أم لا يرى الوضوء من الدهن فقط، فإنما هو استفهام عن مذهب أبي هريرة في الدهن: أيوجب الوضوء أم لا؟ ليس في هذا الحديث شيء غير هذا البتة، ولكن في قول أبي هريرة إذا حدثت بالحديث عن النبي صلى الله عليه وسلم فلا تضرب له الأمثال جدلا إبطال صحيح للقياس، لأن القياس ضرب أمثال

perform ablution?" Abu Hurayra said: "My brother's son, when I relate a report from the Prophet ﷺ, do not set examples against it for the sake of disputation." Abu Muhammed said: Analogy has absolutely no place here, in any respect whatsoever. Ibn Abbas himself transmitted from the Prophet ﷺ that he witnessed him eat something that fire had touched without subsequently performing ablution. This report from him is well known. Thus Ibn Abbas did not forgo ablution after consuming what fire had touched on the basis of analogy, but in adherence to the explicit text. He challenged Abu Hurayra with the matter of oil in this report only to ascertain whether Abu Hurayra would apply his statement consistently or whether he merely did not consider oil to require ablution. It is simply an inquiry into Abu Hurayra's position on oil: does it necessitate ablution or not? There is absolutely nothing else in this report. Yet Abu Hurayra's statement, "When I relate a report from the Prophet ﷺ, do not set examples against it for the sake of disputation," constitutes a sound refutation of analogy, because analogy consists of setting forth examples in religion for which Allah Most High has given no authorization. Abu Hurayra prohibited that and instructed him to follow the report and submit to it. Thus this report is evidence against them, not for them. What is soundly transmitted from Ibn Abbas is the rejection of analogy, as will be mentioned hereafter, if Allah Most High wills. As for "Do fresh dates diminish when they dry?", Ahmad ibn Muhammed al-Jasur related it to us: Ahmad ibn Said ibn Hazm related to us: Ubayd Allah ibn Yahya related to us: my father related to us, from Malik ibn Anas, from Abd Allah ibn Zayd, that Zayd Abu Ayyash informed him that he asked Sad ibn Abi Waqqas about exchanging white wheat for hulless barley. Sad said to him: "Which of the two is better?" He replied: "The white wheat." He therefore forbade him to do that and said: "I heard the Messenger of Allah ﷺ being asked about purchasing dried dates in exchange for fresh dates. He ﷺ said: 'Do fresh dates diminish when they dry?'"[107][108]

في الدين لم يأذن بها الله تعالى. وقد نهى أبو هريرة عن ذلك، وأمره باتباع الحديث والتسليم له، فهذا الحديث عليهم لا لهم، والصحيح عن ابن عباس إبطال القياس، على ما ذكر بعد هذا إن شاء الله تعالى. وأما: أينقص الرطب إذا يبس فحدثناه أحمد بن محمد الجسور، نا أحمد بن سعيد بن حزم، نا عبيد الله بن يحيى، نا أبي عن مالك بن أنس، عن عبد الله بن زيد، أن زيدا أبا عياش أخبره: أنه سأل سعد بن أبي وقاص عن البيضاء بالسلت. قال له سعد: أيتهما أفضل؟ فقال: البيضاء فنهاه عن ذلك وقال سمعت رسول الله صلى الله عليه وسلم يسأل عن اشتراء التمر بالرطب فقال صلى الله عليه وسلم أينقص الرطب إذا يبس

[107] **Translator's note (L3162):** The transmitter's name is written "Jafar ibn Yarqan" in the supplied text and is retained as written.

[108] **Translator's note (L3163):** "White wheat" renders al-bayda, literally "the white"; the precise grain intended is not specified in this passage. "Hulless barley" renders sult, a grain designation also associated with grain resembling both wheat and barley.

They said: "Yes." He therefore forbade him to do that. Abu Muhammed said: The first point here is that this report is not authentic, because Zayd Abu Ayyash is an unknown transmitter.

Discussion of it is therefore dispensed with. Furthermore, even if it were authentic, they would have no proof in it, because all the proponents of analogy, from first to last, neither regard this as analogy nor prohibit exchanging white wheat for hulless barley. It is therefore absurd for people to adduce as proof something they do not themselves accept. Furthermore, this is not analogy according to those who advocate it, because it draws a parallel between the superior kind and something that diminishes when it dries. This is no resemblance whatsoever according to those who advocate analogy. Their reliance upon this transmitted report therefore falls away. Praise be to Allah, Lord of all worlds. As for "I fear that it may resemble it," Abd Allah ibn Yusuf ibn Nami related it to us: Ahmad ibn Fath related to us: Abd al-Wahhab ibn Isa related to us: Ahmad ibn Muhammed related to us: Ahmad ibn Ali related to us: Muslim related to us: Abu al-Tahir related to me: Ibn Wahb informed me, from Amr ibn al-Harith, that Abu al-Nadr related to him that Busr ibn Said related to him, from Mamar ibn Abd Allah, that he sent his servant with a sa of wheat and said: "Sell it, then buy barley with its proceeds." The servant went and obtained a sa and an additional fraction of a sa. When he came to Mamar, he informed him of this. Mamar said to him: "Why did you do that? Go and return it, and take only an equal quantity for an equal quantity, for I used to hear the Messenger of Allah ﷺ say: 'Food for food, an equal quantity for an equal quantity.' Our food at that time was barley." He was told: "It is not the same as it." He said: "I fear that it may resemble it." Abu Muhammed said: They have no proof in this whatsoever. It is merely an act of scrupulous caution on the part of Mamar ibn Abd Allah, neither an imposition of an obligation nor a definitive assertion on his part. This is made clear by Mamar's statement that he feared it might resemble it: he did not assert definitively that it did resemble it. Furthermore, the Hanafis and Shafiis do not accept this position; they permit exchanging wheat for barley in unequal quantities. There is therefore no justification for a person's adducing as proof something he

فقالوا نعم فنهاه عن ذلك. قال أبو محمد: فأول هذا إن هذا خبر لا يصح، لأن زيدا أبا عياش مجهول،

فارتفع الكلام فيه، وأيضا فلو صح لما كانت لهم فيه حجة، لأن جميع أصحاب القياس، أولهم عن آخرهم، لا يرون هذا قياسا ولا يمنعون من البيضاء بالسلت فمحال أن يحتج قوم بما لا يقولون به. وأيضا فإن هذا ليس قياسا عند القائلين به، لأنه تنظير للأفضل بما ينقص إذا يبس، وهذا ليس شبها البتة، عند من يقول بالقياس، فسقط تعلقهم بهذا الأثر، والحمد لله رب العالمين. وأما: أخاف أن يضارع فحدثناه عبد الله بن يوسف بن نامي، نا أحمد بن فتح، نا عبد الوهاب بن عيسى، نا أحمد بن محمد، نا أحمد بن علي، نا مسلم، حدثني أبو الطاهر، أخبرني ابن وهب، عن عمرو بن الحارث أن أبا النضر حدثه أن بسر بن سعيد حدثه عن معمر بن عبد الله: أنه أرسل غلامه بصاع قمح، فقال: بعه ثم اشتر به شعيرا، فذهب الغلام فأخذ صاعا وزيادة بعض صاع، فلما جاء معمرا أخبره بذلك. فقال له معمر: لم فعلت ذلك؟ انطلق فرده، ولا تأخذ إلا مثلا بمثل فإني كنت أسمع رسول الله صلى الله عليه وسلم يقول الطعام بالطعام مثلا بمثل وكان طعامنا يومئذ الشعير، فقيل: إنه ليس بمثله؟ قال: إني أخاف أن يضارع. قال أبو محمد: وهذا لا حجة لهم فيه أصلا، وإنما هو تورع من معمر بن عبد الله، لا إيجاب، ولا أنه قطع بذلك. وبيان ذلك: إخبار معمر بأنه يخاف أن يضارع، ولم يقطع بأنه يضارع، وأيضا فإن الحنفيين والشافعيين لا يقولون بهذا، وهم يجيزون القمح بالشعير متفاضلا، فلا وجه لاحتجاج المرء بما لا يراه صحيحا، ولا ممن يخطىء ويصيب ممن لا يلزم اتباعه. ولعل من جهل يظن أن احتجاجنا بمن دون النبي صلى الله عليه وسلم هو أننا نرى من دونه صلى الله عليه وسلم حجة لازمة فليعلم من ظن ذلك أن ظنه كذب وأننا لا نورد قولا عمن دون النبي صلى الله عليه وسلم إلا على أحد وجهين لا

does not regard as sound, nor for adducing as proof someone who errs and is right and whom one is not obliged to follow. Perhaps an ignorant person supposes that our adducing as proof someone other than the Prophet ﷺ means that we regard someone other than him ﷺ as a binding authority. Let anyone who supposes that know that his supposition is false, and that we cite no statement from anyone other than the Prophet ﷺ except for one of two purposes, with no third: either out of concern that an ignorant person may accuse us of contravening consensus, so that we show him his falsehood, the unsoundness of his suppositions, and that there is no consensus on the matter in which he supposed there was consensus; or to show someone who adduces as proof a person other than the Prophet ﷺ that the very person he adduces as proof disagrees with him, thereby making him recognize his contradiction in opposing someone he regards as an authority.[109][110]

ثالث لهما إما خوف جاهل يدعي علينا خلاف الإجماع، فنريه كذبه، وفساد ظنونه، وأنه لا إجماع فيما ظن فيه إجماعا وإما لنرى من يحتج بمن دون النبي صلى الله عليه وسلم أن الذي يحتج به مخالف له فنوقفه علي تناقضا في أنه يخالف من يراه حجة.

L3169–3171 There is one exception: the ruling of the two adjudicators concerning compensation for game. We cite that ruling as proof because of the statement of Allah Most High: {O you who have believed, do not kill game while you are in a state of consecration. Whoever among you kills it deliberately must recompense it with livestock equivalent to what he killed, as adjudged by two just men from among you, as an offering reaching the Kaaba; or make expiation by feeding poor people, or the equivalent of that in fasting, so that he may taste the evil consequence of his deed. Allah has pardoned what is past. Whoever repeats it, Allah will take vengeance upon him. Allah is mighty, possessed of vengeance.} Allah, mighty and majestic, has thus obliged us here to accept the judgment of the two just men. We therefore cite the statement of two just men among the early generations, may Allah be pleased with them, as proof on the authority of their statement, because Allah Most High has made that obligatory. As for the report, "Which is more deserving?", Ibn

حاشا موضعا واحدا، وهو حكم الحكمين بجزاء الصيد، فإننا نورده احتجاجا به لقول الله تعالى {يأيها لذين آمنوا لا تقتلوا لصيد وأنتم حرم ومن قتله منكم متعمدا فجزآء مثل ما قتل من لنعم يحكم به ذوا عدل منكم هديا بالغ لكعبة أو كفارة طعام مساكين أو عدل ذلك صياما ليذوق وبال أمره عفا لله عما سلف ومن عاد فينتقم لله منه ولله عزيز ذو نتقام} فألزمنا الله عز وجل قبول العدلين ههنا، فنحن نورد قول العدلين من السلف رضي الله عنهم، احتجاجا بقولهما، لأن الله تعالى أوجب ذلك. وأما حديث: أيما أولى؟ فحدثناهابن نامي، نا أحمد بن فتح، نا عبد الوهاب بن عيسى، نا أحمد بن محمد، نا أحمد بن علي، نا مسلم بن الحجاج، نا إسحاق بن إبراهيم، أنا عبد الأعلى، أنا داود، عن أبي نضر قال: سألت ابن عمر وابن عباس عن الصرف فلم ير بأسا، فإني لقاعد عند أبي سعيد الخدري إذ جاءه رجل فسأله عن الصرف فقال: ما زاد فهو ربا. فأنكرت ذلك لقولهما فقال لا أحدثك إلا ما سمعت من رسول الله صلى الله عليه وسلم جاءه صاحب نخلة بصاع من تمر جنيب وكان تمر النبي صلى الله عليه وسلم غير هذا اللون فقال النبي صلى الله عليه وسلم أنى لك هذا قال انطلقت بصاعين

[109] **Translator's note (L3166):** A sa is a measure of capacity. The object of "resemble it" is left unstated in the Arabic; the surrounding discussion concerns whether this exchange resembles a prohibited exchange.

[110] **Translator's note (L3168):** The phrase rendered "making him recognize his contradiction" is grammatically corrupt as supplied: fa-nuqifuhu ala tanaqudan. The translation follows its apparent sense without treating the transmitted wording as grammatically regular.

Nami related it to us: Ahmad ibn Fath related to us: Abd al-Wahhab ibn Isa related to us: Ahmad ibn Muhammed related to us: Ahmad ibn Ali related to us: Muslim ibn al-Hajjaj related to us: Ishaq ibn Ibrahim related to us: Abd al-Ala informed us: Dawud informed us, from Abu Nadr, who said: I asked Ibn Umar and Ibn Abbas about currency exchange, and they saw no harm in it. I was sitting with Abu Said al-Khudri when a man came to him and asked him about currency exchange. He said: "Whatever is in excess is usury." I objected to that because of what those two had said. He replied: "I shall relate to you only what I heard from the Messenger of Allah ﷺ. The owner of a date palm came to him with a sa of janib dates, while the Prophet's ﷺ dates were of a different variety. The Prophet ﷺ said: "'Where did you get this?' He said: 'I went with two sas and purchased this one sa with them, for the market price of this is such-and-such, and the price of that is such-and-such.' The Messenger of Allah ﷺ said: 'Woe to you! Consider: when you want to do that, sell dates for a commodity, then use your commodity to buy whatever dates you wish.'" Abu Said said: "Dates for dates are more deserving of being usury. As for silver for silver—" Abu Muhammed said: This is not analogy, because Abu Said al-Khudri possessed a prohibition transmitted from the Prophet ﷺ against unequal quantities in an exchange of silver for silver, as we have related. And through the aforementioned chain to Muslim: Muhammed ibn Rumh related to us: al-Layth ibn Sad related to us, from Nafi the client of Ibn ʿUmar, who said: Ibn ʿUmar went, with me accompanying him, until he entered upon Abu Saʿid al-Khudri. He then mentioned Ibn ʿUmar's question to Abu Saʿid about currency exchange. Abu Saʿid pointed with his finger to his eyes and ears and said: "My two eyes saw, and my two ears heard, the Messenger of Allah, may Allah bless him and grant him peace ﷺ, saying: 'Do not sell gold for gold, and do not sell silver for silver, except like for like, and do not make some of it exceed the other.'" He then related the hadith. Through the same chain to Muslim: Abu Bakr ibn Abi Shaybah related to us; Wakiʿ related to us; Ismaʿil ibn Muslim al-ʿAbdi related to us; al-Mutawakkil al-Naji, from Abu Saʿid al-Khudri, who said: The Messenger of Allah, may Allah bless him and grant him peace ﷺ, said: "Gold for gold, silver for silver, wheat for wheat, barley for barley, dates for dates, and salt for salt, like for like. Whoever gives an excess and

واشتريت به هذا الصاع، فإن سعر هذا في السوق كذا وسعر هذا كذا فقال رسول الله صلى الله عليه وسلم ويلك أرأيت إذا أردت ذلك فبع تمرا بسلعة ثم اشتر بسلعتك أي تمر شئت قال أبو سعيد: فالتمر بالتمر أحق أن يكون ربا أما الفضة بالفضة؟. قال أبو محمد: وهذا ليس قياسا، لأن النهي عن التفاضل في الفضة بالفضة عند أبي سعيد الخدري عن النبي صلى الله عليه وسلم كما روينا وبالسند المذكور إلى مسلم حدثنا محمد بن رمح: ثنا الليث بن سعد، عن نافع مولى ابن عمر قال: ذهب ابن عمر وأنا معه حتى دخل على أبي سعيد الخدري، فذكر سؤال ابن عمر لأبي سعيد عن الصرف، فقال أبو سعيد وأشار بأصبعه إلى عينيه وأذنيه فقال أبصرت عيناني وسمعت أذناي رسول الله صلى الله عليه وسلم يقول لا تبيعوا الذهب بالذهب ولا تبيعوا الورق بالورق إلا مثلا بمثل ولا تفشوا بعضه على بعض وذكر الحديث. وبه إلى مسلم: حدثنا أبو بكر بن أبي شيبة، نا وكيع، نا إسماعيل بن مسلم العبدي المتوكل الناجي عن أبي سعيد الخدري قال قال رسول الله صلى الله عليه وسلم الذهب بالذهب والفضة بالفضة والبر بالبر، والشعير بالشعير، والتمر بالتمر، والملح بالملح مثلا بمثل فمن زاد واستزاد فقد أربى، الآخذ والمعطي فيه سواء.

seeks an excess has engaged in usury; the recipient and the giver are equal in this."[111][112][113][114]

L3172–3177 Abu Muhammed said: It is manifestly impossible that Abu Saʿid should possess the Prophet's prohibition of silver for silver except like for like, heard directly in the words of the Prophet, may Allah bless him and grant him peace, yet rely on analogy to establish its prohibition. It is therefore established that analogy has absolutely no part in this report. For analogy, according to those who advocate it, is simply a ruling concerning something for which there is no explicit text, corresponding to the ruling concerning its counterpart for which an explicit text has been transmitted. Abu Saʿid had heard the explicit text concerning silver for silver, just as he had concerning dates for dates. Thus, by the necessary implications of the advocates of analogy's own admission, it is untenable that either of these two matters should, for him, have been established by analogy with the other. If it is said, "What, then, is the explanation of Abu Saʿid's statement? That is the question," we say—and success comes through Allah Most High—that we have no doubt that Abu Nadrah distorted Abu Saʿid's wording and omitted from it something without which the meaning cannot stand. He did the same at the beginning of this very hadith, in his statement: "I asked Ibn ʿAbbas and Ibn ʿUmar about currency exchange, and they saw no harm in it." This is an obscured

قال أبو محمد فمن المحال البين أن يكون نهى النبي صلى الله عليه وسلم عن الفضة بالفضة إلا مثلا بمثل عند أبي سعيد سماعا من لفظ النبي صلى الله عليه وسلم ويعول في تحريمه على القياس فصح أن هذا الأثر لا مدخل للقياس فيه أصلا، لأن القياس عند القائلين به، إنما هو: حكم في شيء ولا نص فيه، على نحو الحكم في نظيره، مما جاء فيه النص، والنص عند أبي سعيد مسموع في الفضة بالفضة، كما هو في التمر بالتمر، فبطل ضرورة إقرار أصحاب القياس أن يكون أحد الأمرين عنده قياسا على الآخر. فإن قيل: فما وجه قول أبي سعيد إذن هو القول، فنقول وبالله تعالى التوفيق: إننا لا نشك أن أبا نضرة مسخ لفظ أبي سعيد، وحذف منه ما لا يقوم المعنى إلا به. كما فعل في صدر هذا الحديث نفسه، من قوله: سألت ابن عباس وابن عمر عن الصرف فلم يريا به بأسا، وهذا كلام مطموس، لأن الصرف لا بأس به عند كل أحد من الأمة، إذا كان على ما جاء به النص، من التماثل والتعاقد في الفضة بالفضة وفي الذهب بالذهب، ومن التفاضل والتناقد في الذهب بالفضة، فطمس أبو نضرة كل هذا. وكذلك فعل بلا شك في كلام أبي سعيد، ولا يجوز غير هذا أصلا، إذ من الباطل أن يروي من هو أوثق من أبي نضرة عن أبي سعيد أنه سمع النبي صلى الله عليه وسلم يوجب أن التفاضل في الفضة بالفضة ربا ثم لا يعول أبو سعيد في تحريم ذلك إلا على تحريم التمر بالتمر متفاضلا، هذا ما لا يدخل في عقل أحد. وجميع أصحاب القياس لا يجوزون هذا القياس، ولا يدخلون الصفر بالصفر، قياسا على الربا في التمر بالتمر، فبطل تعلقهم بهذا الخبر جملة والحمد لله رب العالمين، وبالله تعالى نعتصم. وأما: سكر هذى فحدثناه حمام بن أحمد، ثنا ابن مفرج، ثنا ابن الأعرابي، ثنا الدبري، نا عبد الرزاق، عن معمر، عن أيوب السختياني، عن عكرمة، أن عمر بن الخطاب شاور الناس في حد الخمر، وقال: إن الناس قد شربوها واجترؤوا عليها، فقال له علي: إن

[111] **Translator's note (L3169):** The Quranic quotation, from 5:95, contains numerous missing initial alifs in the supplied transcription. These spelling defects do not yield a distinct translatable wording here. Janib denotes a select variety or quality of dates; its precise identification is not supplied. The source uses a singular verb in "they saw no harm in it" although both Ibn Umar and Ibn Abbas have been named.

[112] **Translator's note (L3170):** Abu Said's concluding comparison is awkward as supplied: "Dates for dates are more deserving of being usury. As for silver for silver." The word amma ordinarily introduces "as for," leaving the construction incomplete here; the translation preserves this difficulty rather than silently replacing it with a comparative expression.

[113] **Translator's note (L3171):** The supplied transmission chain places "al-Mutawakkil al-Naji" directly after "Ismaʿil ibn Muslim al-ʿAbdi," without a connecting transmission formula. This apparent omission has not been silently repaired. The supplied verb rendered "make … exceed" is tafshū, literally suggesting spreading or making widespread, rather than the expected verb for giving an excess. The contextual rendering is uncertain.

[114] **Qur'an references (L3169):** Qur'an 5:95 (Al-Ma'idah).

statement, because everyone in the community holds that there is no harm in currency exchange when it accords with what the explicit text prescribes: equality and contracting in silver for silver and gold for gold, and unequal quantities and immediate reciprocal payment in gold for silver. Abu Nadrah effaced all this, and he undoubtedly did the same with Abu Saʿid's words. No other explanation is admissible at all. For it is absurd that someone more trustworthy than Abu Nadrah should relate from Abu Saʿid that he heard the Prophet, may Allah bless him and grant him peace ﷺ, declare that inequality in silver for silver is usury, and that Abu Saʿid should then rely, in prohibiting that, solely on the prohibition of exchanging dates for dates in unequal quantities. This is something no one's reason can accept. All the advocates of analogy disallow this analogy, and they do not bring brass for brass within the prohibition by analogy with usury in dates for dates. Their appeal to this report is therefore entirely invalid. Praise belongs to Allah, Lord of the worlds, and in Allah Most High we seek protection. As for "became intoxicated, he spoke deliriously," Hammam ibn Ahmad related it to us: Ibn Mufarrij related to us; Ibn al-Aʿrabi related to us; al-Dabari related to us; ʿAbd al-Razzaq related to us, from Maʿmar, from Ayyub al-Sakhtiyani, from ʿIkrimah: ʿUmar ibn al-Khattab consulted the people concerning the prescribed punishment for wine and said: "The people have drunk it and grown bold about it." ʿAli said to him: "When the intoxicated man becomes intoxicated, he speaks deliriously; and when he speaks deliriously, he makes false accusations. So make its punishment the prescribed punishment for false accusation." ʿUmar accordingly made it the prescribed punishment for false accusation: eighty lashes. Ahmad ibn Muhammed ibn al-Jasur also related it to us: Ahmad ibn Saʿid ibn Hazm related to us; ʿUbayd Allah ibn Yahya ibn Yahya related to us; my father related to us; Malik related to us, from Thawr ibn Zayd al-Dili: ʿUmar ibn al-Khattab sought advice concerning a man's drinking wine. ʿAli ibn Abi Talib said to him: "We consider that we should flog him eighty lashes, for when he drinks, he becomes intoxicated; when he becomes intoxicated, he speaks deliriously; and when he speaks deliriously, he makes false accusations"—or words to that effect. So ʿUmar administered eighty lashes for wine. Muhammed ibn Saʿid ibn Nabat related it to us: ʿAbd Allah ibn Nasr related to us; Qasim ibn Asbagh related to us;

السكران إذا سكر هذى، وإذا هذى افترى، فاجعله حد الفرية فجعله عمر حد الفرية ثمانين. وحدثناه أيضا أحمد بن محمد بن الجسور، ثنا أحمد بن سعيد بن حزم، ثنا عبيد الله بن يحيى بن يحيى، ثنا أبي، ثنا مالك، عن ثور بن زيد الديلي: أن عمر بن الخطاب استشار في الخمر يشربها الرجل، فقال له علي بن أبي طالب: نرى أن نجلده ثمانين، فإنه إذا شرب سكر، وإذا سكر هذى، وإذا هذى افترى، أو كما قال، فجلد عمر في الخمر ثمانين. حدثناه محمد بن سعيد بن نبات، ثنا عبد الله بن نصر، نا قاسم بن أصبغ، ثنا ابن وضاح، نا موسى بن معاوية، نا وكيع، نا ابن أبي خالد، عن عامر الشعبي قال: استشارهم عمر في الخمر، فقال عبد الرحمن بن عوف: هذا رجل افترى على القرآن رأى أن تجلده ثمانين. حدثنا عبد الله بن ربيع التميمي، نا عبد الله بن محمد بن عثمان الأسدي، ثنا أحمد بن خالد، نا عبد الله بن عبد العزيز، نا الحجاج بن المنهال، نا حماد بن سلمة، عن عطاء بن السائب، عن محارب بن دثار إن ناسا من أصحاب رسول الله صلى الله عليه وسلم شربوا الخمر بالشام وإن يزيد بن أبي سفيان كتب فيهم إلى عمر فذكر الحديث، وفيه: إنهم احتجوا على عمر بقول الله تعالى {ليس على لذين آمنوا وعملوا لصالحات جناح فيما طعموا إذا ما تقوا وآمنوا وعملوا الصالحات ثم اتقوا وآمنوا ثم اتقوا وأحسنوا ولله يحب لمحسنين} فشاور فيهم الناس فقال لعلي ماذا ترى؟ فقال: أرى قد شرعوا في دين الله تعالى ما لم يأذن به الله تعالى، فإن زعموا أنها حلال فاقتلهم، فإنهم قد أحلوا ما حرم الله، وإن زعموا أنها حرام فاجلدهم ثمانين ثمانين، فقد افتروا على الله الكذب، وقد أخبر الله تعالى بحد ما يفتري به بعضنا على بعض. حدثنا عبد الله بن ربيع، نا محمد بن معاوية، نا أحمد بن شعيب، نا محمد بن عبد الله بن عبد الرحيم البرقي، ثنا سعيد بن عفير، ثنا يحيى بن فليح بن سليمان المدني، عن ثور بن زيد، عن عكرمة، عن ابن عباس أن الشراب كانوا يضربون في عهد رسول

Ibn Waddah related to us; Musa ibn Muʿawiyah related to us; Wakiʿ related to us; Ibn Abi Khalid related to us, from ʿAmir al-Shaʿbi, who said: ʿUmar consulted them concerning wine. ʿAbd al-Rahman ibn ʿAwf said: "This is a man who has fabricated a falsehood against the Quran. The opinion is that you should flog him eighty lashes." ʿAbd Allah ibn Rabiʿ al-Tamimi related to us; ʿAbd Allah ibn Muhammed ibn ʿUthman al-Asadi related to us; Ahmad ibn Khalid related to us; ʿAbd Allah ibn ʿAbd al-ʿAziz related to us; al-Hajjaj ibn al-Minhal related to us; Hammad ibn Salamah related to us, from ʿAtaʾ ibn al-Saʾib, from Muharib ibn Dithar: Some of the Companions of the Messenger of Allah, may Allah bless him and grant him peace ﷺ, drank wine in Syria, and Yazid ibn Abi Sufyan wrote to ʿUmar about them. He then related the hadith, which includes their arguing before ʿUmar on the basis of Allah Most High's statement: "There is no blame upon those who believe and perform righteous deeds for what they have consumed, provided that they are mindful of Allah and believe and perform righteous deeds, then are mindful of Allah and believe, then are mindful of Allah and do good; and Allah loves those who do good." He consulted the people about them and said to ʿAli: "What do you think?" He replied: "I consider that they have instituted in the religion of Allah Most High something for which Allah Most High has given no permission. If they maintain that it is lawful, kill them, for they have declared lawful what Allah has forbidden. If they maintain that it is forbidden, flog them eighty lashes each, for they have fabricated a lie against Allah, and Allah Most High has stated the prescribed punishment for the false accusations that some of us make against others." ʿAbd Allah ibn Rabiʿ related to us; Muhammed ibn Muʿawiyah related to us; Ahmad ibn Shuʿayb related to us; Muhammed ibn ʿAbd Allah ibn ʿAbd al-Rahim al-Barqi related to us; Saʿid ibn ʿUfayr related to us; Yahya ibn Fulayh ibn Sulayman al-Madani related to us, from Thawr ibn Zayd, from ʿIkrimah, from Ibn ʿAbbas: Drinkers used to be beaten with hands, sandals, and sticks in the time of the Messenger of Allah, may Allah bless him and grant him peace

الله صلى الله عليه وسلم بالأيدي والنعال والعصي حتى توفي رسول الله صلى الله عليه وسلم

ﷺ until the Messenger of Allah, may Allah bless him and grant him peace ﷺ died.[115][116][117]

L3178–3179 During Abu Bakr's caliphate they became more numerous than they had been in the time of the Messenger of Allah, may Allah bless him and grant him peace ﷺ. Abu Bakr said: "If only we were to establish a prescribed punishment for them." He therefore sought to approximate the beating they used to receive in the time of the Messenger of Allah, may Allah bless him and grant him peace ﷺ. Abu Bakr would flog them forty lashes, and continued doing so until he died. Then came ʿUmar, who likewise flogged them forty lashes, until a man from among the earliest Emigrants was brought to him, having drunk. He ordered that he be flogged. The man said: "Why are you flogging me? Between you and me stands the Book of Allah." ʿUmar said: "And where in the Book of Allah do you find that I should not flog you?"

L3180 He said to him: "Allah Most High says in His Book: 'There is no blame upon those who believe and perform righteous deeds for what they have consumed, provided that they are mindful of Allah and believe and perform righteous deeds, then are mindful of Allah and believe, then are mindful of Allah and do good; and Allah loves those who do good.' I am one of those who believe and perform righteous deeds, then are mindful of Allah and believe, then are mindful of Allah and do good. I was present with the Messenger of Allah, may Allah bless him and grant him peace ﷺ, at Badr, Uhud, the Trench, and the campaigns." ʿUmar said: "Will you not answer what he is saying?" Ibn ʿAbbas said: "These verses were revealed as an excuse for those who had

فكانوا في خلافة أبي بكر أكثر منهم في عهد رسول الله صلى الله عليه وسلم فقال أبو بكر لو فرضنا لهم حدا فتوخى نحو ما كانوا يضربون في عهد رسول الله صلى الله عليه وسلم فكان أبو بكر يجلدهم أربعين حتى توفي ثم كان عمر فجلدهم كذلك أربعين، حتى أتي برجل من المهاجرين الأولين قد شرب، فأمر به أن يجلد، فقال: لم تجلدني، بيني وبينك كتاب الله؟ فقال عمر: وفي أي كتاب الله تجد ألا أجلدك؟

قال له إن الله تعالى يقول في كتابه {ليس على لذين آمنوا وعملوا لصالحات جناح فيما طعموا إذا ما تقوا وآمنوا وعملوا الصالحات ثم اتقوا وآمنوا ثم اتقوا وأحسنوا ولله يحب لمحسنين} فأنا من الذين آمنوا وعملوا الصالحات، ثم اتقوا وآمنوا ثم اتقوا وأحسنوا شهدت مع رسول الله صلى الله عليه وسلم بدرا وأحدا والخندق والمشاهد فقال عمر ألا تردون عليه ما يقول؟ فقال ابن عباس: إن هؤلاء الآيات أنزلن عذرا للماضين، وحجة على الباقين، فعذر الماضين بأنهم لقوا الله قبل أن يحرم عليهم الخمر، وحجة على الباقين لأن الله تعالى يقول {يأيها لذين آمنوا إنما خمر ولميسر ولأنصاب ولأزلام رجس من عمل لشيطان فجتنبوه لعلكم تفلحون} ثم قرأ الأخرى فإن كان من الذين {ليس على لذين آمنوا وعملوا لصالحات جناح فيما طعموا إذا ما تقوا وآمنوا وعملوا الصالحات ثم اتقوا وآمنوا ثم اتقوا وأحسنوا ولله يحب لمحسنين} فإن الله نهاه أن يشرب الخمر فقال عمر: صدقت فما ترون؟ فقالعلي: إنه إذا شرب سكر، وإذا سكر هذى، وإذا هذى افترى وعلى المفتري ثمانون جلدة، فأمر به عمر فجلد ثمانين. قال محمد بن عبد الله بن عبد الرحيم البرقي، وحدثنا سعيد بن أبي مريم، أنا يحيى بن فليح بن سليمان، حدثني

[115] **Translator's note (L3173):** The source reads "contracting" (al-taʿāqud) in its description of exchanges of silver for silver and gold for gold. This has been retained, although the surrounding discussion might lead one to expect a term for immediate reciprocal payment. The introductory phrase "became intoxicated, he spoke deliriously" is abbreviated in the supplied Arabic; its conditional relationship becomes explicit in the report that follows.

[116] **Translator's note (L3176):** The wording "the opinion is that" renders the supplied raʾy/raʾā an, whose grammatical form is awkward here. It may be a defective transcription of "I consider that," but that repair has not been adopted. The Quran quotation contains several omitted initial alifs, including in words corresponding to "those," "righteous deeds," "are mindful," "Allah," and "those who do good." These apparent transcription defects have been noted; the recoverable wording and all repetitions are retained in translation.

[117] **Qur'an references (L3172):** Qur'an 5:93 (Al-Ma'idah); Qur'an 42:21 (Ash-Shuraa).

passed away and as an argument against those who remained. Those who had passed away were excused because they met Allah before wine was forbidden to them. They are an argument against those who remained because Allah Most High says: ‘O you who believe, wine, gambling, sacrificial stones, and divining arrows are only an abomination of Satan’s doing, so avoid it, that you may prosper.’” He then recited the other verse. “If he is among those of whom it is said, ‘There is no blame upon those who believe and perform righteous deeds for what they have consumed, provided that they are mindful of Allah and believe and perform righteous deeds, then are mindful of Allah and believe, then are mindful of Allah and do good; and Allah loves those who do good,’ then Allah has forbidden him to drink wine.” ʿUmar said: “You have spoken the truth. What, then, do you think?” ʿAli said: “When he drinks, he becomes intoxicated; when he becomes intoxicated, he speaks deliriously; and when he speaks deliriously, he makes false accusations. The false accuser incurs eighty lashes.” ʿUmar therefore gave orders concerning him, and he was flogged eighty lashes. Muhammed ibn ʿAbd Allah ibn ʿAbd al-Rahim al-Barqi said: Saʿid ibn Abi Maryam also related to us; Yahya ibn Fulayh ibn Sulayman informed us; Thawr ibn Zayd al-Daylami related to me, from ʿIkrimah, from Ibn ʿAbbas. He then related this hadith, at the end of which is: He then asked those present with him about the prescribed punishment for it. ʿAli ibn Abi Talib said: “When he drinks, he speaks deliriously; and when he speaks deliriously, he makes false accusations. So flog him eighty lashes.” ʿUmar accordingly flogged him eighty lashes.[118][119]

ثور بن زيد الديلمي، عن عكرمة، عن ابن عباس، فذكر هذا الحديث، وفي آخر: ثم سأل من عنده عن الحد فيها؟ فقال علي بن أبي طالب: إنه إذا شرب هذى، وإذا هذى افترى فاجلده ثمانين فجلده عمر ثمانين

L3181 Hammam narrated to us: Abbas ibn Asbagh narrated to us: Muhammed ibn Abd al-Malik ibn Ayman narrated to us: Muhammed ibn Isma‘il al-Tirmidhi narrated to us: Yusuf ibn Sulayman narrated to us: Hatim ibn Isma‘il narrated

حدثنا حمام نا عباس بن أصبغ نا محمد بن عبد الملك بن أيمن، نا محمد بن إسماعيل الترمذي، نا يوسف بن سليمان، نا حاتم بن إسماعيل، نا أسامة بن زيد، عن ابن شهاب، أخبرني عبد الرحمن بن أزهر قال رأيت رسول الله صلى الله عليه وسلم يتخلل الناس يسأل عن منزل خالد بن الوليد، فأتي بسكران فأمر من كان في أيديهم وحثا رسول الله صلى الله عليه وسلم التراب عليه ثم إن أبا بكر أتي بسكران فتوخى الذي كان يومئذ من ضربهم: فضرب أربعين،

[118] **Translator’s note (L3180):** Both Quran passages contain repeated omissions of initial alifs in the supplied transcription. Their recoverable wording and repetitions have been retained in translation. The wording “If he is among those” leads directly into an entire Quranic verse rather than a grammatically matching description of those people. The translation marks the quotation without replacing or shortening it. The final transmission chain gives Thawr ibn Zayd’s affiliation as al-Daylami, whereas the earlier chain in unit 3175:0 gives al-Dili. The supplied difference has been preserved.

[119] **Qur’an references (L3180):** Qur’an 5:93 (Al-Ma’idah).

to us: Usamah ibn Zayd narrated to us, from Ibn Shihab: Abd al-Rahman ibn Azhar informed me, saying: "I saw the Messenger of Allah ﷺ making his way among the people, asking where Khalid ibn al-Walid was staying. A drunken man was brought to him, and he gave orders to those who had him in their custody, and the Messenger of Allah ﷺ threw dust upon him. Then a drunken man was brought to Abu Bakr, and he sought to approximate the beating they had administered that day, so he administered forty strokes."[120]

L3182–3186 "Then Umar administered forty strokes." Ibn Shihab said: Then Humayd ibn Abd al-Rahman ibn Awf informed me, from Wabrah al-Kalbi, who said: "Khalid ibn al-Walid sent me to Umar. I came to him while Ali, Talhah, al-Zubayr, and Abd al-Rahman ibn Awf were with him, reclining with him in the mosque. I said to him: 'Khalid ibn al-Walid sends you greetings and says to you: People have flagrantly transgressed concerning wine and have come to regard the punishment as insignificant. What do you think?' Umar said: 'Here they are before you.'" He said: "Then Ali said: 'My view is that when he becomes drunk, he speaks deliriously; when he speaks deliriously, he makes a slanderous accusation; and the slanderer is liable to eighty strokes.' They all agreed upon that. Umar said: 'Convey to your companion what they have said.' So Khalid administered eighty strokes, and Umar administered eighty strokes." He said: "When a strong man engrossed in drinking was brought to Umar, he would administer eighty strokes to him; when a man whose offense had been the lapse of a weak person was brought to him, he would administer forty strokes to him. Uthman likewise did this: forty and eighty." Abu Muhammed said: This is everything transmitted on this subject; we have examined it exhaustively. All of it is untenable, containing no authoritative evidence within it; it is inconsistent, with one part contradicting another. As for the reports with which we began, transmitted through the trustworthy narrators Ayyub, Malik, al-Sha'bi, and Muharib ibn Dithar, they all have disconnected chains of transmission: it is not known from whom they originally derive. Invoking them as evidence therefore fails. As for the

[120]**Translator's note (L3181):** The object of the Prophet's order to those holding the drunken man is not stated explicitly in the supplied wording; the subsequent reference to their beating supplies the context.

ثم ضرب عمر أربعين. قال ابن شهاب: ثم أخبرني حميد بن عبد الرحمن بن عوف، عن وبرة الكلبي قال: بعثني خالد بن الوليد إلى عمر، فأتيته وعنده علي وطلحة والزبير وعبد الرحمن بن عوف، متكئون معه في المسجد، فقلت له: إن خالد بن الوليد يقرأ عليك السلام ويقول لك: إن الناس انتهكوا في الخمر، وتحاقروا العقوبة، فما ترى؟ فقال عمر: هم هؤلاء عندك، قال: فقال علي: أراه إذا سكر هذى، وإذا هذى افترى، وعلى المفتري ثمانون، فأجمعوا على ذلك. فقال عمر: بلغ صاحبك ما قالوا، فضرب خالد ثمانين، وضرب عمر ثمانين. قال: وكان عمر إذا أتي بالرجل القوي المنهمك في الشراب ضربه ثمانين، وإذا أتي بالرجل الذي كان منه زلة الضعيف ضربه أربعين، وفعل ذلك عثمان أربعين وثمانين. قال أبو محمد: فهذا كل ما ورد في ذلك قد تقصيناه وكله ساقط لا حجة فيه مضطرب ينقض بعضه بعضا. أما الآثار التي صدرنا بها من طريق الثقات: أيوب ومالك والشعبي ومحارب بن دثار فمرسلات كلها، لا يدري عمن هي في أصلها، فسقط الاحتجاج بها. وأما المتصلان فمن طريق يحيى بن فليح بن سليمان، وهو مجهول البتة، والحجة لا تقوم بمجهول، وأبو فليح متكلم فيه مضعف، والثاني عن أسامة بن زيد وهو ضعيف بالجملة، فسقط كل ما في هذا الباب، مع أنه لو صح هذان الأثران المتصلان لكان حجة عليهم قاطعة، لأن في رواية يحيى بن فليح أن أبا بكر فرض الحد في الخمر أربعين، فلو جاز لعمر أن يزيد على ما فرض أبو بكر، لمن بعد عمر أن يزيد ويحيل الحد الذي فرض عمر، أو يسقط منه، ولا فرق، فإن لم يكن فرض

two reports with connected chains, one comes through Yahya ibn Fulayh ibn Sulayman, who is entirely unknown, and authoritative evidence cannot be established through an unknown narrator. Abu Fulayj has also been criticized and deemed weak. The second comes from Usamah ibn Zayd, who is weak overall. Thus everything in this chapter falls away. Moreover, even if these two reports with connected chains were authentic, they would constitute decisive evidence against them, because Yahya ibn Fulayh's version states that Abu Bakr prescribed the fixed punishment for wine as forty strokes. If Umar were permitted to increase what had been prescribed by Abu Bakr, those coming after Umar would be permitted to increase and alter the fixed punishment Umar prescribed, or to reduce it; there is no difference. If Abu Bakr's prescription in the presence of all the Companions, with Umar and others present, is not authoritative evidence—and they claim consensus on less than this—then Umar's prescription, when many Companions had already died before that prescription, has still greater reason not to constitute authoritative evidence. On their own principles, this permits disagreement, with all that this entails. Indeed, anyone who regards Abu Bakr's action in the presence of the Companions in this report as consensus, and then regards a fabricated letter from Umar to al-Ash'ari as consensus, has deviated from the truth. As for the report transmitted through Usamah ibn Zayd, it contains a clear indication that Umar did not make that a binding prescription; rather, it was discretionary punishment on his part. For it mentions that when someone engrossed in drinking was brought to him, he flogged him eighty lashes, whereas when someone whose offense in this matter had been the lapse of a weak person was brought to him, he flogged him forty; and that Uthman also flogged forty and eighty. Every rational person therefore knows with certainty that, had eighty been prescribed, it would not have been permissible to alter it on some occasions. Their appeal to this as ev-

أبي بكر بحضرة جميع الصحابة حجة، وعمر وغيره بالحضرة، وفي أقل من هذا يزعمون أنه إجماع، ففرض عمر، وقد مات كثير من الصحابة قبل ذلك الفرض، أحرى ألا يكون حجة، وهذا على أقوالهم إجازة لمخالفة. وفي هذا ما فيه، وأن من يرى ما في هذا الخبر من فعل أبي بكر بحضرة الصحابة إجماعا، ثم يرى رسالة مكذوبة من عمر إلى الأشعري إجماع، لمنحرف عن الحق. وأما الذي من طريق أسامة بن زيد، ففيه بيان جلي، على أن عمر لم يجعل ذلك فرضا واجبا، وأنه إنما كان منه تعزيرا، وذلك أنه ذكر فيه إذا أتي بالمنهمك في الشراب جلده ثمانين جلدة، وإذا أتي بالذي كانت منه في ذلك زلة الضعيف جلده أربعين، وأن عثمان أيضا جلد أربعين وثمانين، فباليقين يعلم كل ذي عقل أنه لو كانت الثمانون فرضا لما جاز أن يحال في بعض الأوقات، فسقط احتجاجهم بالجملة، وعاد عليهم مسقطا لقولهم،

idence thus fails altogether and turns back against them, invalidating their position.[121][122]

L3187 How much more so when none of any of this is authentic! Allah, Mighty and Majestic, has kept Ali—may Allah be pleased with him—free of this worthless, insipid statement: "Then Umar asked those with him about the fixed punishment for the two of them, and Ali ibn Abi Talib said"—a statement unsurpassable in worthlessness and repulsiveness, for several reasons. The first is that it is not lawful for a Muslim to suppose that Umar and Ali would institute a law in Islam that the Prophet ﷺ had not brought. In doing so, they would be like those whom they themselves censured in this very report for instituting what Allah Most High had not authorized. It is impossible that Ali should censure someone who instituted in religion what Allah Most High had not authorized, and himself institute, at that very moment, a law Allah Most High had not authorized. No person possessing reason and religion would think this of Ali. There is no difference between instituting a fixed punishment for wine and abolishing the fixed punishment for unlawful sexual intercourse or increasing it, omitting a unit of the noon prayer or adding one to it, prescribing a prayer other than the known prayers, or instituting a prescribed fixed punishment for consuming usury.[123]

L3188–3193 All of this is unbelief on the part of anyone who permits it. Furthermore,

فكيف ولا يصح من ذلك كله شيء. وقد نزه الله عز وجل عليا رضي الله عنه عن هذا الكلام الساقط الغث، ثم سأل عمر عن من عنده عن الحد فيهما، فقال علي بن أبي طالب: الذي ليس وراءه مرمى في السقوط والهجنة، لوجوه: أحدها أنه لا يحل لمسلم أن يظن أن عمر وعليا يضعان شريعة في الإسلام لم يأت بها النبي صلى الله عليه وسلم ولكانا في ذلك كالذين أنكرا عليهم في الحديث نفسه أنهم شرعوا ما لم يأذن به الله تعالى، فمن المحال أن ينكر على علي من شرع في الدين ما لم يأذن به الله تعالى، ويشرع هو في الحين نفسه شريعة لم يأذن بها الله تعالى، وهذا ما لا يظنه بعلي ذو عقل ودين، ولا فرق بين وضع حد في الخمر، وبين إسقاط حد الزنى أو الزيادة فيه، أو إسقاط ركعة من الظهر، أو زيادة فيها، أو فرض صلاة غير الصلوات المعهودة، أو وضع حد مفترض في أكل الربا؛

وكل هذا كفر ممن أجازه. ثم المشهور عن علي: رضي الله عنه بالسند الصحيح، أنه جلد الوليد بن عقبة في الخمر أربعين، في أيام عثمان رضي الله عنه، فبطل يقينا أن يكون يرى الحد ثمانين، ويجلد هو أربعين فقط، وهذا الحديث يكذب كل ما عن علي بخلافه. وأيضا فليس كل من يشرب الخمر يسكر، وشارب الجرعة لا يسكر، والحد عليه، ولا كل من يسكر يهذي، ففي الناس كثير يغلب عليهم السكون حينئذ، نعم وذكر الله تعالى الآخرة والبكاء والدعاء والتأدب الزائد، ولا كل من يهذي يفتري، فالمبرسم يهذي ولا يفتري، ولا كل من يفتري يلزمه الحد، فقد يفتري المجنون والنائم، فلا يحدان، فوضح أن هذا الكلام المنسوب إلى علي، وقد نزهه الله تعالى عنه، من الكذب في منزله ينزه عنها كل ذي عقل فكيف مثله رحمة الله عليه. وأيضا، فإن

[121] **Translator's note (L3184):** The supplied text names "Abu Fulayj," although the preceding narrator's patronymic is "Fulayh." This apparent name inconsistency has been retained. "Disconnected chains of transmission" renders mursal reports, here specifically reports whose original source is unidentified.

[122] **Translator's note (L3185):** The conditional sentence begins in the preceding unit. Its consequence is expressed elliptically in the Arabic; "would be permitted" supplies the necessary English syntax. The supplied phrase literally reads "anyone who regards … as consensus," without a negation. The surrounding argument may suggest a missing "not" before the first "regards," but the supplied wording has been preserved.

[123] **Translator's note (L3187):** The embedded quotation is syntactically awkward and ends after "Ali ibn Abi Talib said," without his actual statement. It also contains an additional "about" before "those with him." Its apparent intended reference is the earlier consultation report, but the incomplete quotation has not been repaired. The supplied wording says "for the two of them" (fihima), although the context concerns wine alone. The dual has been retained.

what is well known concerning Ali—may Allah be pleased with him—through an authentic chain of transmission is that he flogged al-Walid ibn Uqbah forty lashes for wine in the days of Uthman—may Allah be pleased with him. It is therefore certainly false that he considered the fixed punishment to be eighty while himself administering only forty lashes. This report gives the lie to everything attributed to Ali that contradicts it. Furthermore, not everyone who drinks wine becomes drunk: someone who drinks a mouthful does not become drunk, yet the fixed punishment applies to him. Nor does everyone who becomes drunk speak deliriously: many people are then predominantly quiet—indeed, they remember Allah Most High and the Hereafter, weep, supplicate, and display greater decorum. Nor does everyone who speaks deliriously make slanderous accusations: a person suffering from an inflammatory delirium speaks deliriously but does not make slanderous accusations. Nor is everyone who makes a slanderous accusation liable to the fixed punishment: an insane person or someone asleep may make such an accusation, yet neither is subjected to the fixed punishment. It is thus clear that this statement attributed to Ali—from which Allah Most High has kept him free—occupies a degree of falsehood from which any rational person should be held free, so how much more someone like him! May Allah have mercy upon him. Furthermore, if he is flogged for a slanderous accusation he has not yet made, this is injustice by the consensus of the Muslim community. No two people disagree that it is unlawful for anyone to hold a Muslim or a non-Muslim under covenant accountable for something he has not done, or to inflict an advance punishment upon him for a sin he has not committed, which he may or may not commit. In our view, this is only the conduct of unjust kings, perpetrators of depredations, notorious for their followers among the foolish, who amuse themselves with this and similar absurdities. Only someone ignorant of Umar and Ali, and of their standing in virtue and knowledge—may Allah be pleased with them both—would attribute such madness to them. We have known these people to say: "Avert fixed punishments on grounds of doubt." Yet here they have come to impose fixed punishments and to attribute to Umar and Ali the imposition of them on the weakest grounds of doubt, for there is no doubtful ground more foolish than the doubtful ground invoked by someone who imposes the fixed

كان يجلد لفرية لم يفترها بعد، فهذا ظلم بإجماع الأمة، ولا خلاف بين اثنين أنه لا يحل لأحد أن يؤاخذ مسلما أو ذميا بما لم يفعل، ولا أن يقدم إليه عقوبة معجلة لذنب لم يفعله، عسى أن يفعله؛ أو عسى ألا يفعله، وإنما عندنا هذا من فعل ظلمة الملوك ذوي الأعياث؛ المشتهرين بأتباعهم من السخفاء المتطايبين بمثل هذا، وشبه من السخف؛ ومثل هذا الجنون لا يضيفه إلى عمر وعلي إلا جاهل بهما وبمحلهما من الفضل والعلم رضي الله عنهما. وعهدنا بهؤلاء القوم يقولون ادرؤوا الحدود بالشبهات؛ فصاروا ههنا يقيمون الحدود وينسبون إلى عمر، وعلى إقامتها بأضعف الشبهات؛ لأن لا شبهة أحمق من شبهة من يقيم حد القذف على شارب الخمر. خوف أن يفتري؛ وهو لم يفتر بعد. وأيضا: فإن كان حد الشارب إنما هو للفرية فأين حد الخمر؟ وإن كان للخمر فأين حد الفرية؟ ولا يحل سقوط حد لإقامة آخر. وأيضا، فإنه إذا سكر هذى؛ وإذا هذى كفر؛ فينبغي لهم أن يضربوا عنقه، وإذا شرب سكر. وإذا سكر زنى؛ فينبغي لهم أن يرجموه ويجلدوه، وإذا شرب سكر، وإذا سكر سرق فينبغي لهم أن يقطعوا يده، وإذا شرب سكر وإذا سكر هذى، وإذا هذى خرج فأفسد أموال الناس، وأقر في ماله لغيره، فينبغي لهم أن يلزموه كل هذه الأحكام، فإن لم يفعلوا فقد أبطلوا حدهم إياه ثمانين، لأنه إذا هذى افترى، وهذا كله جنون؛ نبرأ إلى الله تعالى منه، ونقطع يقينا بلا شك أنه كذب موضوع مفترى على علي رضي الله عنه: لم يقله قط. وكذلك الرواية التي ذكرنا أيضا عن عبد الرحمن بن عوف فهالكة جدا، مبعد عن مثله أن يقول: افترى على القرآن اجلده ثمانين. وهذا محال ظاهرا وكيف يمكن أن يفتري أحد على الله تعالى، أو على القرآن فرية توجب ثمانين جلدة والفرية الموجبة لذلك إنما هي في القذف بالزنى فقط، وهذا ما لا سبيل إلى إضافته إلى القرآن، لأنه ليس إنسانا. فإن صحح أهل القياس هذه القضية، فليوجبوا ثمانين جلدة حدا واجبا لا يتعد على كل من افترى على أحد بكذبة، مثل أن يرميه بكفر، أو بتهمة أو بسرقة،

أو كذب على القرآن، أو على الله تعالى، وهذا ما لا يقولونه، فقد أقروا بضعف هذا القياس الذي جعلوه أصلهم وبنوا عليه، أو أنهم تركوا القياس في سائر ما ذكرنا. ولا بد لهم من أحد الوجهين ضرورة، وأول من كان يلزمهم هذا فهم؛ لأنهم مفترون فيما يدعونه من القياس، وبالله تعالى التوفيق. والصحيح في هذا الباب: هو ما حدثناه عبد الله بن يوسف، نا أحمد بن فتح، ثنا عبد الوهاب بن عيسى، ثنا أحمد بن محمد، ثنا أحمد بن علي، ثنا مسلم بن الحجاج، ثنا محمد بن المثنى، ثنا محمد بن جعفر، نا شعبة قال سمعت قتادة يحدث عن أنس أن النبي صلى الله عليه وسلم أتي برجل شرب الخمر فجلده بجريدتين نحو أربعين وفعله أبو بكر. فلما كان عمر استشار الناس، فقال عبد الرحمن: أخف الحدود ثمانين فأمر به عمر.

punishment for an accusation of unlawful sexual intercourse upon a wine drinker for fear that he will make a slanderous accusation, when he has not yet made one. Furthermore, if the drinker's fixed punishment is solely for the slanderous accusation, where is the fixed punishment for wine? And if it is for wine, where is the fixed punishment for the slanderous accusation? It is not lawful to omit one fixed punishment because another has been imposed. Furthermore, when he becomes drunk, he speaks deliriously, and when he speaks deliriously, he commits unbelief; they should therefore strike off his head. When he drinks, he becomes drunk, and when he becomes drunk, he commits unlawful sexual intercourse; they should therefore stone him and flog him. When he drinks, he becomes drunk, and when he becomes drunk, he steals; they should therefore cut off his hand. When he drinks, he becomes drunk, and when he becomes drunk, he speaks deliriously, and when he speaks deliriously, he goes out and damages people's property and acknowledges that someone else has a claim upon his property; they should therefore hold him subject to all these rulings. If they do not do so, they have invalidated their imposition of eighty strokes upon him on the ground that, when he speaks deliriously, he makes a slanderous accusation. All of this is madness, from which we declare ourselves free before Allah Most High. We affirm with certainty, without any doubt, that it is a fabricated lie falsely attributed to Ali—may Allah be pleased with him—which he never uttered. Likewise, the report we also mentioned from Abd al-Rahman ibn Awf is utterly unsound. It is far beneath someone like him to say: "He has fabricated a falsehood against the Quran; flog him eighty lashes." This is manifestly absurd. How could anyone fabricate a falsehood against Allah Most High or against the Quran that would entail eighty lashes? The slanderous accusation entailing that punishment consists exclusively in accusing someone of unlawful sexual intercourse. This cannot possibly be attributed to the Quran, because it is not a human being. If the advocates of analogy deem this proposition sound, let them require eighty lashes as a binding fixed punishment, whose limit must not be exceeded, for everyone who fabricates a falsehood against anyone—for example, accusing him of unbelief, some suspected wrongdoing, or theft—or tells a lie against the Quran or against Allah Most High. Yet they do not maintain this. They have thus acknowl-

edged the weakness of this analogy which they made their foundation and upon which they built, or else they have abandoned analogy in all the other matters we have mentioned. They must necessarily accept one of these two alternatives. The very first people upon whom this should be binding are they themselves, for they are fabricating what they claim to be analogy. And with Allah Most High rests success. The authentic report on this subject is what Abd Allah ibn Yusuf related to us: Ahmad ibn Fath related to us: Abd al-Wahhab ibn Isa related to us: Ahmad ibn Muhammed related to us: Ahmad ibn Ali related to us: Muslim ibn al-Hajjaj related to us: Muhammed ibn al-Muthanna related to us: Muhammed ibn Jafar related to us: Shubah related to us, saying: I heard Qatadah relate from Anas that a man who had drunk wine was brought to the Prophet ﷺ, and he flogged him with two palm stalks, approximately forty strokes. Abu Bakr did the same. When Umar's time came, he consulted the people, and Abd al-Rahman said, "The lightest of the prescribed punishments is eighty." Umar therefore ordered it.[124][125][126]

L3194 Abu Muhammed said: Thus it is established that this was discretionary punishment, not a prescribed punishment—we mean the additional forty strokes. Hammam related to us: Ibn Mufarrij related to us: Ibn al-Arabi related to us: al-Dabari related to us: Abd al-Razzaq related to us: Ibn Jurayj related to us: Ata ibn Abi Rabah related to us that he heard Ubayd ibn Umayr say: They used to beat someone who drank wine with their hands and sandals

قال أبو محمد: فصح أنه تعزير لا حد، نعني الأربعين الزائدة. وقد حدثنا حمام، ثنا ابن مفرج، نا ابن الأعرابي، ثنا الدبري، ثنا عبد الرزاق، ثنا ابن جريج، ثنا عطاء بن أبي رباح أنه سمع عبيد بن عمير يقول: كان الذي يشرب الخمر يضربونه بأيديهم ونعالهم ويصكونه فكان ذلك على عهد النبي صلى الله عليه وسلم وأبي بكر وبعض إمارة عمر حتى خشي أن يغتال الرجال فجعله أربعين سوطا، فلما رآهم لا يتناهون جعله ستين، فلما رآهم لا يتناهون جعله ثمانين، ثم قال: هذا أدنى الحدود. حدثنا أحمد بن عمر العذري، نا عبد الله بن حسين بن عقال، نا إبراهيم بن محمد الدينوري، ثنا ابن الجهم، نا موسى بن إسحاق، نا أبو بكر بن أبي شيبة، ثنا أبو خالد، عن حجاج، عن الأسود بن هلال، عن عبد الله هو ابن مسعود أنه أتي برجل قد شرب خمرا في رمضان، فضربه ثمانين، وعزره عشرين. وقد فعل ذلك أيضا علي بالنجاشي.

[124] **Translator's note (L3188):** The phrase concerning remembrance literally places "Allah Most High" and "the Hereafter" together without an explicit conjunction. The translation supplies "and" to convey the apparent list, while noting the irregularity. The description translated "a person suffering from an inflammatory delirium" is al-mubarsam, referring to someone afflicted with the illness classically called birsam. The supplied al-a'yath in the description of kings is an unusual reading; "depredations" reflects its apparent connection with havoc or destructive misconduct.

[125] **Translator's note (L3189):** "For their followers" follows the supplied bi-atba'ihim. Its connection to "notorious" in the preceding unit is awkward, and the precise construction may be corrupt.

[126] **Translator's note (L3191):** The final reference to "this analogy" continues into the following unit. The supplied description of the mandatory punishment reads la yuta'adda, "must not be exceeded"; this has been retained rather than changed to "must not be waived."

and strike him. This was the practice during the time of the Prophet ﷺ, Abu Bakr, and part of Umar's rule, until he feared that men might be killed by it, so he made it forty lashes. When he saw that they would not desist, he made it sixty. When he saw that they would not desist, he made it eighty. Then he said, "This is the lowest of the prescribed punishments." Ahmad ibn Umar al-Udhri related to us: Abd Allah ibn Husayn ibn Iqal related to us: Ibrahim ibn Muhammed al-Dinawari related to us: Ibn al-Jahm related to us: Musa ibn Ishaq related to us: Abu Bakr ibn Abi Shaybah related to us: Abu Khalid related to us, from Hajjaj, from al-Aswad ibn Hilal, from Abd Allah—that is, Ibn Masud—that a man who had drunk wine during Ramadan was brought to him, and he beat him eighty strokes and imposed twenty as discretionary punishment. Ali also did this to al-Najashi.

L3195–3202 Abd al-Rahman ibn Abd Allah al-Hamdani related to us: Abu Ishaq al-Balkhi related to us: al-Firabri related to us: al-Bukhari related to us: Abd Allah ibn Abd al-Wahhab related to us: Khalid ibn al-Harith informed us: Sufyan al-Thawri related to us: Abu Husayn related to us, saying: I heard Umayr ibn Sad al-Nakhai say: I heard Ali ibn Abi Talib, may Allah be pleased with him, say: "I would not carry out a prescribed punishment upon anyone who then died and feel any misgiving within myself, except in the case of a wine drinker. If he died, I would pay blood money for him, because the Messenger of Allah ﷺ did not establish it as a practice." This is how we transmitted it through al-Hamdani and others: "Umayr ibn Sad." The correct name is Said, as we transmitted it through Yazid ibn Zuray. Abd Allah ibn Nami related to us: Ahmad ibn Fath related to us: Abd al-Wahhab ibn Isa related to us: Ahmad ibn Muhammed related to us: Ahmad ibn Ali related to us: Muslim related to us: Ishaq ibn Rahawayh related to us: Yahya ibn Hammad related to us: Abd al-Aziz ibn al-Mukhtar related to us: Abd Allah ibn Fayruz al-Dibaj, the client of Ibn Amir, related to us: Husayn ibn al-Mundhir, Abu Sasan, related to us, saying: I was present with Uthman when al-Walid was brought before him; he had performed the dawn prayer as two prayer cycles and said, "Shall I give you more?" Two men testified against him: one of them, Humran, testified that he had drunk wine, and the second that he had vomited it. Uthman said, "Ali, flog him." Ali said to al-Hasan, "Get up

حدثنا عبد الرحمن بن عبد الله الهمداني، ثنا أبو إسحاق البلخي، ثنا الفربري، ثنا البخاري، ثنا عبد الله بن عبد الوهاب، أنا خالد بن الحارث، ثنا سفيان الثوري، ثنا أبو حصين قال: سمعت عمير بن سعد النخعي قال: سمعت علي بن أبي طالب رضي الله عنه قال: ما كنت لأقيم حدا على أحد فيموت، فأجد في نفسي إلا صاحب الخمر فإنه لو مات وديته وذلك أن رسول الله صلى الله عليه وسلم لم يسنه هكذا رويناه من طريق الهمداني وغيره عمير بن سعد والصواب سعيد كما رويناه من طريق يزيد بن زريع. حدثنا عبد الله بن نامي، ثنا أحمد بن فتح، ثنا عبد الوهاب بن عيسى، ثنا أحمد بن محمد، ثنا أحمد بن علي، ثنا مسلم، ثنا إسحاق بن راهويه، ثنا يحيى بن حماد، ثنا عبد العزيز بن المختار، ثنا عبد الله بن فيروز الديباج مولى ابن عامر، نا حصين بن المنذر أبو ساسان قال: شهدت عثمان أتي بالوليد، صلى الصبح ركعتين فقال: أزيدكم؟ فشهد عليه رجلان: أحدهما حمران: أنه شرب الخمر، والثاني أنه قاءها. فقال عثمان: يا علي فاجلده. فقال علي للحسن: قم فاجلده، فقال الحسن ول حارها من تولى قارها، فكأنه وجد عليه علي، فقال علي: يا عبد الله بن جعفر، قم فاجلده، فجلده، وعلي يعد حتى

and flog him." Al-Hasan said, "Entrust its heat to whoever has enjoyed its coolness." It seemed that displeasure was felt toward him by Ali. Ali said, "Abd Allah ibn Jafar, get up and flog him." He flogged him while Ali counted, until he reached forty. He said, "Stop. The Prophet ﷺ flogged forty strokes, Abu Bakr flogged forty, and Umar eighty; each is an established practice." Abu Muhammed said: These reports make clear what we have said: Umar's addition to the forty strokes that constitute the prescribed punishment for wine drinking was only discretionary punishment. On one occasion he added only twenty, and on another he added forty; on one occasion Ali and Ibn Masud added sixty. Ali stated that the Prophet ﷺ had not established that as a practice, meaning only the addition beyond forty. Whoever thinks otherwise rejects the authentic transmission as false and accepts as true what is feeble, weak, and discredited. Here is Ali, during Uthman's time, flogging only forty strokes in the presence of al-Hasan, Abd Allah ibn Jafar, and the other Companions and others who were there. Umar and Abd al-Rahman spoke of the lightest of the prescribed punishments. It is therefore established with certainty that they did not make that addition beyond forty obligatory, either as a duty or as a prescribed punishment, in any respect whatsoever. We seek Allah Most High's protection for them against that. If reports with an omitted intermediary were transmitted stating that the Prophet ﷺ flogged eighty strokes for wine drinking, whoever says that the prescribed punishment for wine drinking is eighty would be an unbeliever. But whoever relies on a report from the Prophet ﷺ has exercised independent judgment. If he is guided to an authentic report, he has two rewards; if he is led to an inauthentic report without knowing its weakness, he is excused and has one reward while being mistaken. The real problem and calamity concern two doomed persons: someone against whom a sound proof has been established but who persists—he is misguided and defiantly disobedient—or someone who follows another without knowledge, acting presumptuously in the religion of Allah, Mighty and Majestic—he too is misguided and defiantly disobedient. We seek refuge in Allah from abandonment. As for analogy concerning the grandfather, Hammam ibn Ahmad, the judge in the West, related to us: Ibn Mufarrij, the judge in Rayyah, related to us: Abd al-Ala ibn Muhammed ibn al-Hasan al-Bawsi, the judge of Sanaa, related to us: Abu Yaqub al-Dabari

بلغ أربعين فقال أمسك جلد النبي صلى الله عليه وسلم أربعين وجلد أبو بكر أربعين وعمر ثمانين وكل سنة. قال أبو محمد: فهذه الأحاديث مبينة ما قلنا، من أن زيادة عمر على الأربعين التي هي حد الخمر، إنما هي تعزير، فمرة زاد عشرين فقط، ومرة زاد أربعين ومرة زاد علي وابن مسعود ستين وأخبر علي أن النبي صلى الله عليه وسلم لم يسن ذلك يعني الزيادة على الأربعين فقط، ومن ظن غير هذا فإنه يكذب النقل الصحيح، ويصدق الواهي الضعيف الساقط. وهذا علي يجلد في أيام عثمان، بحضرة الحسن وعبد الله بن جعفر وسائر من هنالك من الصحابة وغيرهم، أربعين فقط. وقال عمر وعبد الرحمن: بأخف الحدود، فصح يقينا أن تلك الزيادة على الأربعين لم يوجبوها فرضا ولا حدا البتة، ونعيذهم بالله تعالى من ذلك ولو أخبار مرسلة وردت بأن النبي صلى الله عليه وسلم جلد في الخمر ثمانين لكفر من يقول إن حد الخمر ثمانون ولكن من تعلق بخبر عن النبي صلى الله عليه وسلم فقد اجتهد فإن وفق لخبر صحيح فله أجران وإن يسر لخبر غير صحيح وهو لا يدري وهيه فهو معذور، وله أجر واحد وهو مخطىء، وإنما الشأن والبلية في اثنين هالكين: وهو من قامت عليه حجة صحيحة فتمادى، فهو ضال فاسق، أو مقلد بغير علم متجاسر في دين الله عز وجل، فهو أيضا ضال فاسق، ونعوذ بالله من الخذلان. وأما القياس في الجد: فحدثنا حمام بن أحمد القاضي بالغرب، ثنا ابن مفرج القاضي برية، نا عبد الأعلى بن محمد بن الحسن البوسي قاضي صنعاء، نا أبو يعقوب الدبري، نا عبد الرزاق، نا سفيان الثوري، عن عيسى هو ابن أبي عيسى الخياط عن الشعبي قال: كره عمر الكلام في الجد حتى صار جدا فقال: إنه كان من أبي بكر أن الجد أولى من الأخ، وذكر الحديث، وفيه، فسأل عنه زيد بن ثابت فضرب له مثلا: شجرة خرجت لها أغصان، قال: فذكر شيئا لا أحفظه، فجعل له الثلث. قال الثوري: وبلغني أنه قال: يا أمير المؤمنين، شجرة نبتت فانشعب

related to us: Abd al-Razzaq related to us: Sufyan al-Thawri related to us, from Isa—that is, Ibn Abi Isa al-Khayyat—from al-Shabi, who said: Umar disliked discussing the grandfather until he became a grandfather himself. He said, "Abu Bakr's position was that the grandfather has a stronger claim than the brother." He mentioned the report, which includes: He then asked Zayd ibn Thabit about it, and he offered him an illustrative comparison: a tree from which branches had grown. He said: He then mentioned something I do not remember, and assigned him one third. Al-Thawri said: It has reached me that he said, "Commander of the Faithful, a tree grew, and a branch sprang from it; then two branches sprang from that branch. What makes the first branch have a stronger claim than the second branch, when there have sprung the two branches from the first branch?" He said: Then he asked Ali, who offered him an illustrative comparison: a valley through which a torrent flowed. He treated him as a brother when the total was up to six, and gave him one sixth. It has reached me concerning him that, when Umar asked Ali, he represented it as a torrent. He said: A channel branched off from it, and then two channels branched off. He said, "Consider: if the water in this middle channel dried up, would it not return to both channels together?" Al-Shabi said: Zayd used to treat him as a brother until the total reached three, with him as their third; if they exceeded that, he gave him one third. Ali used to treat him as a brother when the total was up to six, with him as their sixth, and give him one sixth. If they exceeded six, he gave him one sixth, and the remainder was divided among them. Ahmad ibn Umar al-Udhri also related to us, from Abd al-Rahman ibn al-Hasan al-Abbasi, from Ahmad ibn Muhammed al-Karaji: Abu Bakr Ahmad ibn Yusuf ibn Khallaf al-Nasibi informed us: Ismail ibn Ishaq the judge related to us: Ismail ibn Abi Uways related to us: Abd al-Rahman ibn Abi al-Zinad related to me, from his father: Kharijah ibn Zayd ibn Thabit informed me, from his father, that when Umar ibn al-Khattab consulted about an inheritance to be divided between the grandfather and the brothers, Zayd said: "My opinion at that time was that the grandfather had a stronger claim to his son's son's inheritance than his brothers did. Umar and I debated vigorously." An illustrative comparison was put to him on this matter, and I said, "Suppose a tree had a branch springing from its root, and then two shoots sprang from that branch.

منها غصن، فانشعب من الغصن غصنان، فما جعل الغصن الأول أولى من الغصن الثاني، وقد خرج الغصنان من الغصن الأول؟ قال: ثم سأل عليا، فضرب له مثلا، واديا سال فيه سيل فجعله أخا فيما بينه وبين ستة، فأعطاه السدس، وبلغني عنه أن عليا حين سأله عمر جعله سيلا. قال: فانشعب منه شعبة، ثم انشعبت شعبتان، فقال: أرأيت لو أن ماء هذه الشعبة الوسطى يبس؟ أما كان يرجع إلى الشعبتين جميعا؟ قال الشعبي: فكان زيد يجعله أخا حتى يبلغ ثلاثة وهو ثالثهم، فإن زادوا على ذلك أعطاه الثلث، وكان علي يجعله أخا ما بينه وبين ستة وهو سادسهم، ويعطيه السدس، فإن زادوا على ستة أعطاه السدس، وصار ما بقي بينهم. وحدثنا أيضا أحمد بن عمر العذري، عن عبد الرحمن بن الحسن العباسي، عن أحمد بن محمد الكرجي، أنا أبو بكر أحمد بن يوسف بن خلاف النصيبي، ثنا إسماعيل بن إسحاق القاضي، نا إسماعيل بن أبي أويس، حدثني عبد الرحمن بن أبي الزناد، عن أبيه، أخبرني خارجة بن زيد بن ثابت، عن أبيه، أن عمر بن الخطاب لما استشار في ميراث بين الجد والإخوة، قال زيد: وكان رأيي يومئذ، الجد أولى بميراث ابن ابنه من إخوته. فتحاورت أنا وعمر محاورة شديدة، فضرب له في ذلك مثلا فقلت: لو أن شجرة تشعب من أصلها غصن ثم تشعب في ذلك الغصن خوطان، ذلك الغصن يجمع الخوطين دون الأصل ويغدوهما، ألا ترى يا أمير المؤمنين أن أحد الخوطين أقرب إلى أخيه منه إلى الأصل؟. قال زيد: فأنا أعبر له وأضرب له هذه الأمثال، وهو يأبى إلا أن الجد أولى من الأخوة ويقول: والله لولا إني قضيته اليوم لبعضهم لقضيت به للجد كله. ولكن لعلي لا أخيب سهم أحد، ولعلهم أن يكونوا كلهم ذي حق، وضرب علي وابن عباس يومئذ لعمر مثلا معناه: لو أن سيلا سال فخلج من خليج، ثم خلج من ذلك الخليج شعبتان.

That branch, rather than the root, unites the two shoots and nourishes them. Do you not see, Commander of the Faithful, that one of the two shoots is closer to its brother than to the root?" Zayd said: "I kept explaining to him and offering him these illustrative comparisons, while he would accept only that the grandfather had a stronger claim than the brothers, saying, 'By Allah, had I not awarded it today to some of them, I would have awarded all of it to the grandfather. But perhaps I should not disappoint anyone of his share, and perhaps they all possess an entitlement.'" Ali and Ibn Abbas that day offered Umar an illustrative comparison whose meaning was: suppose a torrent flowed and branched into a channel, and then two channels branched off from that channel.[127][128][129][130][131][132]

L3203–3207 Abu Muhammed said: This provides them with no proof, for two reasons. The first is that each of these two chains of transmission is weak. The first contains Isa ibn Abi Isa al-Khayyat, who is weak; moreover, it is interrupted, because al-Shabi did not live to meet Umar. The second contains Abd al-Rahman ibn Abi al-Zinad, who is altogether weak. That is one consideration. The second is that, even if the two reports were sound, there would be no scope in them for analogy in any respect or in any of the senses, because a torrent is entitled to no inheritance whatsoever, neither a sixth nor a third;

قال أبو محمد وهذا لا حجة لهم فيه لوجهين: أحدهما: أن كلا من هذين الإسنادين ضعيف، في الأول عيسى بن أبي عيسى الخياط وهو ضعيف، ومع ذلك منقطع لأن الشعبي لم يدرك عمر. والثاني: فيه عبد الرحمن بن أبي الزناد وهو ضعيف البتة، فهذا وجه. والثاني أنهما صحا لما كان فيهما للقياس مدخل بوجه من الوجوه، ولا بمعنى من المعاني، لأن السيل لا يستحق ميراثا أصلا، لا سدسا ولا ثلثا وكذلك الغصن، ولا فرق، ومن أنوك النوك أن يظن أحد بمثل علي وزيد رضي الله عنهما. إن أحدهما قاسم الجد مع الإخوة إلى خمسة وهو سادسهم، ثم له السدس وإن كثروا، وإن الثاني قاسم بالجد الإخوة إلى اثنين هو ثالثهما. لا ينقضه من الثلث ما بقي أو السدس من رأس المال قياسا على غصنين تفرعا من غصن شجرة، وأن إدخال أصحاب القياس لهذا في القياس في القحة الظاهرة والاستخفاف البادي. فإن قال قائل: فما وجه هذين الصاحبين لهذين المثلين في هذه المسألة؟ فالجواب، وبالله تعالى التوفيق: إن هذا باطل، بلا شك ونحن نبت أنهم رضي الله عنهم ما قالوا قط شيئا من هذا. ولقد كانوا أرجح عقولا، وأثقب نظرا، وأضبط لكلامهم في الدين، من أن يقولوا شيئا من هذا الاختلاط، ولكن عيسى الخياط وعبد الرحمن بن أبي الزناد غير موثوق بهما، ولعل الشعبي سمعه ممن لا خير فيه، كالحارث الأعور وأمثاله. ثم لو قال قائل: إن

[127] **Translator's note (L3195):** The correction from Sad to Said is the author's own textual comment. The supplied text explicitly says that al-Walid performed two prayer cycles; this wording has been retained.

[128] **Translator's note (L3196):** Al-Hasan's proverbial expression continues in the next unit: literally, "Entrust its heat to whoever has undertaken its coolness," meaning that whoever enjoys an affair's benefits should bear its burdens.

[129] **Translator's note (L3198):** The conditional beginning "If reports with an omitted intermediary…" is translated as supplied. Its claim that such reports would entail unbelief conflicts with the ensuing qualification. An omitted negation in ولو, yielding ولولا ("Were it not for…"), is a possible textual explanation, but has not been inserted.

[130] **Translator's note (L3201):** The pronoun "him" in the inheritance allocations refers to the grandfather, who is counted together with the brothers.

[131] **Translator's note (L3202):** The report first attributes to Zayd the view that the grandfather has priority, but then presents him arguing against that view. This apparent inconsistency is retained. The wording فضرب له shifts to the third person before "I said"; the passive English preserves the uncertainty about who offers the comparison.

[132] **Hadith references (L3195):** Sahih al-Bukhari 6778.

the same applies to a branch, without any difference. It is the height of stupidity for anyone to suppose of men such as Ali and Zayd—may Allah be pleased with them both—that one of them assigned the grandfather a share alongside the brothers, up to five brothers with him as their sixth, and thereafter a sixth however numerous they became; and that the other assigned the grandfather a share alongside the brothers, up to two brothers with him as their third, without reducing him below a third of what remained or a sixth of the entire estate, by analogy with two branches that forked from a branch of a tree. The proponents of analogy display manifest impudence and obvious frivolity by including this under analogy. If someone says, "What, then, was the point of these two Companions' use of these two illustrations in this question?" the answer—and success comes through Allah Most High—is that this is unquestionably false. We affirm categorically that they—may Allah be pleased with them—never said any of this at all. Their intellects were sounder, their discernment keener, and their control over what they said concerning religion greater than to utter any of this muddle. But Isa al-Khayyat and Abd al-Rahman ibn Abi al-Zinad are not trustworthy, and perhaps al-Sha'bi heard it from someone in whom there was no good, such as al-Harith al-A'war and others like him. Furthermore, if someone were to say, "The point of this, were it sound, is clear and evident, with nothing obscure about it: Zayd and Ali—may Allah be pleased with them both—held, as their own opinion, which they did not impose upon anyone as an absolute obligation, that entitlement to inheritance rests upon nearness of kinship. That being so, and the brothers being, in their view, nearer than the grandfather, since they are nearer than the grandfather they may not be excluded from inheriting alongside him. The grandfather, too, has an allotted share by consensus, so he likewise may not be excluded on their account. Others disagreed with their statement that the brother is nearer than the grandfather. It was here that they offered these two illustrations, to show that the kinship of one brother to another, both born of the father, is like the kinship of one branch to another, both forking from a single branch and from a tree, or like the kinship of one stream to another, both branching from a channel off a watercourse"—that would be an argument. This is a sensory, directly observable resemblance, necessarily known and beyond doubt.

وجه ذلك لو صح بين ظاهر لا خفاء به، وهو أن زيدا وعليا رضي الله عنهما يذهبان من رأيهما، الذي لم يوجباه حتما على أحد، إلى أن الميراث يستحق بالدنو في القرابة، فإذا كان ذلك والإخوة عندهما أقرب من الجد، فإذ هم أقرب من الجد، فلا يجوز أن يمنعوا من الميراث معه، وللجد فرض بإجماع، فلم يجز أن يمنع أيضا من أجلهم، وخالفهما غيرهما في قولهما إن الأخ أقرب من الجد. فههنا ضربا هذين المثلين، ليريا أن قربى الأخ من الأخ المتولدين من الأب، كقربى الغصن والغصن المتفرعين من غصن واحد ومن شجرة، أو كقربى جدول من جدول تفرعا جميعا من خليج من واد، لكان قولا، وهذا تشبيه حسي عياني ضروري لا شك فيه، إلا أنه ليس من قبل التشبيه بقرب الولادة تستحق الميراث فالعم وابن الأخ أقرب من الجد، ولا خلاف بيننا وبين خصومنا أنهما لا يرثان معه شيئا، وابن البنت أقرب، ابن العم، الذي يلتقي مع المرء إلى الجد العاشر وأكثر، ولا يرث معه شيئا بإجماع الأمة. ونحن لم ننكر الاشتباه، وإنما أنكرنا أن نوجب أحكاما لم يأذن بها الله تعالى ولا رسوله صلى الله عليه وسلم من أجل الاشتباه في الصفات فبطل أن يكون لهذا الخبر مدخل في القياس، أو تعلق به بوجه من الوجوه، ولكن تمويه أصحاب القياس في قياسهم وفيما يحتجون به لقياسهم، متقارب كله في الضعف والسقوط والتمويه على الضعفاء المغترين بهم. نسأل الله أن يفيء بهم إلى الهدى والتوفيق بمنه.

Nevertheless, entitlement to inheritance does not arise through resemblance in nearness of descent: the paternal uncle and the brother's son are nearer than the grandfather, yet there is no disagreement between us and our adversaries that neither inherits alongside him anything. A daughter's son is nearer than a paternal cousin whose common ancestor with the deceased is the tenth grandfather or even further back, yet he inherits nothing alongside that cousin, by the consensus of the community. We have not denied resemblance; what we have denied is that we should impose rulings that neither Allah Most High nor His Messenger ﷺ has authorized on account of resemblance in attributes. Thus, this report has no place in analogy and no connection with it in any respect. But the dissimulation of the proponents of analogy, both in their analogy and in the evidence they advance for their analogy, is all much alike in its weakness, worthlessness, and deception of the vulnerable people who are taken in by them. We ask Allah, through His graciousness, to bring them back to guidance and success.[133][134][135][136]

L3208–3212 As for Ali's statement when he learned what Mu'awiyah had said when Ammar was killed—the Messenger of Allah's ﷺ statement, "The rebellious faction will kill Ammar," having been mentioned to him, Mu'awiyah said, "The one who brought him out is the one who killed him." This reached Ali, who said, "Then it was the Messenger of Allah ﷺ who killed Hamzah!"

وأما قول علي، إذ بلغه أن معاوية قال إذ قتل عمار فذكر له قول رسول الله صلى الله عليه وسلم تقتل عمارا الفئة الباغية فقال معاوية إنما قتله من أخرجه فبلغ ذلك عليا فقال فرسول الله صلى الله عليه وسلم إذن هو قتل حمزة فلا أعجب من تجليح من أدخل هذا القياس وهل هذا إلا الائتساء بالنبي صلى الله عليه وسلم في قتل الصالحين بين يديه ناصرين له ومن استجاز أن يقول، إن هذا قياس فليقل: إن قول لا إله إلا الله قياس، لأنه إذا قيل لنا لم تقولون ذلك قلنا لأن رسول الله صلى الله عليه وسلم قالها وأن الاشتغال بمثل هذا لعناء لولا الرجاء في الأجر الجزيل في بيان تمويه هؤلاء القوم الذين اختدعوا الأغمار بمثل هذه الدعاوى، وإنما هذا من علي رضي الله عنه ليري معاوية تناقض قوله إنه إنما قتل عمارا من أخرجه. وهذا مثل قول المالكي والحنفي: إن نكاح من اعتق أمته وتزوجها وجعل عتقها صداقها، نكاح فاسد، فيقول لهم أصحابنا والشافعيون فنكاح رسول الله صلى الله عليه وسلم إذن صفية فاسد فإن

[133] **Translator's note (L3204):** The supplied wording «أنهما صحا لما» is syntactically irregular. The translation takes it conditionally, as the surrounding argument requires: even if the two reports were sound, they would furnish no basis for analogy.

[134] **Translator's note (L3205):** The inheritance wording «لا ينقضه من الثلث ما بقي» is irregular. The translation gives its apparent intended sense, concerning a third of the remainder, while retaining the alternative of a sixth of the entire estate. The supplied verb literally concerns undoing or diminishing, and the construction does not clearly express the expected minimum share.

[135] **Translator's note (L3206):** The construction «ليس من قبل التشبيه بقرب الولادة تستحق الميراث» is awkward. The translation understands it as denying that resemblance in proximity of descent establishes entitlement to inheritance.

[136] **Translator's note (L3207):** In «وابن البنت أقرب ابن العم», the comparative construction lacks an explicit «من» ("than"). The translation supplies the comparative relationship indicated by the context.

أقدموا على ذلك كفروا وإن كعوا عنه تناقضوا، وكقول الحنفي: إن الحكم باليمين مع الشاهد مخالف للقرآن، فنقول لهم، نحن والشافعيون والمالكيون فحكم النبي صلى الله عليه وسلم بذلك إذن مخالف للقرآن فإن قالوا بذلك كفروا وإن كعوا تناقضوا. وكقول المالكيين: إن صلاة الصحيح المؤتم بإمام مريض قاعدة فاسدة، فنقول لهم، نحن والشافعيون والحنفيون فصلاة الناس خلف رسول الله صلى الله عليه وسلم في مرضه الذي مات فيه كذلك وأمره صلى الله عليه وسلم الناس إذا صلى إمامهم قاعدا أن يصلوا قعودا فاسد كل ذلك باطل فإن قالوه كفروا وإن كعوا عنه تناقضوا، وإن من ظن أن هذا قياس لمخذول أعمى القلب ومن هذا الباب هو قول علي فرسول الله صلى الله عليه وسلم إذن هو قتل حمزة إذ أخرجه وأي قياس ههنا لو عقل هؤلاء القوم وحسبنا الله ونعم الوكيل. وكذلك قصة علي رضي الله عنه يوم القضية بينه وبين أهل الشام إذ أراد أن يكتب علي أمير المؤمنين فأنكر ذلك عمرو، ومن حضر من أهل الشام وقالوا: اكتب اسمك واسم أبيك، ففعل. فقالت الخوارج لما محا أمير المؤمنين قد خلعت نفسك فاحتج عليهم بأن رسول الله صلى الله عليه وسلم فعل ذلك إذ أنكر سهيل بن عمرو حين القضية يوم الحديبية أن يكتب في الكتاب محمد رسول الله فمحا رسول الله صلى الله عليه وسلم وكتب محمد بن عبد الله فقال علي أترون رسول الله صلى الله عليه وسلم محا نفسه من النبوة إذ محا رسول الله من الصحيفة؟. قال أبو محمد: وهذا كالذي في قصة عمار سواء بسواء، ولا مدخل للقياس ههنا وإنما هو إئتساء بالنبي صلى الله عليه وسلم وكلا الأمرين محو من رق ليس أحدهما مقيسا على الآخر، وهكذا الأمر حديثا وقديما وإلى يوم القيامة، وليس إذا كتبت نار ثم محى امحت النار من الدنيا. وهذا من جنون الخوارج، وضعف عقولهم، إذ كانوا أعرابا جهالا، بل قولهم في هذا هو القياس المحقق، لأنهم قاسوا محو الخلافة عن علي، على محو اسمه

Nothing is more astonishing than the brazen audacity of someone who includes this under analogy. Is this anything other than following the Prophet's ﷺ example concerning righteous men being killed before him while supporting him? Whoever permits himself to say that this is analogy should say that the statement "There is no god but Allah" is analogy, because, when we are asked, "Why do you say that?" we answer, "Because the Messenger of Allah ﷺ said it." Occupying oneself with such things would indeed be toil, were it not for the hope of abundant reward in exposing the dissimulation of these people, who have deceived the inexperienced with claims like these. Ali—may Allah be pleased with him—said this only to show Mu'awiyah the self-contradiction in his statement that the one who brought Ammar out was the one who killed him. This is like the Maliki and the Hanafi saying, "The marriage of someone who frees his slave woman, marries her, and makes her emancipation her marriage payment is an invalid marriage." Our companions and the Shafi'is then say to them, "Then the Messenger of Allah's ﷺ marriage to Safiyyah was invalid!" If they venture to affirm that, they fall into unbelief; if they shrink from it, they contradict themselves. It is also like the Hanafi saying, "Judgment on the basis of an oath together with a witness is contrary to the Quran." We, the Shafi'is, and the Malikis then say to them, "Then the Prophet's ﷺ judgment on that basis was contrary to the Quran!" If they affirm that, they fall into unbelief; if they shrink from it, they contradict themselves. It is also like the Malikis saying, "The prayer of a healthy person following a sick imam who is sitting is invalid." We, the Shafi'is, and the Hanafis then say to them, "Then the people's prayer behind the Messenger of Allah ﷺ during the illness in which he died was likewise invalid, and his ﷺ command to the people, when their imam prays sitting, to pray sitting, is invalid—all of that is null!" If they say this, they fall into unbelief; if they shrink from it, they contradict themselves. Anyone who thinks this is analogy is indeed forsaken and blind of heart. To this same category belongs Ali's statement, "Then it was the Messenger of Allah ﷺ who killed Hamzah, since he brought him out!" What analogy is there here, if only these people would understand? Allah is sufficient for us, and an excellent Trustee is He. Likewise, there is the account of Ali—may Allah be pleased with him—on the day of the agreement between him and the peo-

من الصحيفة وهذا قياس يشبه عقولهم، وقد علم كل ذي مسكة عقل أنه إذا محيت سورة من لوح فإنها لا تمحى بذلك من الصدور.

ومن ظن أن بين القياس وبين قول علي نسبة، فإنما هو مكابر للعيان، لأن القياس إنما هو، تحريم أو إيجاب أو إباحة في شيء غير منصوص تشبيها له بشيء منصوص، وليس في هذه القضية تحريم ولا إيجاب ولا تحليل وبالله تعالى التوفيق. وأما قول ابن عباس للخوارج، إذ أنكروا تحكيم الحكمين يوم صفين: إن الله تعالى أمر بالتحكيم بين الزوجين، وفي أرنب قيمتها ربع درهم، فإن هذا الخبر حدثناه أحمد بن محمد الجسور، ثنا وهب بن مسرة، ثنا محمد بن وضاح، ثنا عبد السلام بن سعيد التنوخي، ثنا سحنون، ثنا عبد الله بن وهب، عن عمرو بن الحارث، عن بكير بن الأشج، عمن حدثه، عن

ple of Syria, when he wished to write, "Ali, Commander of the Believers." Amr and those of the people of Syria who were present objected to this and said, "Write your name and your father's name." He did so. When he erased "Commander of the Believers," the Kharijites said, "You have deposed yourself!" He argued against them that the Messenger of Allah ﷺ had done this when Suhayl ibn Amr objected, at the time of the agreement on the day of al-Hudaybiyah, to "Muhammed, the Messenger of Allah" being written in the document. So the Messenger of Allah ﷺ erased it and wrote "Muhammed ibn Abd Allah." Ali said, "Do you think that the Messenger of Allah ﷺ erased himself from prophethood when he erased 'Messenger of Allah' from the sheet?" Abu Muhammed said: This is precisely like what occurred in the account of Ammar. There is no scope for analogy here; it is simply following the Prophet's ﷺ example. Both acts are erasure from parchment; neither is inferred by analogy from the other. This is how the matter stands, recently and long ago, and until the Day of Resurrection. If you write "fire" and it is then erased, fire is not thereby erased from the world. This is an instance of the Kharijites' madness and feebleness of intellect, since they were ignorant Bedouins. Indeed, their statement here is analogy in the fullest sense, because they inferred the erasure of Ali's caliphate by analogy with the erasure of his name from the sheet. This is an analogy befitting their intellects. Everyone with a modicum of intelligence knows that, when a surah is erased from a tablet, it is not thereby erased from people's breasts.[137][138]

L3213–3214 Whoever imagines that there is a relationship between analogy and Ali's statement is merely obstinately denying what is directly observable. For analogy consists only in declaring something prohibited, obligatory, or permissible in a matter not addressed by an explicit text, through likening it to something addressed by an explicit text. In this incident there is no decla-

[137] **Translator's note (L3209):** The supplied «بإمام مريض قاعدة» has an irregular feminine form for "sitting" following the masculine "imam." The translation follows the apparent intended reference to the imam sitting.

[138] **Translator's note (L3212):** The unvocalized phrase «فمحا رسول الله» can be read either with "the Messenger of Allah" as the subject ("the Messenger of Allah erased") or as the wording erased ("he erased 'Messenger of Allah'"). The translation adopts the former; the subsequent argument explicitly identifies the erased wording as "Messenger of Allah."

ration of prohibition, obligation, or permissibility. Success comes through Allah Most High. As for Ibn Abbas's statement to the Kharijites, when they objected to appointing the two arbitrators on the day of Siffin, that Allah Most High commanded arbitration between spouses and concerning a hare worth a quarter of a dirham: this report was related to us by Ahmad ibn Muhammed al-Jasur, who said: Wahb ibn Masarrah related to us, who said: Muhammed ibn Waddah related to us, who said: Abd al-Salam ibn Sa'id al-Tanukhi related to us, who said: Sahnun related to us, who said: Abd Allah ibn Wahb related to us, from Amr ibn al-Harith, from Bukayr ibn al-Ashajj, from someone who related it to him, from Ibn Abbas, who said: Ali sent me to the Haruriyyah to speak to them. When they said, "Judgment belongs to Allah alone," I said, "Yes, you have spoken truly: judgment belongs to Allah alone. Yet Allah has indeed appointed arbitration concerning a man and his wife, and appointed arbitration concerning the killing of game. Is arbitration concerning a man and his wife and game better, or adjudication concerning the community, by which it is restored, its blood is spared, and its divisions are healed?" Abu Muhammed said: This is absolutely not authentic, because it comes through someone who is unnamed and whose identity is unknown. Then suppose that it were more authentic than any authentic report, and that we ourselves had witnessed Ibn Abbas saying this: it would still have nothing whatsoever to do with analogy; rather, it is an explicit text. Allah forbid that anyone possessed of reason should think that Ali, Muawiya, and the Companions with them appointed arbitrators to consider the Muslims' interests by analogy with arbitration concerning a rabbit or between spouses. Absolutely no one but a madman would think this.[139][140]

ابن عباس قال: أرسلني علي إلى الحرورية لأكلمهم، فلما قالوا: لا حكم إلا لله، قلت: أجل صدقتم، لا حكم إلا لله، وإن الله قد حكم في رجل وامرأته، وحكم في قتل الصيد، فالحكم في رجل وامرأته والصيد أفضل، أو الحكم في الأمة يرجع بها ويحقن دماؤها ولم شعثها؟. قال أبو محمد: وهذا لا يصح البتة،: لأنه عمن لم يسم ولا يدري من هو؟ ثم هبك أنه أصح من كل صحيح، وأننا شهدنا ابن عباس يقول ذلك، فإنه ليس من القياس من ورد ولا صدر بل هو نص جلي. ومعاذ الله أن يظن ذو عقل بأن عليا ومعاوية ومن معهما من الصحابة حكموا في النظر للمسلمين قياسا على التحكيم في الأرنب، وبين الزوجين فما يظن هذا إلا مجنون البتة

L3215–3218 And is the appointment of the two arbitrators anything other than what is

وهل تحكيم الحكمين إلا نص قول الله عز وجل {يا أيها لذين آمنوا أطيعوا لله وأطيعوا لرسول وأولي لأمر منكم فإن تنازعتم في شيء فردوه إلى لله ولرسول إن كنتم تؤمنون بلله وليوم لآخر ذلك خير وأحسن تأويلا} فنص تعالى على أن كل تنازع في شيء من الدين، فإن الواجب فيه تحكيم كتاب الله عز وجل وكلام رسوله صلى الله عليه وسلم والتنازع بين علي ومعاوية لا يجهله من له أقل معرفة في الأخبار، ففرض

[139] **Translator's note (L3213):** The transmission chain names Abd al-Salam ibn Sa'id al-Tanukhi and then Sahnun as successive transmitters, although Sahnun is the familiar name of Abd al-Salam ibn Sa'id al-Tanukhi himself. The apparent duplication in the supplied text has been preserved. The final question continues into the following segment; its comparison is intentionally left unfinished here.

[140] **Translator's note (L3214):** The opening continues the preceding unit's comparison. The wording يرجع بها, rendered "by which it is restored," is awkward and leaves the precise sense of restoration unclear.

explicitly stated in Allah's words, mighty and majestic: {O you who believe, obey Allah and obey the Messenger and those vested with authority among you. Then, if you dispute over anything, refer it to Allah and the Messenger, if you believe in Allah and the Last Day. That is better and finer in outcome}? Thus He, exalted, explicitly stated that, whenever there is any dispute concerning a matter of religion, the obligation is to appoint the Book of Allah, mighty and majestic, and the words of His Messenger ﷺ as arbiters. The dispute between Ali and Muawiya is unknown to no one with even the slightest knowledge of historical reports. It was therefore obligatory for both of them to appoint the Quran as arbiter, as they did. What analogy, then, is there here, if these people would do justice to their own reason? If this is analogy in their view, they have neglected and abandoned it. If two people bring before them a dispute concerning a sale, a debt, or anything else, they must dispatch an arbitrator from the people of each of the two; otherwise, they have abandoned analogy according to their own claim. If they say, "Why, then, did one arbitrator not suffice them, so that they needed two?" they are told—and through Allah, exalted, comes success—that the people of Iraq would not accept an arbitrator from the people of Syria, nor would the people of Syria accept an arbitrator from the people of Iraq. They were therefore compelled to appoint an arbitrator from each of the two parties. As for the report from Ali and Umar concerning the execution of a group for one person, it is as Hammam related to us: Ibn Mufarrij related to us: Ibn al-Arabi related to us: al-Dabari related to us: Abd al-Razzaq related to us: Ibn Jurayj related to us: Amr informed me; he said, he said: Huyayy ibn Yala ibn Umayya informed me that he heard his father Yala say—mentioning the account of the man killed by his father's wife and her lover—that Umar ibn al-Khattab wrote to me: "Execute them both. Had all the people of Sanaa shared in shedding his blood, I would have executed them." Ibn Jurayj said: Then Abd al-Karim and Abu Bakr informed me, both saying that Umar had been uncertain about this until Ali said to him: "Commander of the Faithful, consider: if several men participated in stealing a slaughter camel, and this one took a limb and that one took a limb, would you cut off their hands?" He said: "Yes." He said: "That, then, is when neither of the two is a basis for the other, because an explicit text has prescribed the execution of whoever

عليهما تحكيم القرآن كما فعلا، فأي قياس ههنا لو أنصف هؤلاء القوم عقولهم؟. فإن كان هذا عندهم قياسا فقد ضيعوه وتركوه، ويلزمهم إن تحاكم إليهم اثنان في بيع أو دين أو غير ذلك، فليبعثوا من أهل كل واحد منهما حكما، وإلا فقد تركوا القياس بزعمهم. فإن قالوا: فهلا كفاهم حكم واحد حتى احتجوا إلى اثنين، قيل لهم، وبالله تعالى التوفيق: إن أهل العراق لم يرضوا حكما من أهل الشام، ولا رضي أهل الشام حكما من أهل العراق، فلذلك اضطروا إلى حكم من كلتا الطائفتين. وأما الرواية عن علي وعمر في قتل الجماعة بالواحد فكما حدثنا حمام، نا ابن مفرج، نا ابن الأعرابي، نا الدبري، نا عبد الرزاق، نا ابن جريج، أخبرني عمرو قال: قال أخبرني حيي بن يعلى بن أمية أنه سمع أباه يعلى يقول: وذكر قصة الذي قتله امرأة أبيه وخليلها، أن عمر بن الخطاب كتب إلي: اقتلهما فلو اشترك في دمه أهل صنعاء كلهم لقتلتهم، قال ابن جريج: فأخبرني عبد الكريم وأبو بكر قالا جميعا: إن عمر كان يشك فيها حتى قال له علي: يا أمير المؤمنين أرأيت لو أن نفرا اشتركوا في سرقة جزور، فأخذ هذا عضوا، وأخذ هذا عضوا، كنت قاطعهم؟ قال: نعم، قال: فذلك حين ليس أحدهما أصلا للآخر، لأن النص قد ورد بقتل من قتل، وكما ورد بقطع من سرق ليس أحد النصين في القرآن بأقوى من الآخر قال تعالى {ولكم في لقصاص حياة يأولي لألباب لعلكم تتقون} وقال تعالى {وجزآء سيئة سيئة مثلها فمن عفا وأصلح فأجره على الله إنه لا يحب لظالمين} وقال تعالى {ولسارق ولسارقة فقطعوا أيديهما جزآء بما كسبا نكالا من الله والله عزيز حكيم} ولم يخص تعالى من كلا الأمرين منفرد من مشارك، فلو صح لكان علي إنما أنكر على عمر اختلاف حكمه فقط، وتركه أحد النصين وأخذه بالآخر.

kills, just as it has prescribed cutting off the hand of whoever steals. Neither of the two texts in the Quran is stronger than the other. He, exalted, said: {And in retaliation there is life for you, O possessors of understanding, so that you may be mindful of Allah}. And He, exalted, said: {The recompense for an evil deed is an evil deed like it; but whoever pardons and makes amends, his reward rests with Allah. Indeed, He does not love wrongdoers}. And He, exalted, said: {And the male thief and the female thief—cut off their hands as recompense for what they have earned, an exemplary punishment from Allah; and Allah is mighty, wise}. In neither of the two commands did He, exalted, distinguish someone acting alone from someone acting jointly. Thus, if the report were authentic, Ali would merely have been objecting to the inconsistency of Umar's ruling, and to his abandoning one of the two texts while adopting the other.[141][142]

L3219–3221 This is precisely what we ourselves object to, in exactly the same way. Thus this report, even if authentic, would have no bearing, effect, or significance whatsoever in relation to analogy. Praise belongs to Allah, Lord of the worlds. Moreover, we have transmitted from Ali that he did not hold that two people should be executed for one. Thus, if he had said this, he would subsequently have abandoned it, withdrawn it, and considered it an invalid ruling. This, then, is everything they have cited of what has been transmitted from the Companions. Through the power and strength of Allah, exalted, we have explained with the utmost clarity that they have no grounds for reliance in any of it: it is either something manifestly false that has not been authenticated, or something in which analogy has absolutely no part. Since the matter is as you see, since advocacy of analogy has never been authentically established from any of the Companions, and since we know with certainty that they never knew the effective causes without which analogy is invalid according to its advocates, their consensus—may Allah be pleased with them—that they

وهذا هو الذي ننكره نحن سواء بسواء، نخرج هذا الخبر، لو صح، من أن يكون له في القياس مدخل أو أثر أو معنى، والحمد لله رب العالمين. ثم قد روينا عن علي: أنه كان لا يرى قتل اثنين بواحد، فلو قاله لكان قد تركه ورجع عنه ورآه باطلا من الحكم فهذا كل ما ذكروه مما روي عن الصحابة قد بيناه بأوضح بيان، بحول الله تعالى وقوته، أنه ليس لهم في شيء منه متعلق، وهو أنه إما شيء بين الكذب لم يصح، وإما شيء لا مدخل للقياس فيه البتة. فإذا الأمر كما ترون، ولم يصح قط عن أحد من الصحابة القول بالقياس، وأيقنا أنهم لم يعرفوا قط العلل التي لا يصح القياس إلا عليها عند القائل به، فقد صح الإجماع منهم رضي الله عنهم على أنهم لم يعرفوا ما القياس، وبأنه بدعة حدثت في القرن الثاني، ثم فشا وظهر في القرن الثالث، كما ابتدأ التقليد والتعليل للقياس في القرن الرابع، وفشا وظهر في القرن الخامس. فليتق الله امرؤ على نفسه وليتداركها بالتوبة والنزوع عمن هذه صفته، فحجة الله تعالى قد قامت باتباع القرآن والسنة، وترك ما عدا ذلك من القياس والرأي والتقليد. ولقد كان من بعض الصحابة نزعات إلى القياس أبطلها رسول الله صلى الله عليه وسلم نذكرها إن

[141] **Translator's note (L3216):** The source repeats قال ("he said") after Amr; the repetition is retained. The final فذلك حين ("That, then, is when") is syntactically incomplete and does not connect clearly with the following unit. The supplied text appears defective at this transition; no missing conclusion or reporting formula has been supplied.

[142] **Qur'an references (L3215):** Qur'an 4:59 (An-Nisa); Qur'an 42:40 (Ash-Shuraa); Qur'an 5:38 (Al-Ma'idah).

did not know what analogy was has been established, as has the fact that it is an innovation that arose in the second century and then spread and became prevalent in the third century, just as uncritical adherence and the assignment of effective causes for analogy began in the fourth century and spread and became prevalent in the fifth century. Let a person therefore fear Allah for his own soul and rescue it through repentance and by turning away from those whose character is such. For the proof of Allah, exalted, has been established, requiring adherence to the Quran and the Sunna and abandonment of everything beyond them, namely analogy, personal opinion, and uncritical adherence. Some of the Companions did indeed have inclinations toward analogy that the Messenger of Allah ﷺ invalidated. We shall mention them, if Allah, exalted, wills, among the proofs invalidating analogy, once, through the power and strength of Allah, exalted, we have fully covered everything they have advanced by way of objection. There remain certain arguments drawn from rational inquiry with which they have sought to deceive. We shall present them, if Allah, exalted, wills, and explain, with His help, mighty and majestic, the invalidity of their reliance upon them and that they have no proof in any of them, just as, with the support of Allah, blessed and exalted, we have explained what they have used from the Quran to stir up contention, what they have used from the Prophet's ﷺ words to deceive, what they have used from consensus to create confusion, and what they have used from the reports of the Companions to mislead. Through Allah, exalted, comes success. Among these arguments is their statement that analogy belongs to the category of adducing the present as evidence for the absent: "If the present is not adduced as evidence for the absent, perhaps among things absent from us there is a cold fire." Abu Muhammed said: This is a faulty contentious argument. Their first deception is their mention of the absent and the present in the domain of revealed laws. Every Muslim knows that there is nothing in any matter of religion that is absent from the Muslims. The Messenger of Allah ﷺ was sent only to explain to people the religion binding upon them. He, exalted, said: {With clear proofs and scriptures; and We have sent down

شاء الله تعالى في الدلائل على إبطال القياس إذا استوعبنا بحول الله تعالى وقوته كل ما اعترضوا به. وبقيت أشياء من طريق النظر موهوا بها، ونوردها إن شاء الله تعالى، ونبين بعونه عز وجل بطلان تعلقهم، وأنه لا حجة لهم في شيء منها، كما بينا، بتأييد الله تبارك وتعالى، ما شغبوا به من القرآن وما موهوا به من كلام النبي صلى الله عليه وسلم وما لبسوا به من الإجماع وما أوهموا به من آثار الصحابة، وبالله تعالى التوفيق. فمن ذلك: أنهم قالوا: إن القياس هو من باب الاستشهاد على الغائب بالحاضر، فإن لم يستشهد بالحاضر على الغائب فلعل فيما غاب عنا نارا باردة. قال أبو محمد: هذه شغبية فاسدة، فأول تمويههم ذكرهم الغائب والحاضر في باب الشرائع، وقد علم كل مسلم أنه ليس في شيء من الديانة شيء غائب عن المسلمين وإنما بعث رسول الله صلى الله عليه وسلم ليبين للناس دينهم اللازم لهم قال تعالى {بلبينات ولزبر وأنزلنا إليك لذكر لتبين للناس ما نزل إليهم ولعلهم يتفكرون}

to you the Reminder, so that you may explain to people what has been sent down to them, and so that they may reflect}.[143][144][145]

L3222–3230 The Messenger of Allah ﷺ must therefore fall under one of two possibilities, with no third: either he did not convey the message or explain it to people—and saying this constitutes unbelief according to the consensus of the community, without disagreement—or he ﷺ conveyed it as he was commanded and explained to all people their religion. This is what admits of no doubt. Where, then, is anything absent from religion here, if these people would exercise reason? Unless these people—may Allah grant success to us and to them—are undertaking to extract rulings within the revealed law that Allah, exalted, did not send down to His Messenger ﷺ, so that they are absent from us. For anyone who asserts and believes this, it constitutes unbelief and a denial because of the saying of Allah, Mighty and Majestic: "Forbidden to you are carrion, blood, the flesh of swine, that over which a name other than Allah's has been invoked, the strangled animal, the animal killed by a blow, the animal killed by a fall, the animal killed by goring, and that which a beast of prey has eaten—except what you slaughter—and what has been slaughtered upon sacrificial stones; and that you seek allotments by divining arrows. That is disobedience. Today those who disbelieve have despaired of your religion, so do not fear them, but fear Me. Today I have perfected your religion for you, completed My favor upon you, and approved Islam as your religion. But whoever is compelled by severe hunger, without inclining toward sin—then Allah is forgiving, merciful"; and because of the saying of the Messenger of Allah ﷺ, "Have I indeed conveyed the message?" They said, "Yes." He said, "O Allah, bear witness." As for their obfuscation through mentioning fire and saying, "Perhaps among things absent from us there is cold fire," this is exceedingly insipid talk. For the word "fire" was applied in the language only to everything hot, luminous, and upward-rising.

فلا يخلو رسول الله صلى الله عليه وسلم من أحد وجهين لا ثالث لهما إما أن يكون لم يبلغ ولا بين للناس، فهذا كفر ممن قاله بإجماع الأمة بلا خلاف وإما أن يكون صلى الله عليه وسلم بلغ كما أمر به وبين للناس جميعهم دينهم وهذا هو الذي لا شك فيه، فأين الغائب من الدين ههنا لو عقل هؤلاء القوم؟ إلا أن يكون هؤلاء القوم، وفقنا الله وإياهم، يتعاطون استخراج أحكام في الشريعة لم ينزلها الله تعالى على رسوله صلى الله عليه وسلم فهي غائبة عنا فهذا كفر ممن أطلقه واعتقده وتكذيب لقول الله عز وجل {حرمت عليكم لميتة ولدم ولحم لخنزير ومآ أهل لغير لله به ولمنخنقة ولموقوذة ولمتردية ولنطيحة ومآ أكل لسبع إلا ما ذكيتم وما ذبح على لنصب وأن تستقسموا بلأزلام ذلكم فسق ليوم يئس لذين كفروا من دينكم فلا تخشوهم وخشون ليوم أكملت لكم دينكم وأتممت عليكم نعمتي ورضيت لكم لأسلام دينا فمن ضطر في مخمصة غير متجانف لإثم فإن لله غفور رحيم} ولقول رسول الله صلى الله عليه وسلم ألا هل بلغت قالوا نعم قال اللهم اشهد وأما تمويههم بذكر النار، ولعل في الغائب نارا باردة، فكلام غث في غاية الغثاثة، لأن لفظة نار إنما وقعت في اللغة على كل حار مضيء صعاد، فإن كنتم تريدون أن شيئا حارا يكون باردا، فهذا تخليط وعين المحال. وأما لفظة نار فقد وقعت أيضا في اللغة على ما لا يحرق، فالنار عند العرب اسم الميسم الذي توسم به الإبل، فيقولون: ما نارها، بمعنى ما وسمها، فليس الاسم مضطرا إلى وجوده كما هو ولا بد، ولكنه اتفاق أهل اللغة، وليس من قبل أننا شاهدنا النار محرقة صعادة مضيئة، وجب ضرورة أن تسمى نارا ولا بد، بل لو سموها باسم آخر ما ضر ذلك شيئا. وليس أيضا من قبل أننا شاهدنا النار على هذه الهيئة، عرفنا أن ما غاب عنا منها كذلك أيضا، بل قد علمنا أن أهل اللغة لم يوقعوا اسم نار في الغائب

[143] **Translator's note (L3219):** The chronology concerning analogy, uncritical adherence, and the assignment of effective causes is the author's own claim and is preserved as stated.

[144] **Translator's note (L3221):** "The absent" and "the present" render the paired technical terms الغائب والحاضر: what is outside immediate observation and what is available to observation.

[145] **Qur'an references (L3219):** Qur'an 16:44 (An-Nahl).

If you mean that something hot can be cold, this is muddled thinking and impossibility itself. As for the word "fire," it has also been applied in the language to something that does not burn: among the Arabs, "fire" is a name for the branding iron with which camels are branded. Thus they say, "What is its fire?" meaning, "What is its brand?" The name is therefore not necessarily and unavoidably required by the thing's existence as it is; rather, it is an agreement among the speakers of the language. Our observation that fire burns, rises upward, and gives light does not make it necessarily and unavoidably obligatory that it be called "fire." Indeed, had they called it by another name, that would have made no difference. Nor is it because we have observed fire in this condition that we know that whatever of it is absent from us is also like this. Rather, we know that the speakers of the language have applied the name "fire," to things absent and present alike, only to what is hot, luminous, burning, and upward-rising. If you say, "Perhaps among things absent from us there is a luminous, cold, upward-rising body," we say to you: This is something for which there is no evidence, and asserting something for which there is no evidence is not permissible. We have come to know the attributes of all the elements—unless you say, "Perhaps Allah Most High [has created] a world with this attribute." Allah Most High is capable of that. But in this world, among what we have observed through the senses, through reason, or through premises traceable to the senses and reason, He Most High has created nothing other than what we have observed by those means. Perhaps He Most High has created worlds whose attributes differ from those of this world of ours. Yet this is a matter that we neither establish as true nor declare false. It is, however, possible, and Allah knows best. We have no knowledge except what Allah has taught us, and through Allah Most High comes success. They also argued, saying, "Among the scriptural texts there are manifest ones and obscure ones. If they were all manifest, the learned and the ignorant would be equal in understanding them; and if they were all obscure, no one would have any way to understand them or to know anything of them." They said, "It therefore necessarily follows that we must employ analogy, proceeding from the manifest to knowledge of the obscure." Abu Muhammed said: This is a false premise. All rulings are manifest in themselves, because Allah Most High said to His Prophet ﷺ: "With clear

والحاضر إلا على الحار المضيء المحرق الصعاد. فإن قلتم: فلعل في الغائب جسما مضيئا باردا صعادا قلنا لكم: هذا ما لا دليل عليه، والقول بما لا دليل عليه غير مباح، وقد عرفنا صفات العناصر كلها إلا إن قلتم: لعل الله تعالى عالم بهذه الصفة، فالله تعالى قادر على ذلك، ولكنه تعالى لم يخلق في هذا العالم، مما شاهدنا بالحواس أو بالعقل أو بالمقدمات الراجعة إلى الحواس والعقل، غير ما شاهدنا بذلك، ولعله تعالى قد خلق عوالم بخلاف صفة عالمنا هذا، إلا أن هذا أمر لا نحققه ولا نبطله، ولكنه ممكن والله أعلم، ولا علم لنا إلا ما علمنا الله، وبالله تعالى التوفيق. واحتجوا أيضا فقالوا: إن في النصوص جليا وخفيا، فلو كانت كلها جلية لاستوى العالم والجاهل في فهمها، ولو كانت كلها خفية لم يكن لأحد سبيل إلى فهمها، ولا إلى علم شيء منها، قالوا: فوجب بذلك ضرورة أن نستعمل القياس من الجلي على معرفة الخفي. قال أبو محمد: وهذه مقدمة فاسدة، والأحكام كلها جلية في ذاتها لأن الله تعالى قال لنبيه صلى الله عليه وسلم {بلبينات ولزبر وأنزلنا إليك لذكر لتبين للناس ما نزل إليهم ولعلهم يتفكرون} ولا يحل لمسلم أن يعتقد أن الله تعالى أمر رسوله صلى الله عليه وسلم بالبيان في جميع الدين فلم يفعل ولا بين وهذا ما لا يجوز لمسلم أن يخطره بباله فإذ لا شك في هذا ونوقن أنه صلى الله عليه وسلم قد بين الدين كله فالدين كله بين وجميع أحكام الشريعة الإسلامية كلها جلية، واضحة، وقد قال عمر رضي الله عنه: تركتم على الواضحة، ليلها كنهارها، أن تضلوا بالناس يمينا وشمالا، وقال أيضا رضي الله عنه: سننت لكم السنن، وفرضت لكم الفرائض، إلا أن يضل رجل عن عمد. قال أبو محمد: إلا أن من الناس من لا يفهم بعض الألفاظ الواردة في القرآن وكلام النبي صلى الله عليه وسلم لشغل بال أو غفلة أو نحو ذلك وليس عدم هذا الإنسان فهم ما خفي عليه بمانع أن يفهمه غيره من الناس، وهذا أمر مشاهد يقينا، وهكذا عرض لعمر رضي الله عنه إذا لم

proofs and scriptures; and We have sent down to you the Reminder, so that you may explain to people what has been sent down to them, and so that they may reflect." It is not lawful for a Muslim to believe that Allah Most High commanded His Messenger ﷺ to explain the whole of religion, but that he did not do so and did not explain it. This is something that a Muslim may not even allow to cross his mind. Since there is no doubt about this, and we are certain that he ﷺ explained the whole of religion, the whole of religion is clear, and all the rulings of the Islamic revealed law are entirely manifest and plain. Umar, may Allah be pleased with him, said, "You have been left upon the clear path, whose night is like its day—lest you lead people astray to the right and to the left." He also said, may Allah be pleased with him, "The prescribed practices have been laid down for you, and the obligatory duties have been prescribed for you, unless a man should go astray deliberately." Abu Muhammed said: Nevertheless, some people do not understand certain expressions occurring in the Qur'an and the words of the Prophet ﷺ, because of preoccupation, heedlessness, or something similar. This person's failure to understand what is obscure to him does not prevent other people from understanding it. This is something observed with certainty. This is what happened to Umar, may Allah be pleased with him, when he did not understand the verse concerning inheritance in the absence of direct ascendants and descendants, while others understood it. Umar, may Allah be pleased with him, said, "O Allah, whomever You have made to understand it, Umar has not understood it." He said, "I never returned to the Messenger of Allah ﷺ concerning anything as often as I returned to him concerning inheritance in the absence of direct ascendants and descendants; nor did he ever speak as sternly to me about anything as he spoke to me about it, until he jabbed his finger into my chest." And he said to Hafsah, "I do not think he will ever understand it," or words to that effect spoken by him ﷺ. Thus what we have said is established with certainty. He ﷺ stated that the summer verse was sufficient for understanding, and Umar's failure to understand it was not because it was insufficient. Rather, it was sufficient and clear, but he was not enabled to understand it Likewise, he ﷺ stated that the lawful is clear and the unlawful is clear, and that between them are doubtful matters which many people do not know. He ﷺ did not say that they are doubt-

يفهم آية الكلالة وفهمها غيره، وقال عمر رضي الله عنه: اللهم من فهمته إياها فلم يفهمها عمر وقال ما راجعت رسول الله صلى الله عليه وسلم في شيء ما راجعته في الكلالة وما أغلظ لي بشيء ما أغلظ لي فيها، إلى أن طعن بأصبعه في صدري وقال لحفصة ما أراه يفهمها أبدا أو كما قال صلى الله عليه وسلم فصح ما قلناه يقينا وأخبر صلى الله عليه وسلم أن آية الصيف كافية الفهم وأن عمر لم يفهمها، ليس لأنها غير كافية، بل هي كافية بينة ولكن لم ييسر لفهمها وكذلك أخبر صلى الله عليه وسلم أن الحلال بين وأن الحرام بين وبينهما أمور مشتبهات لا يعلمها كثير من الناس فلم يقل صلى الله عليه وسلم إنها مشتبهات على جميع الناس وإنما هي مشتبهة على من لا يعلمها، وإذ هذا كذلك فحكم من لا يعلم أن يسأل من يعلم. كما قال تعالى: {وما أرسلنا من قبلك إلا رجالا نوحي إليهم فسألوا أهل لذكر إن كنتم لا تعلمون} ولم يقل فارجعوا إلى القياس، فوضع دعوى هؤلاء القوم وصح أن الدين كله بين واضح، وسواء كله في أنه جلي مفهوم إلا أن من الناس من يخفى عليه الشيء منه بعد الشيء لإعراضه عنه، وتركه النظر فيه فقط. وقد يخفى على العالم الفهم أيضا، إذا نظر في مقدماته وقضاياه بفهم كليل إما لشغل بال، وإما لطلبه في اللفظ ما لا يقتضيه فقط حتى يعلمه إياه العلماء الذين هو عندهم بين جلي، ولو لم يكن الأمر هكذا لما عرف الجاهل صحة قول مدعي الفهم أبدا. فصح أنه لما أمكن العالم إقامة البرهان حتى يفهم الجاهل من القضايا كالذي فهم العالم فإن العلم كله جلي، ممكن فهمه لكل أحد، ولولا ذلك ما فهم الجاهل شيئا، ولا لزم من لا يفهم، العمل بما لا يفهم. وأيضا فيلزم فيما كان منه خفيا ما ألزموه لو كان كله خفيا، وفي الجلي منه ما يلزم لو كان كله جليا ولا فرق، وليس للقياس ههنا طريق البتة، وبالله تعالى التوفيق. واحتجوا فقالوا: لما رأينا البيضتين إذا تصادمتا تكسرتا، علمنا أن ذلك حكم كل بيضة لم تنكسر، قالوا:

ful to all people; rather, they are doubtful to those who do not know them. Since this is so, the ruling for someone who does not know is that he should ask someone who knows, as He Most High said: "We sent before you only men to whom We revealed; so ask the people of the Reminder if you do not know." He did not say, "Then resort to analogy." Thus these people's claim falls, and it is established that the whole of religion is clear and plain, and that all of it is alike in being manifest and intelligible. It is simply that one thing after another in it may be obscure to some people because they turn away from it and neglect to examine it. Understanding may also elude a learned person when he examines its premises and propositions with a dull understanding, either because of preoccupation or simply because he seeks in an expression something that it does not entail, until scholars to whom it is clear and manifest teach it to him. Were matters otherwise, an ignorant person would never recognize the correctness of the statement of someone claiming to understand. It is therefore established that, since a learned person can present a demonstration so that an ignorant person understands the propositions just as the learned person understood them, all knowledge is manifest and capable of being understood by everyone. Otherwise, an ignorant person would understand nothing, and someone who does not understand would not be obliged to act upon what he does not understand. Furthermore, whatever in it is obscure is subject to the same consequence that they imposed if all of it were obscure; and whatever in it is manifest is subject to the same consequence that would follow if all of it were manifest. There is no difference. Analogy has absolutely no avenue here, and through Allah Most High comes success. They argued, saying, "When we saw that two eggs break upon colliding, we knew that this is the rule for every egg that has not broken." They said, "This is analogy." Abu Muhammed said: This is an error. We did not know this by analogy. Rather, through the primary apprehension of reason and the necessary evidence of sense perception, we knew that anything soft to the touch is affected when something more densely compacted strikes it, either through the separation of its parts or through the alteration of its shape. We have never said at any time that, because one egg resembles another egg, it must break when it encounters a hard body. Rather, this is an egregious error. This statement in fact invali-

وهذا قياس. قال أبو محمد: وهذا خطأ، ولم نعلم ذلك قياسا، ولكن علمنا بأول العقل وضرورة الحس أن كل رخص الملمس فإنه إذا صدمه ما هو أشد منه اكتنازا أثر فيه، إما بتفريق أجزائه، وإما بتبديل شكله، ولم نقل قط، إن البيضة لما أشبهت البيضة وجب أن تنكسر إذا لاقت جرما صليبا، بل هذا خطأ فاحش. وفي هذا القول إبطال القياس حقا، فبيضة الحنش وبيضة الوزعة وبيضة صغار العصافير لا تشبه بيضة النعام البتة في أغلب صفاتها، إلا أنهما جميعا واقعان تحت نوع البيض وكلاهما ينكسر إذا لاقا جسما صليبا مكتنزا. ونحن لو خرطنا صفة بيضة من عاج أو من عود البقس حتى تكون أشبه ببيضة النعامة من الماء بالماء، ولم تشبه بيضة الحجلة إلا في الجسمية فقط ثم ضربنا بها الحجر لما انكسرت.

dates analogy: the egg of a snake, the egg of a gecko, and the egg of a small bird do not resemble an ostrich's egg at all in most of their attributes, except that both fall under the kind "eggs," and both break when they encounter a hard, densely compacted body. If we were to turn an egg-shaped object from ivory or boxwood until it resembled an ostrich's egg more closely than water resembles water, while it resembled a partridge's egg only in being a body, and then struck a stone with it, it would not break[146][147][148][149][150][151]

L3231–3234 Thus it is established that resemblance has absolutely no significance in

فصح أن الشبه لا معنى له في إيجاب استواء الأحكام البتة، وبطل قولهم: إننا علمنا انكسار ما بأيدينا من البيض لشبهها بما شاهدنا انكساره منها، وصح أنه من أجل الشبه بينهما وجب انكسار هذه كانكسار تلك. وإنما الذي يصح بهذا فهو قولنا: إن كل ما كان تحت نوع واحد فحكمه مستو وسواء اشتبها أو لم يشتبها. فقد علمنا أن العنب الأسود الضخم المستطيل أو المستدير أشبه بصغار عيون البقر الأسود منه بالعنب الأبيض الصغير، لكن ليس شبهه به موجبا لتساويهما في الطبيعة، ولا بعده عن مشابهة العنب بموجب لاختلافهما في الطبيعة، فبطل حكم التشابه جملة، وصح أن الحكم للاسم الواقع على النوع الجامع لما تحته وهكذا قلنا نحن إن حكمه صلى الله عليه وسلم في واحد من النوع حكم منه في جميع النوع وأما القياس الذي ننكر فهو: أن يحكم لنوع لا نص فيه بمثل الحكم في نوع آخر قد نص فيه، كالحكم في الزيت تقع فيه النجاسة بالحكم في السمن يقع فيه الفأر، وما أشبه هذا، فهذا هو الباطل الذي ننكره، وبالله التوفيق. ومعرفة المرء بأول طبيعته لا ينكرها إلا جاهل أو مجنون، فنحن نجد الصغير يفر عن الموت، وعن كل شيء ينكره وعن النار، وإن كان لم يحترق قط، ولا رأى محترقا، وعن الإشراف على المهواة ونجده يضرب بيده إذا غضب، وهو لا يعلم أن الضرب يؤلم، ويعض بفمه قبل نبات أسنانه وهو لم يعضه قط أحد فيدري ألم العض. نعم حتى نجد ذلك في الحيوان غير الناطق، فنجد الصغير من الثيران ينطح برأسه قبل نبات قرنيه، والصغير من الخنازير يشتر بفمه قبل كبر ضرسه، والصغير من

[146] **Translator's note (L3223):** The Qur'anic quotation has recurrent defective spellings, especially missing initial alifs. The translation follows its recoverable wording. The opening continues the preceding segment's statement that the opposing claim contradicts Allah's saying.

[147] **Translator's note (L3224):** The wording "لعل الله تعالى عالم بهذه الصفة" is syntactically problematic. Read literally with عالم meaning "a world," it says, "Perhaps Allah Most High is a world with this attribute"; with عالم meaning "knowing," it says, "Perhaps Allah Most High knows this attribute." The surrounding reference to Allah's ability and to other created worlds suggests an omitted verb such as "has created," supplied explicitly in brackets.

[148] **Translator's note (L3226):** "Inheritance in the absence of direct ascendants and descendants" renders الكلالة (kalālah), a technical inheritance term whose precise scope is disputed. Umar's first quoted statement contains an awkward transition, "أن تضلوا بالناس." "Lest you lead people astray" supplies an implicit preventive sense; the wording as supplied does not explicitly contain "lest." The unvocalized سننت and فرضت could also be read as active first-person verbs: "I have laid down the prescribed practices for you and prescribed the obligatory duties for you." The translation adopts the passive reading. The prayer beginning "O Allah, whomever You have made to understand it" is syntactically awkward in the supplied Arabic and has been preserved without reconstructing its wording. "The summer verse" reproduces the designation آية الصيف; no verse number is supplied in the original.

[149] **Translator's note (L3228):** "Thus these people's claim falls" renders the awkward supplied wording "فوضع دعوى هؤلاء القوم," taking وضع in the sense of bringing down or setting aside. The transcription may be defective.

[150] **Translator's note (L3229):** The supplied الوزعة is an unusual form, apparently referring to the gecko, ordinarily written الوزغة. The translation adopts that apparent sense without treating the spelling as certain. The Arabic shifts from three examples to the dual "both"; this shift is preserved.

[151] **Qur'an references (L3222):** Qur'an 5:3 (Al-Ma'idah); Qur'an 16:44 (An-Nahl); Qur'an 12:109 (Yusuf); Qur'an 16:43 (An-Nahl).

necessitating equality of rulings, and their statement that we know that the eggs in our hands will break because they resemble those whose breaking we have witnessed is invalid. And it is established that it is because of the resemblance between them that these must break as those broke. What is correctly established by this is only our statement that everything falling under a single species has the same ruling, whether its members resemble one another or do not resemble one another. We know that large black grapes, whether elongated or round, resemble the small eyes of black cattle more than they resemble small white grapes. Yet their resemblance to those eyes does not necessitate their equality in nature, nor does their remoteness from resembling those grapes necessitate their difference in nature. Thus the authority of resemblance is invalidated altogether, and it is established that the ruling belongs to the name applying to the species that encompasses everything beneath it. Likewise, we ourselves have said that his ﷺ ruling concerning one member of a species constitutes a ruling by him concerning the entire species. As for the analogy we reject, it is assigning to a species concerning which there is no explicit text a ruling like the ruling concerning another species for which there is an explicit text: for example, ruling concerning oil into which falls an impurity by the ruling concerning clarified butter into which a mouse falls, and other such cases. This is the falsehood that we reject, and success comes through Allah. Only an ignorant person or a madman denies a person's knowledge through his original natural constitution. We find a small child fleeing death, everything he finds objectionable, fire—even though he has never been burned or seen anyone burned—and looking over the edge of a precipice. We find him striking with his hand when angry, although he does not know that striking causes pain, and biting with his mouth before his teeth have grown, although no one has ever bitten him so that he might know the pain of biting. Indeed, we even find this among nonrational animals: we find a young bull butting with its head before its horns have grown, a young pig slashing with its mouth before its molar has grown large, and a young riding animal kicking before its hoof has become strong. Such instances are very numerous. Through a natural disposition of this kind, we know that every pliant corporeal thing undergoes a change, through breaking or a change of shape, when it encounters a hard body.

الدواب يرمح قبل اشتداد حافره، وهذا كثير جدا. فبمثل هذا الطبع علمنا أن كل رخص المجسمة فإنه يتغير بانكسار أو تبدل شكل إذا لاقى جسما صليبا، وبه علمنا أن كل نار في الأرض وفيما تحت الفلك فهي محرقة، لا بالقياس البارد الفاسد، وليس هذا في شيء من الشرائع البتة بوجه من الوجوه، لأنه لم تكن النار قط منذ خلقها الله تعالى إلا محرقة، حاشا نار إبراهيم لإبراهيم عليه السلام وحده، لا لغيره بالنص الوارد فيها، ولم يجز أن يقاس عليها غيرها، ولا كانت البيضة قط إلا متهيئة للانكسار إذا لاقت شيئا صلبا، وقد كان البر بالبر حلالا متفاضلا برهة من الدهر، وكذلك كل شيء من الشريعة واجب فقد كان غير واجب، حتى أوجبه النص، وغير حرام حتى حرمه النص، فليست ههنا شيء أن يجب أن يقاس عليه ما لم يأت بإيجابه نص ولا تحريم أصلا، وبالله تعالى التوفيق.

Through it we also know that every fire on earth and beneath the celestial sphere burns—not through insipid, invalid analogy. This has absolutely no application to any revealed law in any respect whatsoever, because fire, ever since Allah Most High created it, has always burned, except for Abraham's fire, for Abraham alone, peace be upon him, and for no one else, according to the explicit text concerning it. It was not permissible to extend its ruling to any other fire by analogy. Nor has an egg ever been anything other than susceptible to breaking when it encounters something hard. Yet exchanging wheat for wheat in unequal amounts was lawful for a period of time. Likewise, everything obligatory in revealed law was not obligatory until the explicit text made it obligatory, and was not prohibited until the explicit text prohibited it. Thus there is nothing here upon which an analogy must be based for something concerning whose obligation or prohibition no explicit text has come at all. And success comes through Allah Most High.[152][153][154]

L3235 They argued by saying: "Our knowledge that what is inside this walnut and this pomegranate has a particular character is merely an analogy based on what we have observed of such things. Otherwise, perhaps there is a jewel inside them, or something different from what we are accustomed to. Likewise, that there are brains in our heads and intestines in our abdominal cavities, that this boy was not born to a she-ass, and that living beings die: we know these things only by analogy with what we have observed." Abu Muhammed said: This is among the most insipid things with which they have sought to deceive. No rational person has ever known that, because we know that what is inside this pomegranate is like what is inside this other one, that

[152]**Translator's note (L3231):** The assertion beginning "And it is established that it is because of the resemblance" contradicts the preceding rejection of resemblance and the argument that follows. The supplied wording has been retained; a negation may be missing.

[153]**Translator's note (L3232):** The unusual wording رخص المجسمة is rendered "pliant corporeal thing"; the grammatical form may be corrupt. يشتر is an unusual verb here. "Slashing with its mouth" is a contextual rendering of the action attributed to the young pig; the precise intended motion is uncertain.

[154]**Translator's note (L3234):** The clause فليست ههنا شيء أن يجب أن يقاس عليه is grammatically irregular. The translation gives its apparent sense without supplying a new argument.

واحتجوا بأن قالوا: إن علمنا بما في داخل هذه الجوزة والرمانة على صفة ما إنما هو قياس على ما شاهدنا من ذلك، وإلا فلعل داخلهما جوهر أو شيء مخالف لما عهدناه، وكذلك أن في رؤوسنا أدمغة، وفي أجوافنا مصرانا، وأن هذا الصبي لم تلده حمارة، وأن الأحياء يموتون، إنما علمنا ذلك قياسا على ما شاهدنا. قال أبو محمد: وهذا من أبرد ما موهوا به وما علم قط ذو عقل أن من أجل علمنا بأن ما في داخل هذه الرمانة كالذي في داخل هذه وأن في أجوافنا مصرانا، وفي رؤوسنا أدمغة، وأن الناس لم تلدهم الأتن، وأن الأحياء يموتون، علمنا أن الزيت ينجس إذا مات فيه عصفور، ولا ينجس إذا مات فيه مائة عقرب وأن التمرة بالتمرة حرام والتفاحة بالتفاحة حلال. وأن البئر إذا مات فيها سنور نزح منها أربعون دلوا فإن سقط فيها نقطة بول نزحت كلها. وأن من مس دبره انتقض وضوءه، وأن من مس أنثييه لم ينتقض وضوءه وهل بين هذه الوجوه والتي قبلها تشبيه؟. وإن المشبه بين هاتين الطريقتين لضعيف التمييز، وتلك أمور طبيعية ضرورية تولى الله عز وجل إيقاعها في القلوب. لا يدري أحد كيف وقع له علمها. وهذه الأخر: إما دعاوى لا دليل عليها، وإما سمعية لم تكن لازمة ثم

there are intestines in our abdominal cavities and brains in our heads, that people were not born to she-asses, and that living beings die, we therefore know that oil becomes impure if a sparrow dies in it but does not become impure if a hundred scorpions die in it; that exchanging a date for a date is prohibited, while exchanging an apple for an apple is lawful; that if a cat dies in a well, forty bucketfuls must be drawn from it, but if a drop of urine falls into it, all of it must be drawn out; and that someone who touches his anus has his ablution invalidated, while someone who touches his testicles does not have his ablution invalidated. Is there any resemblance between these cases and those preceding them? Whoever draws a resemblance between these two methods certainly has weak powers of discernment. Those are natural matters known necessarily, which Allah, Mighty and Majestic, has Himself undertaken to instill in hearts; no one knows how knowledge of them came to him. These latter matters, however, are either claims for which there is no evidence or matters known through transmitted revelation, which were not binding and then Allah made some of them binding through an explicit text, not through soothsaying or unsupported assertion. We find that a small child who has not yet crawled and has only just begun attempting to sit up becomes restless when he sees a pomegranate and eagerly desires to extract and eat what is inside it. The same applies to walnuts and all the other things people eat. If only I knew when this boy learned the analogy that what is inside this pomegranate is like what was inside the one we fed him last year or a month ago! On this account, they really ought to have known the rulings of analogy through their natural dispositions, without adopting them through uncritical imitation of their predecessors.

L3236–3242 Had they contemplated the world and reflected upon its natures, genera, species, differentiae, and properties and accidents, they would not have uttered this delirious nonsense. If they intend to call the operation of natural constitutions as they actually are "analogy," this is a new language. They have not sought the countenance of Allah Most High through it; rather, they have sought contentiousness and confusion, like someone who calls a pig a stag in order to deem it lawful, and a stag a pig in order to deem it prohibited. All these are weak stratagems through which they cannot escape the falsehood

ألزم الله منها بالنص لا بالكهانة ولا بالدعوى. ونحن نجد الصغير الذي لم يحب بعد، وإنما هو حين هم أن يجلس، إذا رأى رمانة قلق وشره إلى استخراج ما فيها وأكلها. وكذلك الجوز وسائر ما يأكله الناس، فليت شعري متى تعلم هذا الصبي القياس، بأن ما في هذه الرمانة كالتي أطعمناه عام أول، أو قبل هذا بشهر. ولقد كان ينبغي لهم أن يعرفوا على هذا أحكام القياس بطبائعهم، دون أن يأخذوها تقليدا عن أسلافهم.

ولو أنهم تدبروا العالم وتفكروا في طبائعه وأجناسه وأنواعه وفصوله وخواصه وأعراضه، لما نطقوا بهذا الهذيان، فإن كانوا يريدون أن يسموا جري الطبائع على ما هي عليه: قياسا، فهذه لغة جديدة، ولم يقصدوا بها وجه الله تعالى، لكن قصدوا الشغب والتخليط، كمن سمى الخنزير أيلا ليستحله، والأيل خنزيرا ليحرمه. وكل هذه حيل ضعيفة لا يتخلصون بها مما نشبوا فيه من الباطل، وإنما تكلمهم عن المعنى، لا على ما بدلوه برأيهم من الأسماء فإذ حققوا معنا المعنى الذي يرمون إثباته ونحن نبطله، فحينئذ

in which they have become entangled. We address them only concerning the meaning, not concerning the names they have altered according to their own opinions. Once they have established with us the meaning they aim to affirm and we reject, then whoever among us or them makes a claim is required to provide a demonstration. Whoever supplies it prevails, and whoever does not supply it falls. Let them then call it whatever they wish. To expose the absurdity of this argument of theirs, it suffices to ask anyone possessed of sense: Is the relation of figs to wheat like the relation of one walnut to another walnut, one pomegranate to another pomegranate, and one human being to another human being? If there is a fool in the world who says yes, he must consequently pay acorns and figs toward the obligatory alms on wheat, measure for measure. This is something no Muslim says. He must also say that someone who swears not to eat wheat and then eats figs has broken his oath. More than all this, he must commit the falsehood of saying that figs are wheat. If they say no, they have abandoned their assertion that analogy in revealed laws resembles our knowledge that what is inside this pomegranate is like what is inside this other one, which we do not doubt. Thus this argument of theirs invalidates their position and establishes ours, because one pomegranate in relation to another pomegranate, one walnut in relation to another walnut, and one human being in relation to another human being are like clarified butter in relation to clarified butter, a mouse in relation to a mouse, and each species in relation to its own species. Walnuts differ from pomegranates as a cat differs from a mouse and oil differs from clarified butter. This is what a rational person denies, and that, when the Prophet ﷺ ruled that exchanging wheat for wheat in unequal amounts was prohibited, that became binding for all wheat, but did not become obligatory for anything that is not wheat except through another explicit text. When he commanded that liquid clarified butter in which a mouse had died be poured away, that became obligatory for every instance of clarified butter in which a mouse had died. It did not become obligatory for anything other than clarified butter in which a mouse had died. This is the only position that reason recognizes, and success comes through Allah Most High. As for prohibiting acorns by analogy with wheat, and their pouring away oil by analogy with clarified butter, this is like someone saying that what is inside almonds is

يكلف البرهان من ادعى أمرا منا ومنهم، فمن أتى به ظفر، ومن لم يأت به سقط، وليسموه حينئذ بما شاؤوا. ويكفي من سخف هذا الاحتجاج منهم أن يقال لكل ذي حس: هل نسبة التين من البر كنسبة الجوزة من الجوزة؟ وكنسبة الرمانة من الرمانة؟ وكنسبة الإنسان من الإنسان؟ فإن وجد في العالم أحمق يقول: نعم، لزمه إخراج البلوط والتين عن زكاة البر كيلا بكيل، وهذا ما لا يقوله مسلم، ولزمه أن يقول فيمن حلف لا يأكل برا فأكل تينا: أن يحنث، ولزمه أكثر من هذا كله، وهو الكذب، إن التين بر، وإن قالوا: لا، تركوا قولهم في تشبيه القياس في الشرائع لمعرفتنا بأن ما في هذه الرمانة كهذه. والذي لا نشك فيه فهذا الاحتجاج منهم مبطل لقولهم، ومثبت لقولنا، لأن الرمانة من الرمانة، والجوزة من الجوزة، والإنسان من الإنسان، كالسمن من السمن والفأر من الفأر وكل نوع من نوعه والجوز مخالف للرمان كخلاف السنور من الفأر، وخلاف الزيت للسمن. وهذا هو الذي ينكره ذو عقل وأنه إذا حكم النبي صلى الله عليه وسلم بتحريم البر بالبر متفاضلا لزم ذلك في كل بر، ولم يجب فيما ليس ببر إلا بنص آخر، وإذا أمر بهرق السمن المائع الذي مات فيه الفأر، وجب ذلك في كل سمن مات فيه فأر، ولم يجب ذلك في غير السمن الذي مات فيه الفأر، وهذا هو الذي لا تعرف العقول غيره وبالله تعالى التوفيق. وأما تحريم البلوط قياسا على البر وهرقهم الزيت قياسا على السمن، فهو كمن قال: الذي داخل اللوز كالذي داخل الرمان ولا فرق، فبطل قولهم بالبرهان الضروري. وصح أن القياس إنما هو قياس نوع على نوع آخر وهذا باطل بنفس احتجاجهم وبالله تعالى التوفيق. ويقال لهم: أمعرفتكم بأنكم تموتون، وهو شيء يستوي في الإقرار به كل ذي حس، هو مثل معرفتكم بالشرائع كالصلاة والزكاة والصيام وغير ذلك مما يحرم في البيوع والنكاح وما يحل؟ فإن قالوا: لا، كفونا أنفسهم، وأبطلوا ما استدلوا به ههنا، وإن قالوا: نعم كابروا ولزمهم أن يكونوا مستغنين عن النبي صلى الله عليه وسلم وأنهم كانوا يدرون الشريعة

like what is inside pomegranates: there is no difference. Their position is therefore invalidated by necessary demonstration, and it is established that analogy consists precisely in drawing an analogy between one species and another species. This is invalidated by their own argument, and success comes through Allah Most High. They are to be asked: Is your knowledge that you will die—a matter in acknowledging which everyone possessed of sense—is it like your knowledge of the revealed laws, such as prayer, obligatory almsgiving, fasting, and other matters concerning what is forbidden and permitted in sales and marriage? If they say no, they spare us the trouble of refuting them and invalidate the argument they have advanced here. If they say yes, they obstinately deny the obvious, and it follows from their position that they have no need of the Prophet ﷺ and that they knew the revealed law by their own natures before being taught it. No rational person says this. They should also be asked: Has there ever been a pomegranate rind upon an almond? If they say yes, they join the inmates of the madhouse. If they say no, we ask them: Was wine ever lawful, and was exchanging wheat for wheat in unequal quantities not forbidden in the early days of Islam? Or have that transaction and wine remained lawful ever since Allah created wine and wheat with its evident nature? If they say that wine and exchanging wheat in unequal quantities were not forbidden for a period of Islam, and that this was subsequently forbidden, they acknowledge that this has absolutely nothing to do with what concerns almond shells and pomegranate rinds, coming or going. For natural constitutions have remained in one fixed order ever since Allah Most High created the world. This is known through the primary apprehensions of reason and sense, through which knowledge of realities is attained. Revealed laws, however, have not remained fixed. Ever since He created creation, the Most High has continued to abrogate one revealed law after another, forbidding in this one what He permitted in that one, and dropping in this one what He made obligatory in that one, and making obligatory and permitting in this one what He dropped and forbade in that one, until Allah Most High expressly declared that this religion would never be changed. It is therefore established that anyone who likens natural constitutions, which are known through sense and reason, to revealed laws, which are known only through an explicit text—reason and sense having no

بطبائعهم قبل أن يعلموها، وهذا ما لا يقوله ذو عقل. ويقال لهم هل كان على قشر الرمان قط على لوز: فإن قالوا: نعم، لحقوا بسكان المارستان، وإن قالوا: لا، سألناهم، أكانت الخمر قط حلالا، وكان بيع البر بالبر متفاضلا غير محرم في صدر الإسلام أو لم يزل ذلك والخمر حلالا مذ خلق الله الخمر وللبر بينة الطبع؟ فإن قالوا كانت الخمر وبيع البر متفاضلا غير حرام برهة من الإسلام، ثم حرم ذلك أقروا بأن ذلك ليس من باب ما في قشر اللوز والرمان في ورد ولا صدر، لأن الطبائع قد استقرت مذ خلق الله تعالى العالم على رتبة واحدة، هذا معلوم بأول العقل والحس اللذين يدرك بهما علم الحقائق، وأما الشرائع فغير مستقرة ولم يزل تعالى مذ خلق الخلق ينسخ شريعة بعد شريعة، فيحرم في هذه ما أحل في تلك ويسقط في هذه ما أوجب في تلك ويوجب في هذه ويحل فيها ما أسقط في تلك، وما حرم إلى أن نص الله تعالى أنه لا تبدل هذه الملة أبدا. فصح أن من شبه الطبائع التي تعلم بالحس والعقل بالشرائع التي لا تعلم إلا بالنص، لا مدخل للعقل ولا للحس في تحريم شيء منها، ولا في إيجاب فرض منها إلا بعد ورود النص بذلك، فهو غافل جاهل، ولو احتج بهذا يهودي لا يرى النسخ، لكان هذا الاحتجاج أشبه بقوله، منه بقول أصحاب القياس. وأما الموت فهو حكم كل جسم مركب من العناصر إلى نفس حية فقد رتب الله تعالى في العالم هذا اصطحابهما مدة، ثم افتراقهما، ورجوع كل عنصر إلى عنصره، وليس هذا قياسا يوجب موت أهل الجنة والنار فبطل تمويههم، وبالله تعالى التوفيق. وقالوا: القياس فائدة زائدة على النص. قال أبو محمد: لا فائدة في الزيادة على ما أمر الله تعالى به، ولا في النقص، منه، بل كل ذلك بلية ومهلكة، وتعد لحدود الله تعالى، وظلم وافتراء، وبالله تعالى نعوذ من ذلك، ولا أعظم جرما ممن يقر على نفسه أنه يزيد على النص الذي أذن الله به، ولم يأذن في تعديه. وبالله تعالى نعوذ من الخذلان.

role in prohibiting anything under them or in imposing any obligation under them until an explicit text concerning it has come—is heedless and ignorant. Had a Jew who rejected abrogation advanced this argument, it would have been more consistent with his position than with that of the advocates of analogy. As for death, it is the condition of every body composed of the elements and joined to a living soul. Allah Most High has ordered this within the world: their companionship for a time, then their separation, and the return of each element to its own element. This is no analogy that entails the death of the inhabitants of Paradise and the Fire. Thus their obfuscation is invalidated. Success comes through Allah Most High. They said: 'Analogy provides an additional benefit beyond the explicit text.' Abu Muhammed said: There is no benefit in adding to what Allah Most High has commanded or in subtracting from it. Rather, all of that is an affliction, a cause of destruction, a transgression of the limits set by Allah Most High, wrongdoing, and fabrication. In Allah Most High we seek refuge from that. No one is more grievously culpable than someone who acknowledges of himself that he adds to the explicit text that Allah has authorized, although He has not authorized going beyond it. In Allah Most High we seek refuge from being forsaken.[155][156][157]

L3243–3244 One of them advanced an argument, saying to one of our predecessors

واحتج بعضهم فقال لمن سلف من أصحابنا فقهكم في اتباع الظاهر يشبه فعل الغلام الذي قال له سيده: هات الطست والإبريق، فأتاه بهما؟ ولا ماء في الإبريق، فقال له: وأين الماء؟ لم تأمرني، وإنما أمرتني بطست وإبريق فهاهما، وأنا لا أفعل إلا ما أمرتني. قال أبو محمد: فقال لهم، وبالله تعالى التوفيق: بل فقهكم أنتم يشبه فعل المذكور على الحقيقة إذ قال له سيده، إذا أمرتك بأمر فافعله وما يشبهه، فعلمه سيده القياس حقا على وجهه، وحفظ الغلام ذلك، وقبله قبولا حسنا، فوجد سيده حرارة فقال: سق إلي الطبيب، فإني أجد التياثا، فلم ينشب أن أتاه، بعض إخوانه فزعا، فقال له: يا فلان، من مات لك؟ فقال: ما مات لي أحد، فقال له: فإن الغاسل والمغتسل والنعش وحفار القبور عند الباب، فدعا غلامه فقال له: ما هذا الباب؟ فقال له ألم تأمرني إذا أمرتني بأمر أن أفعله وما يشبهه؟ قال: نعم، قال: فإنك أمرتني بسوق

[155] **Translator's note (L3237):** The statement "This is what a rational person denies" translates the supplied wording الذي ينكره ذو عقل. The argument appears to require "what no rational person denies," but the Arabic contains no negation. The transition beginning "and that" is syntactically awkward in the supplied text; it has been retained rather than silently recast.

[156] **Translator's note (L3240):** The opening word completes the preceding segment's expression meaning 'everyone possessed of sense'; the question continues from that segment. The wording 'هل كان على قشر الرمان قط على لوز' is syntactically irregular, with a repeated 'upon.' The translation conveys its apparent question about a pomegranate rind being found upon an almond, without treating the Arabic as sound. The phrase 'وللبر بينة الطبع' is obscure and appears corrupt. 'Wheat with its evident nature' is a provisional rendering; the precise syntax and intended wording are uncertain.

[157] **Translator's note (L3241):** The expression 'كل جسم مركب من العناصر إلى نفس حية' is syntactically awkward. 'Joined to a living soul' renders the relationship apparently intended by 'إلى نفس حية'; the wording itself is not regular.

among our companions: 'Your jurisprudence in following the apparent meaning resembles the conduct of the servant whose master told him, "Bring the basin and the ewer." He brought them both, but there was no water in the ewer. His master said to him, "Where is the water?" He replied, "You did not command me to bring it. You commanded me only to bring a basin and a ewer, and here they are. I do only what you command me."' Abu Muhammed said: He replied to them—and success comes through Allah Most High—'Rather, your jurisprudence truly resembles the conduct of that very servant, when his master told him, "When I command you to do something, do it and whatever resembles it." His master thus taught him analogy properly, in its true form. The servant remembered this and received it most favorably. His master then felt feverish and said, "Bring the physician to me, for I feel unwell." Before long, one of his friends came to him in alarm and said, "So-and-so, who has died in your household?" He said, "No one in my household has died." His friend said, "But the corpse-washer, the washing place, the bier, and the gravedigger are at the door." He summoned his servant and said to him, "What is this business?" The servant said, "Did you not command me, whenever you commanded me to do something, to do it and whatever resembles it?" He said, "Yes." The servant said, "You commanded me to bring the physician because you were unwell. Nothing resembles illness and bringing in a physician except death, and death requires the presence of the corpse-washer, the bier, and the digger to dig the grave. So I brought all of that, and did what you commanded me and whatever resembles it." We therefore say that this servant has a better excuse for complying with his master's command concerning the empty ewer—for perhaps his master wishes to show it to his companion, sell it, or kiss it for some purpose of his own—than for bringing the gravedigger, corpse-washer, and bier by analogy with illness and the physician. Indeed, the servant had a strong understanding of analogy, for you possess no analogy other than the like of this: you liken one situation to another on the basis of what generally occurs, and then assign the same ruling to both. This is a path leading to false soothsaying, conjectural claims to knowledge of the unseen, and affected cleverness in presuming upon Allah Most High and His Messenger ﷺ concerning what He, Mighty and Majestic, has not authorized. In Allah Most High we seek

الطبيب لالتياثك، وليس يشبه العلة وإحضار الطبيب إلا الموت، والموت يوجب حضور الغاسل والنعش والحفار لحفر القبر، فأحضرت كل ذلك، وفعلت ما أمرتني وما يشبهه. فنحن نقول: إن هذا الغلام أعذر في الائتمار لأمر مولاه في الإبريق الفارغ، إذ لعله يريد أن يعرضه على جليسه أو يبيعه أو يقبله لمذهب له فيه: منه في جلب الحفار والغاسل والنعش، قياسا على العلة والطبيب، ولقد كان الغلام قوي الفهم في القياس، إذ لا قياس بأيديكم إلا مثل هذا. وهو أن تشبهوا حالا بحال في الأغلب، فتحكمون لهما بحكم واحد، وهو باب يؤدي إلى الكهانة الكاذبة، والتخرص في علم الغيب، والتحذلق في الاستدراء على الله تعالى وعلى رسوله صلى الله عليه وسلم فيما لم يأذن به عز وجل وبالله تعالى نعوذ من ذلك. واحتجوا فقالوا أنتم تقولون إذا حكم رسول الله صلى الله عليه وسلم في عين ما فهو حكم واحد في جميع نوع تلك العين التي يقع عليها اسم نوعها. وهذا قياس.

refuge from that. They advanced an argument, saying: ‘You say that when the Messenger of Allah ﷺ gives a ruling concerning a particular individual thing, it is one ruling applying throughout the entire kind to which that thing belongs, wherever the name of its kind applies. This is analogy.’[158][159]

L3245–3246 Abu Muhammed said: This is spurious obfuscation. We have already explained the basis of this issue: he ﷺ was sent to everyone who will be created until the Day of Resurrection, among humankind and jinn, and to rule concerning every kind among the kinds of things in the world according to what his Lord Most High commanded him. There is no way for him ﷺ to address those who have not yet been created beyond issuing a command that binds the whole kind, unless he ﷺ makes an exception, as he made an exception for Abu Burdah ibn Niyar by saying: ‘It suffices for you, but a young animal will not suffice for anyone after you.’[160]

L3247–3249 They said: ‘Why, then, did you not say, concerning what he ﷺ commanded Fatimah bint Hubaysh to do when she experienced nonmenstrual uterine bleeding, that it binds every woman named Fatimah?’ They should be told—and success comes through Allah Most High: He, peace be upon him, did not expressly state that this was the ruling for every woman named Fatimah. Rather, he ﷺ expressly stated that menstrual blood is black and recognizable: ‘When it comes, do such-and-such, and when it departs, do such-and-such.’

قال أبو محمد: هذا تمويه زائف وقد بينا وجه هذه المسألة وهو أنه صلى الله عليه وسلم بعث إلى كل من يخلق إلى يوم القيامة من الإنس والجن، وليحكم كل نوع من أنواع العالم بحكم ما أمره به ربه تعالى ولا سبيل إلى أن يخاطب صلى الله عليه وسلم من لم يخلق بعد بأكثر من أن يأمر بالأمر فيلزم النوع كله إلا أن يخص صلى الله عليه وسلم كما خص أبا بردة بن نيار بقوله يجزيك ولا تجزىء جذعة عن أحد بعدك

قالوا فهلا قلتم في أمره صلى الله عليه وسلم فاطمة بنت حبيش بما أمرها به إذا استحيضت إنه لازم لكل امرأة تسمى فاطمة؟. فيقال لهم وبالله تعالى التوفيق: لم ينص عليه السلام على أن ذلك حكم كل امرأة تسمى فاطمة وإنما نص صلى الله عليه وسلم على أن دم الحيض أسود يعرف فإذا أقبل فافعلي كذا وإذا أدبر فافعلي كذا فنص صلى الله عليه وسلم على صفة الحيض والطهر والاستحاضة وعلى حكم كل ذلك متى ظهر، فوجب التزام ذلك متى وجد الحيض أو الطهر أو الاستحاضة. ثم ينعكس هذا السؤال عليهم بعد أن أريناه أنه حجة لنا فنقول لهم، وبالله تعالى التوفيق: أنتم، أهل القياس وتفتيش العلل في الديانة، وتعدي القضايا عما نص الله تعالى ورسوله صلى الله عليه وسلم إلى ما لم ينصا عليه وأنتم أهل الكهانة والاستدراك في الديانة ما لم يذكر الله تعالى ولا رسوله صلى الله عليه وسلم فاستعملوا مذهبكم في هذا الحديث فقد قال عليه السلام في دم الاستحاضة عندكم: إنما هو عرق وبين أن دم الحيض أسود يعرف، فكما قستم الحمرة والصفرة والكدرة على الدم الأسود فجعلتموه كله حيضا، فكذلك قيسوا

[158] **Translator’s note (L3243):** The Arabic moves directly from the master’s question about the water to the servant’s answer without an explicit introductory ‘he replied’; the translation supplies that attribution to make the dialogue intelligible.

[159] **Translator’s note (L3244):** ‘المغتسل’ ordinarily denotes a place for washing; here it apparently refers to the place or apparatus for washing a corpse, although it is oddly listed among things brought to the door. ‘ما هذا الباب’ literally reads ‘What is this matter/category?’ In context it is rendered ‘What is this business?’; the immediately preceding reference to the door may also be relevant. The unvocalized ‘يقبله’ can mean ‘kiss it’ or ‘accept it.’ ‘Kiss it’ is retained as a possible literal reading in this deliberately unusual example; the intended action is uncertain. ‘الاستدراء على الله’ is an unusual expression whose precise force here is uncertain and may reflect a corrupt reading. ‘Presuming upon Allah’ provisionally conveys the polemical sense of the passage.

[160] **Translator’s note (L3246):** ‘جذعة’ denotes a young animal at a particular stage of maturity, with the precise age depending on its species. The supplied quotation does not specify the species; the translation therefore retains the general wording.

He ﷺ thus expressly specified the characteristics of menstruation, the state of purity, and nonmenstrual uterine bleeding, and the ruling for each of these whenever it appears. It is therefore obligatory to adhere to that whenever menstruation, the state of purity, or nonmenstrual uterine bleeding occurs. This question is then turned back upon them, after we have shown that it is an argument in our favor. We say to them—and success comes through Allah Most High: You are the practitioners of analogy, of searching out effective causes in religion, and of extending rulings beyond what Allah Most High and His Messenger ﷺ expressly stated to what neither expressly stated. You are the practitioners of soothsaying and of supplementing religion with what neither Allah Most High nor His Messenger ﷺ mentioned. Apply your doctrine to this report. For according to your account, he, peace be upon him, said concerning nonmenstrual uterine bleeding, 'It is only a vein,' and explained that menstrual blood is black and recognizable. Thus, just as you have drawn an analogy between red, yellow, and turbid discharge and black blood, and classified it all as menstruation, likewise draw an analogy between every vein from which blood flows in a woman, whether through a nosebleed or a wound, and the vein of nonmenstrual uterine bleeding, and then assign her the ruling applicable to nonmenstrual uterine bleeding. Otherwise, you are contradicting yourselves and abandoning analogy. No person possessed of good judgment can doubt—if analogy is valid—that drawing an analogy between one bleeding vein and another bleeding vein is more closely fitting and more appropriate than drawing an analogy between watermelons or chestnuts and wheat and dates. Indeed, some of them have done this, namely the Hanafis. They have ruled that ritual ablution is invalidated by every bleeding vein, by analogy, according to them, with the vein of a woman experiencing nonmenstrual uterine bleeding. They must therefore require a full ritual bath on account of that, just as the explicit text requires it of the woman experiencing nonmenstrual uterine bleeding. This is something from which they have no escape. Success comes through Allah Most High. They said: 'We know that the bodies of the people of China are like our bodies only by drawing an analogy from what is observed to what is unobserved.' Abu Muhammed said: This is more of the same madness. We have just explained that our knowledge of this is necessary, primary knowledge, apprehended

كل عرق يسيل من المرأة من رعاف أو جرح على عرق الاستحاضة، وأحكموا لها حينئذ بحكم الاستحاضة وإلا كنتم متناقضين وتاركين للقياس. ولا شك عند كل ذي حسن إن كان القياس حقا إن قياس عرق يدمي عن عرق يدمي أشبه وأولى من قياس الدلاع أو الشاهبلوط على البر والتمر، على أن بعضهم قد فعل ذلك وهم الحنفيون، وأوجبوا أن الوضوء ينتقض بكل عرق دمي، قياسا على عرق المستحاضة عندهم، فيلزمهم أن يوجبوا من ذلك الغسل، كما جاء النص على المستحاضة، وهذا ما لا انفكاك لهم منه، وبالله تعالى التوفيق. وقالوا: لم نعلم أن أجسام أهل الصين كأجسامنا إلا قياسا منا بالشاهد على الغائب. قال أبو محمد: وهذا من الجنون المكرر. وقد بينا آنفا أن علمنا بهذا علم ضروري أولي، يعرف ببديهة العقل، ولم يكن المميز قط من الناس إلا وهو عالم بطبعه أن كل من مضى أو يأتي أو غاب عنه من الناس فعلى هيئتنا بلا شك ولا يتشكل في عقل أحد سوى هذا.

through the immediate intuition of reason. There has never been a human being capable of discernment who did not know by nature that all people who have passed away, who will come into being, or who are absent from him are, without doubt, of the same bodily form as we are. Nothing else takes shape in anyone's mind.[161]

L3250–3259 Every rational person necessarily knows that our knowledge that a woman divorced three times is not lawful for the man who divorced her until after a marriage in which her husband has intercourse with her is different from our knowledge that the people of China have the same bodily forms as we do. Indeed, were it not for the revealed text, she could have become lawful for him after a thousand divorces without another husband. The same applies to the well and everything else concerning which revealed texts have come, for these particular things existed for thousands of years without any such prohibition or obligation applying to them. Bodies, however, have never been devoid of motion or rest, nor have human bodies ever had a shape different from the shape they have. Anyone who likens revealed laws to natural constitutions is mad, or in a condition worse than madness because a madman has more excuse than someone who follows the path of madmen while possessing discernment. If they dealt fairly with themselves, they would know that what they have said is an argument against them. Our knowledge that the bodies of people in China, and of those who will come until the Day of Resurrection, have the same form as our bodies is like our knowledge, after the revealed text has come, that all wheat in China and India, and all wheat that Allah Most High brings into existence until the Day of Resurrection, is forbidden to be sold for other wheat in unequal quantities. As for them, since they transfer the aforementioned ruling concerning wheat to figs and rice, they must also transfer the judgment concerning human bodies to the bodies of mules, and say that the mules of China have the form of human bodies. For the relation of rice to wheat is like the relation of mules

[161] **Translator's note (L3248):** 'كل ذي حسن' literally reads 'everyone possessed of goodness/beauty,' which is awkward here. 'Good judgment' is a contextual rendering; the reading may be corrupt. 'عن عرق يدمي' uses an unusual preposition for the comparison. The translation conveys the apparent comparison of one bleeding vein with another.

وبالضرورة يعلم كل ذي عقل أن علمنا أن المطلقة ثلاثا لا تحل لمطلقها إلا بعد زواج يطؤها، ليس من علمنا بأن أهل الصين من الناس هم على هيئاتنا، بل كان جائزا أن تحل له بعد ألف طلقة دون زوج ولولا النص. وهكذا القول في البئر وسائر ما وردت به النصوص، لأنه قد كانت هذه الأعيان موجودة آلافا من السنين ليس فيها شيء من هذا التحريم، ولا هذا الإيجاب ولم تكن الأجسام قط خالية من حركة أو سكون، ولا كانت أجسام الناس على خلاف هذا الشكل الذي هم عليه والمشبه للشرائع بالطبائع مجنون أو في أسوأ حالا من الجنون لأن من سلك سبيل المجانين وهو مميز فالمجنون أعذر منه. ولو أنصفوا أنفسهم لعلموا أن الذي قالوا حجة عليهم، لأن علمنا بأن أجسام الناس في الصين، وفيما يأتي إلى يوم القيامة، على هيئة أجسامنا هو كعلمنا بعد ورود النص، بأن كل بر في الصين والهند وكل بر يحدثه الله تعالى إلى يوم القيامة فحرام بيع بعضه ببعض متفاضلا. وأما هم فإنه يلزمهم، إذ نقلوا حكم البر المذكور إلى التين والأرز، أن ينقلوا حكم أجسام الناس إلى أجسام البغال، فيقولوا: إن بغال الصين على هيئة أجسام الناس، لأن نسبة الأرز إلى البر، كنسبة البغال إلى الناس ولا فرق وكل ذلك أنواع مختلفة. ويلزمهم أيضا، إذا قاسوا الغائب على غير نوعه من الشاهد أن يقولوا: إن الملائكة والحور العين لحم ودم، قياسا على الناس، وأنهم يمرضون ويفيقون ويموتون، وأن فيهم حاكة وملاحين وفلاحين وحجامين وكرباسيين، قياسا على الشاهد، وإلا فقد نقضوا وبطلوا قياسهم للغائب على الشاهد. والحق من هذا أن لا غائب عن العقل من قسمة العالم التي تدرك بالعقل، ولا غائب عن السمع من الشريعة وبالله

to humans, with no difference: all these are different species. Likewise, if they draw an analogy between the unobserved and something observed that belongs to a different species, they must say that angels and wide-eyed maidens are flesh and blood, by analogy with humans; that they fall ill, recover, and die; and that among them are weavers, sailors, farmers, cuppers, and cotton-cloth workers, by analogy with what is observed. Otherwise, they have contradicted and invalidated their analogy of the unobserved with the observed. The truth in this matter is that nothing in the division of the world apprehended by reason is absent from reason, and nothing in revealed law is absent from transmitted revelation. In Allah Most High we seek protection. All this is established, present, and known, and praise belongs to Allah, Lord of the worlds. They said: "Every two similar things must receive a single judgment in respect of their similarity." Abu Muhammed said: This is an arbitrary assertion without evidence, and a fabricated claim whose formulation is unsound. The truth here is that when two things resemble one another in some attribute, both are equal in that attribute, with the same equality; neither has a greater claim to that attribute than the other nor is one the original case and the other a derivative case; nor is either referred back to the other; nor does either have a greater claim to be treated by analogy with the other than the other has to be treated by analogy just as Zayd has no greater claim to humanity than Amr, and Khalid's donkey has no greater claim to donkeyhood than Muhammed's donkey. Neither the black crow nor the sackcloth has a greater claim to blackness than the other. This is one and the same matter throughout everything in the world. The same applies to revealed laws: the wheat of Baghdad has no greater claim than the wheat of al-Andalus to the prohibition against selling some of it for other wheat in unequal quantities; nor does the clarified butter of Medina, if a mouse dies in it while it is liquid, have a greater claim to being poured away than the clarified butter of Egypt. This is what admits of no doubt. As for their wish to smuggle falsehood and what is unlawful into the body of what is obligatory, with the help of Allah Most High they can get this past only an ignorant person taken in by them, whom they have ruined because he thought well of them. They wish to take something that is equal to another species in some of its attributes and assimilate it to that species in a respect in which

تعالى نعتصم وكل ذلك ثابت حاضر معلوم والحمد لله رب العالمين. وقالوا: إن كل مشتبهين فوجب أن يحكم لهما بحكم واحد من حيث اشتبها. قال أبو محمد: وهذا تحكم بلا دليل ودعوى موضوعة وضعها غير مستقيم والحقيقة في هذا أن الشيئين إذا اشتبها في صفة ما، فهما جميعا فيها مستويان استواء واحدا، ليس أحدهما أولى بتلك الصفة من الآخر، ولا أحدهما أصل والثاني فرع، ولا أحدهما مردود إلى الآخر، ولا أحدهما أولى بأن يكون قياسا على الآخر، من أن يكون الآخر قياسا كزيد ليس أولى بالآدمية من عمرو، ولا حمار خالد أولى بالحمارية من حمار محمد، والغراب الأسود والسح ليس أحدهما أولى بالسواد من الآخر، وهذا كله باب واحد في جميع ما في العالم. وكذلك الشرائع ليس بر بغداد بأولى بالتحريم في بيع بعضه ببعض متفاضلا من بر الأندلس، ولا سمن المدينة إذا مات فيه الفأر وهو مائع بأولى أن يهراق من سمن مصر، فهذا هو الذي لا شك فيه. وأما ما يريدون من دس الباطل وما لا يحل جملة الواجب فلا يجوز لهم بعون الله تعالى إلا على جاهل مغتر بهم، أهلكوه إذ أحسن الظن بهم، وذلك أنهم يريدون أن يأتوا إلى ما ساوى نوعا آخر في بعض صفاته فيلحقونه به فيما لم يستو معه، وهذا هو الباطل المحض الذي لا يجوز البتة. أول ذلك، أنه تحكم بلا دليل وما كان هكذا فقط سقط وقد صح عن رسول الله صلى الله عليه وسلم لعن المؤمن كقتله وكل مسلم يعلم أنه لا تشابه أقوى من تشابه أخبر به صلى الله عليه وسلم فإذا لا شك في هذا وصح يقينا أن لعن المؤمن كقتله وأجمعت الأمة، بلا خلاف، أن لعن المؤمن لا يبيح دم اللاعن كما يبيح القتل دم القاتل، ولا يوجب دية كما يوجب القتل دية فبطل قول من قال إن الاشتباه بين الشيئين يوجب لهما في الشريعة حكما واحدا فيما لم على اشتباههما فيه. وبعد، فإن البرهان يبطل قولهم من نفس هذه المقدمة التي رتبوا وذلك أنه ليس في العالم شيئان أصلا، بوجه من الوجوه، إلا وهما مشتبهان من بعض الوجوه، وفي بعض الصفات، وفي بعض الحدود لا بد من ذلك،

it is not equal to it. This is sheer falsehood, entirely inadmissible. The first objection is that it is an arbitrary assertion without evidence, and whatever is of this character thereby falls. It has been authentically reported from the Messenger of Allah ﷺ: "Cursing a believer is like killing him." Every Muslim knows that no resemblance is stronger than a resemblance reported by him ﷺ. Since there is no doubt about this, and it is established with certainty that cursing a believer is like killing him, yet the community has unanimously agreed, without disagreement, that cursing a believer does not render the curser's blood lawful as killing renders the killer's blood lawful, nor does it entail blood money as killing entails blood money, the assertion of anyone who says that resemblance between two things requires a single ruling for them in revealed law in a respect in which their resemblance has not been established is invalid. Furthermore, demonstration invalidates their assertion on the basis of the very premise they have formulated, namely that there are absolutely no two things in the world, in any manner whatsoever, that do not resemble one another in some respects, in some attributes, and in some definitions. This is unavoidable, because they are two things brought into existence, or composites, or two bodies, or two accidents. Resemblance then becomes more abundant according to the extent to which the two things fall equally under a higher genus, then under one species after another, until you reach the lowest species, immediately above individuals, as when we say humans, jinn, horses, wheat, dates, and things like that. Thus, on this corrupt premise they have advanced, if any particular thing in the world is forbidden, it must follow that everything in the world, from beginning to end, is forbidden by analogy with it, because it necessarily resembles it in some respects. If they persist in this, they become resentful and fall into unbelief; if they reject it, they abandon their corrupt doctrine of drawing an analogy, in matters of legal ruling, between species concerning which no explicit text has been given and those concerning which an explicit text has been given Then we impose another necessary consequence upon them: we also find another thing that is lawful, so everything in the world must be lawful by analogy with it, because it too resembles it in some respects. If they say this, they act foolishly and depart from Islam; if they reject it, they abandon their corrupt doctrine of drawing an analogy, in matters of legal

لأنهما في محدثان أو مؤلفات، أو جسمان أو عرضان، ثم يكثر وجود التشابه على قدر استواء الشيئين تحت جنس أعلى، ثم تحت نوع فنوع، إلى أن تبلغ نوع الأنواع الذي يلي الأشخاص، كقولنا: الناس، أو الجن، أو الخيل، أو البر، أو التمر، وما أشبه ذلك، فواجب على هذه المقدمة الفاسدة التي قدموا، إذا كانت عين ما مما في العالم حراما، إما أن يكون ما في العالم أوله عن آخره حراما، قياسا عليه، لأنه يشبهه ولا بد في بعض الوجوه، إن تمادوا على هذا سخطوا وكفروا، وإن أبوا منه تركوا مذهبهم الفاسد في قياس الحكم فيما لم ينص عليه من الأنواع على ما نص عليه منها ثم نلزمهم إلزاما آخر وهو أننا نجد أيضا شيئا آخر حلالا فيلزم أن يكون كل ما في العالم حلالا، قياسا على هذا، لأنه أيضا يشبهه من بعض الوجوه، وهذا إن قالوه، حمقوا وخرجوا عن الإسلام، وإن أبوا منه، تركوا مذهبهم الفاسد، في قياس الحكم فيما لم ينص عليه من الأنواع على ما نص عليه منها. ثم تجمع عليهم هذين الإلزامين معا، فيلزمهم أن يجعلوا الأشياء كلها حراما حلالا معا، قياسا على ما حرم وما حلل، وهذا تخليط، ولا شك في فساد كل قول أدى إلى مثل هذا السخف، فإذ لا شك في بطلان هذا الهذيان، فالواجب ضرورة أن يحكم بالتحريم فيما جاء فيه النص بالتحريم، وأن يحكم بالتحليل فيما جاء فيه النص بالتحليل، وأن يحكم بالإيجاب فيما جاء فيه النص بالإيجاب ولا يتعدى حدود الله تعالى، فلم يبق لهم إلا أن يقولوا: إن النص لا تستوعب كل شيء. قال أبو محمد: وهذا قول يؤول إلى الكفر، لأنه قول بأن الله تعالى لم يكمل لنا ديننا، وأنه أهم أشياء من الشريعة، تعالى الله عن هذا، والله تعالى أصدق منهم حيث يقول {وما من دآبة في لأرض ولا طائر يطير بجناحيه إلا أمم أمثالكم ما فرطنا في لكتاب من شيء ثم إلى ربهم يحشرون} و {حرمت عليكم لميتة ولدم ولحم لخنزير ومآ أهل لغير لله به ولمنخنقة ولموقوذة ولمتردية ولنطيحة ومآ أكل لسبع إلا ما ذكيتم وما ذبح على لنصب وأن تستقسموا بلأزلام ذلكم فسق ليوم يئس لذين كفروا من دينكم فلا

ruling, between species concerning which no explicit text has been given and those concerning which an explicit text has been given. Then both these necessary consequences are brought together against them, requiring them to make all things simultaneously forbidden and lawful, by analogy with what has been forbidden and what has been made lawful. This is confusion, and there is no doubt about the unsoundness of any assertion leading to such absurdity. Since there is no doubt about the invalidity of this delirious talk, it is necessarily obligatory to rule that something is forbidden when a text has come declaring it forbidden, to rule that something is lawful when a text has come declaring it lawful, and to rule that something is obligatory when a text has come declaring it obligatory, without transgressing the limits of Allah Most High. Nothing remains for them except to say: "The revealed text does not encompass everything." Abu Muhammed said: This is an assertion that leads to unbelief, because it amounts to saying that Allah Most High has not perfected our religion for us and that He has neglected things belonging to revealed law. Exalted is Allah above this! And Allah Most High is more truthful than they are when He says: {There is no creature on the earth, nor bird flying with its two wings, but they are communities like you. We have neglected nothing in the Book. Then to their Lord they will be gathered}, and: {Forbidden to you are carrion, blood, the flesh of swine, that over which a name other than Allah's has been invoked, the strangled animal, the animal beaten to death, the animal killed by a fall, the animal killed by goring, and what a beast of prey has eaten, except what you slaughter, and what has been slaughtered upon sacrificial stones; and that you seek allotments by divining arrows. That is transgression. Today those who disbelieve have despaired of your religion, so do not fear them, but fear Me. Today I have perfected your religion for you, completed My favor upon you, and approved Islam as your religion. But whoever is compelled by severe hunger, without inclining toward sin—then Allah is forgiving, merciful}, and: {With clear proofs and scriptures; and We have sent down to you the Reminder, so that you may explain to people what has been sent down to them, and so that they may reflect}. Thus their advocacy of analogy is invalid, and praise belongs to Allah, Lord of the worlds. We know of none on earth, apart from the sophists, who invalidate the judgments of reason more severely than the advocates of anal-

تخشوهم وخشون ليوم أكملت لكم دينكم وأتممت عليكم نعمتي ورضيت لكم لأسلام دينا فمن ضطر في مخمصة غير متجانف لإثم فإن لله غفور رحيم} و {بلبينات ولزبر وأنزلنا إليك لذكر لتبين للناس ما نزل إليهم ولعلهم يتفكرون} فبطل قولهم بالقياس، والحمد لله رب العالمين. وما نعلم في الأرض، بدع السوفسطائية، أشد إبطالا لأحكام العقول من أصحاب القياس، فإنهم يدعون على العقل ما لا يعرفه العقل، من أن الشيء إذا حرم في الشريعة وجب أن يحرم من أجله شيء آخر ليس من نوعه ولا نص الله تعالى ولا رسوله صلى الله عليه وسلم على تحريمه وهذا ما لا يعرفه العقل ولا أوجب العقل قط تحريم شيء ولا إيجابه، إلا بعد ورود النص، ولا خلاف في شيء من العقول، أنه لا فرق بين الكبش والخنزير. ولولا أن الله حرم هذا وأحل هذا، فهم يبطلون حجج العقول جهارا، ويضادون حكم العقل صراحا، ثم لا يستحبون أن يصفوا بذلك خصومهم، فهم كما قال الشاعر: ويأخذ عيب الناس من عيب نفسه مراد لعمري ما أراد قريب

ogy. For they attribute to reason something that reason does not recognize: that when something is forbidden in revealed law, another thing that does not belong to its species must be forbidden on its account, although neither Allah Most High nor His Messenger ﷺ has explicitly declared it forbidden. This is something reason does not recognize. Reason has never required that anything be forbidden or obligatory except after a revealed text has come. There is no disagreement among rational minds that there is no difference between a ram and a pig, were it not that Allah has forbidden the one and permitted the other. Thus they openly invalidate the proofs of reason and expressly oppose reason's judgment; then they do not like to describe their opponents in those terms. They are as the poet said: "He takes people's

fault from the fault within himself; an aim—by my life, what he aimed at is near."[162][163][164][165][166][167][168][169][170]

L3260 Furthermore, they are to be asked: If you say that whenever two things

وأيضا: فإنه يقال لهم: إذا قلتم: إن كل شيئين اشتبها في صفة ما، فإنه يجب التسوية بين أحكامهما في الإيجاب والتحليل وبالتحريم في الدين، فما الفرق بينكم وبين عكس من عليكم هذا القول بعينه، فقال: بل كل شيئين في العالم إذا افترقا في صفة ما، فإنه يجب أن يفرق أحكامهما في الإيجاب والتحليل والتحريم في الدين؟. فأجاب بعضهم بأن قال: هذا لا يجب دون أن يأتي بفرق. فقال أبو محمد: وهذا تحكم عاجز عن الفرق، ويقال له: بل قولك هو الذي لا يجب، فما الفرق؟.

[162]**Translator's note (L3250):** The reference to "the well" is retained as supplied; its particular legal context is not established within these segments. The Arabic has a grammatical irregularity in the final comparison, but its intended sense is clear.

[163]**Translator's note (L3251):** "Cotton-cloth workers" renders a term that may refer more specifically to makers or sellers of cotton cloth. "Transmitted revelation" renders the technical term for knowledge received through authoritative transmission, contrasted here with reason.

[164]**Translator's note (L3254):** "Sackcloth" is a tentative rendering of the unusual word supplied after "the black crow"; the precise referent is uncertain. The wording rendered "into the body of what is obligatory" is syntactically awkward and may be corrupt. The clause rendered "in a respect in which their resemblance has not been established" is defective in the supplied Arabic, which lacks a verb after its negation. The translation gives the apparent intended argument while recording the defect.

[165]**Translator's note (L3255):** The enumeration beginning "because they are" contains a stray preposition and inconsistent grammatical forms in the supplied Arabic. "Lowest species" renders the logical term literally meaning "species of species," here expressly distinguished from individual instances.

[166]**Translator's note (L3256):** The Arabic introduces the consequence with an unmatched "either"; the translation preserves the stated consequence without inventing an alternative. "Become resentful" follows the supplied verb. The reading is unexpected in this argument and may be a corruption, possibly of a word meaning "behave foolishly."

[167]**Translator's note (L3257):** "Neglected" expresses the apparent intended sense, but the supplied verb reads as a form ordinarily meaning "concerned" or "caused concern," rather than the expected verb "neglected." The text appears corrupt here.

[168]**Translator's note (L3258):** The Qur'anic quotations correspond to 6:38, 5:3, and 16:44. The supplied transcription repeatedly omits the initial alif in definite articles and certain other words; the translation reflects the recognizable wording. "Apart from the sophists" follows the apparent intended sense, but the supplied word at that point is defective and appears to be a corruption of "after."

[169]**Translator's note (L3259):** "They do not like to describe" follows the supplied verb literally. The context appears to call for "they are not ashamed to describe," but that would require a different reading. The second half of the poetic quotation is obscure and may be corrupt. "An aim" tentatively treats its opening word as a common noun; it could instead be the proper name Murad. The awkwardness has been retained.

[170]**Qur'an references (L3250):** Qur'an 6:38 (Al-An'am); Qur'an 5:3 (Al-Ma'idah); Qur'an 16:44 (An-Nahl); Qur'an 37:182 (As-Saffat).

resemble one another in some attribute, their rulings concerning obligation, permission, and prohibition in religion must be made equal, what distinguishes you from someone who turns this very assertion against you and says: Rather, whenever two things in the world differ in some attribute, their rulings concerning obligation, permission, and prohibition in religion must be differentiated? Some of them answered by saying, "This does not necessarily follow," without adducing any distinction. Abu Muhammed said: This is an arbitrary assertion by someone incapable of drawing a distinction. He is to be told: Rather, it is your assertion that does not necessarily follow. What, then, is the distinction?

L3261–3266 Some of them said: "This is analogy on your part, for you seek to invalidate analogy by analogy. You are therefore like those who seek to invalidate the evidence of reason by the evidence of reason." Abu Muhammed said: They are to be told—and success comes through Allah Most High—we have not used this argument against you because we consider it, or analogy, sound. Rather, we have shown you that your advocacy of analogy is demolished by analogy and that its parts invalidate one another. Nothing in the world is more unsound than a position whose parts invalidate one another. Since you acknowledge the validity of analogy, we hold you to what you have committed yourselves to and establish our case against you through it, because you consider it sound and accept its testimony as true. It pronounces your position unsound and your doctrines contradictory, whether you acknowledge this or deny it. As for us, we have never considered it sound or advocated it. It therefore binds you and does not bind us. Each person is bound only by what he has committed himself to; it does not bind his opponent. Thus, reports transmitted by individual narrators through uninterrupted chains of trustworthy transmitters are binding upon us, so that they may be adduced against us in debate, whereas we do not bind those who reject them. If someone debates us on their basis, we do not prevent him from holding us to what they entail for us. This is precisely how we proceed with you concerning analogy. As for your likening us in this respect to someone who resorts to the evidence of reason to invalidate the evidence of reason, that comparison is unsound. Someone arguing against us to in-

وقال بعضهم: هذا قياس منكم، فإنكم ترومون إبطال القياس بالقياس، فأنتم كالذين يرومون إبطال حجة العقل بحجة العقل. قال أبو محمد: فيقال لهم، وبالله تعالى التوفيق، لم نحتج عليكم بهذا تصويبا منا له ولا للقياس، لكن أرينا كم أن قولكم بالقياس ينهدم بالقياس، ويبطل بعضه بعضا وليس في العالم أفسد من قول من يفسد بعضه بعضا، فأنتم إذا أقررتم بصحة القياس فنحن نلزمكم ما التزمتم به ونحجكم به، لأنكم مصوبون له، مصدقون لشهادته، وهو قولكم بالفساد وعلى مذاهبكم بالتناقض، أقررتم به أو أنكرتموه، وأما نحن فلم نصوبه قط، ولا قلنا به، فهو يلزمكم ولا يلزمنا، وكل أحد فإنما يلزمه ما التزم، ولا يلزم خصمه، كما أن أخبار الآحاد المتصلة بنقل الثقات لازم لنا للاحتجاج بها علينا في المناظرة، ولا نلزم من أنكرها، فمن ناظرنا بها لم ندفعه عما يلزمنا بها، وهذا هو فعلنا بكم في القياس. وأما تشبيهكم إيانا في ذلك بمن جنح في إبطال حجة العقل بحجة العقل، فتشبيه فاسد، لأن المحتج علينا في إبطال حجة العقل لا يخلو من أحد وجهين: إما أن يصوب ما يحتج به ويحققه فقد تناقض، أو يبطل ما يأتي به فقد كفانا مؤنته، ولسنا نحن كذلك في احتجاجنا عليكم بالقياس، لكنا نقول لكم: إن كان القياس حقا عندكم فإنه يلزمكم منه كذا وكذا، وليس يقول لنا المبطلون لحجج العقول هكذا، لكنهم محققون لما يحتجون به، فيتناقضون إذا حققوا ما أبطلوا، كما تناقضتم

validate the evidence of reason must be in one of two positions: either he considers the argument he adduces sound and affirms its truth, in which case he has contradicted himself, or he declares what he adduces invalid, in which case he has spared us the trouble of dealing with him. Our use of analogy in arguing against you is not like that. Rather, we say to you: If analogy is true in your view, such-and-such consequences necessarily follow from it for you. Those who invalidate the proofs of reason do not address us in this fashion. Rather, they affirm the truth of the arguments they adduce, and thus contradict themselves when they affirm what they have invalidated, just as you have contradicted yourselves by invalidating what you have affirmed among the results of analogy. Your method is therefore their method. We say: You have committed yourselves to the judgment of this analogy with which we counter you, while in our view it is invalid, exactly as your own position is. If you accept it, it invalidates your position; and if you reject it, the same holds, because you then acknowledge the invalidation of what you have already considered sound. And there is no unsoundness greater than the unsoundness of a position that leads to accepting falsehood. The case of someone who invalidates the judgments of reason is different, because nothing whatsoever can be established as valid except through reason, through the senses together with reason, or through what is derived from these. If someone invalidates the evidence of reason and then debates the matter using the evidence of reason, then, if he accepts its validity, he has returned to the truth and joined us; and if he invalidates it, discussion with him falls away, because he acknowledges that he speaks without reason. Analogy is not like this, by your own admission. It suffices here that anyone who seeks to invalidate the evidence of reason by an argument seeks something he will never find. The evidence of reason never invalidates the evidence of reason at all; rather, it establishes and confirms it. Likewise, anyone who seeks to invalidate a report transmitted by an individual narrator by means of another such report will never find an authentic report that invalidates reports transmitted by individual narrators. So it is with everything valid: nothing valid will ever be found to contradict it. This is known necessarily. Were it otherwise, truth would invalidate truth, and this is inherently impossible. Analogy is not like this, because it is plainly invalidated by analogy, with the

أنتم في إبطالكم ما حققتموه من نتائج القياس، فطريقكم هي طريقهم. ونحن نقول: إن هذا الذي نعارضكم به من القياس أنتم التزمتم حكمه، وهو عندنا باطل، كقولكم سواء بسواء، فإن التزمتموه أفسد قولكم، وإن أبيتموه فكذلك لأنكم تقرون حينئذ بإبطال ما قد صوبتموه، ولا فساد أشد من فساد قول أدى إلى التزام الباطل، وليس من يبطل قضايا العقل كذلك، لأنه لا يصح شيء أصلا إلا بالعقل أو بالحواس مع العقل، أو ما أنتج من ذلك، فمن أبطل حجة العقل ثم ناظر في ذلك بحجة العقل، فإن صححها رجع إلى الحق ودخل معنا، وإن أبطلها سقط القول معه، لأنه يقر أنه يتكلم بلا عقل، وليس القياس هكذا بإقراركم. ويكفي من هذا: أن من رام إبطال حجة العقل بحجة فقد رام ما لا يجده أبدا، وحجة العقل لا تبطل حجة العقل أصلا، بل توجبها وتصححها، وكذلك من رام إبطال خبر الواحد بخبر الواحد، فإنه لا يجد أبدا خبرا صحيحا يبطل خبر الواحد. وهكذا كل شيء صحيح، فإنه لا يوجد شيء صحيح يعارضه أبدا، هذا يعلم ضرورة، ولو كان ذلك لكان الحق يبطل الحق، وهذا محال في البنية، وليس كذلك القياس لأنه يبطل بالقياس جهارا وبأسهل عمل، فصح أنه باطل، وهكذا كل باطل في العالم فإنه يبطل بعضه بعضا بلا شك. وقال بعضهم: من الدليل على أن حكم المماثلين حكم واحد أن الله عز وجل قد تحدى العرب بأن يأتوا بمثل هذا القرآن وأعلم أنهم لو أتوا بمثله لكان باطلا، لأن مثل الباطل لا يكون إلا باطلا، ومثل الحق لا يكون إلا حقا. قال أبو محمد: هذا قول صحيح، وهو حجة عليهم، لأن المشبه للباطل في أنه باطل هو بلا شك باطل، وبهذا أبطلنا القياس بالقياس، ورأينا أنه كله باطل، وليس ما أشبه الباطل في أنه مخلوق مثله، وأنه كلام مثله، يكون باطلا بل هذا حكم يؤدي إلى الكفر، لأن الكفر كلام، والكذب كلام، والقرآن كلام، والحق كلام. وليس ذلك بموجب اشتباه كل ذلك في غير ما اشتبه فيه يرومون. وأيضا فهذا من ذلك التمويه الذي إذا كشف عاد مبطلا لقولهم بعون الله

greatest ease. It is therefore established that it is invalid. So it is with every falsehood in the world: its parts undoubtedly invalidate one another. Some of them said: "Among the proofs that two equivalent things have one and the same ruling is that Allah, Mighty and Majestic, challenged the Arabs to produce something like this Quran and made known that, had they produced its like, it would have been false; for the like of falsehood can only be falsehood, and the like of truth can only be truth." Abu Muhammed said: This is a correct statement, and it is an argument against them, because what resembles falsehood in being false is undoubtedly false. By this we invalidated analogy through analogy and found that it is all invalid. Something that resembles a falsehood in being created like it, or in being speech like it, is not thereby false. Rather, such a judgment leads to unbelief, because unbelief is speech, lying is speech, the Quran is speech, and truth is speech. This does not entail that all these resemble one another in anything beyond the respect in which they resemble one another, as they seek to establish. Furthermore, this is another instance of that obfuscation which, when exposed, turns out to invalidate their position, with the help of Allah, Mighty and Majestic. For we have never denied that things to which, together with others, a name applies that encompasses those individual entities are all entitled to that name. Indeed, we are the proponents of this position. We say that any speech used outside the places in which Allah Most High has placed it in the revealed laws, or outside the places in which the speakers of languages have placed it for mutual understanding, is falsehood, a displacement of words from their proper places, and an alteration of them. This is forbidden by the explicit

عز وجل، وذلك أننا لم ننكر قط أن ما وقع عليه مع غيره اسم يجمع تلك الأشخاص، فإنها كلها مستحقة لذلك الاسم، بل نحن أهل هذا القول. ونقول: إن كل ما يوضع من الكلام في غير مواضعه التي وضعها الله تعالى فيها في الشرائع أو في غير المواضع التي وضعه فيها أهل اللغات للتفاهم فهو باطل وتحريف للكلم عن مواضعه، وتبديل له، وهذا محرم بالنص وتدليس بضرورة العقل، وكل ما كان من الكلام موضوعا في مواضعه التي ذكرنا فهو حق.

text, and reason necessarily recognizes it as deception. Any speech placed in the proper places we have mentioned is true.[171][172]

L3267–3269 Since there is no doubt about this, we have not judged anything false to be false because of its resemblance to another falsehood. Rather, neither of two falsehoods has any greater claim to be false than all other falsehoods: all falsehoods are equal in falling under falsehood. Nor does either of two truths have any greater claim to be true than another truth: every truth is equal, in being true, to all other truths. None of this is determined by analogy with anything else. By the necessity of reason, this statement holds consistently for everything in the world, whether revealed laws or other things. Thus, all wheat is wheat, all dates are dates, whatever resembles wheat but is not wheat is not wheat, whatever resembles gold but is not gold is not gold, and whatever resembles something forbidden but has not been prohibited by the explicit text is not forbidden. So it is with all things, from first to last. What they have adduced therefore invalidates analogy, if only they would reason and deal fairly with themselves. Success comes through Allah Most High. These people have relied solely on obfuscation, lying, and confusing those taken in by them. They said, "The adherents of the apparent meaning deny that things resemble one another." They then proceeded to adduce verses, prophetic reports, and observations in which things resemble one another. In this they deceive their own minds. We have never denied that things resemble one another. Indeed, we understand the respects in which things resemble one another better than they do, because we have examined them rigorously and Allah Most High has made them clear

فإذ لا شك في هذا، فلم نحكم لشيء من الباطل بأنه باطل من أجل شبهه بباطل آخر، بل ليس أحد الباطلين أولى أن يكون باطلا من سائر الأباطيل، بل كل الأباطيل في وقوعها تحت الباطل سواء، ولا أحد الحقين أولى أن يكون حقا من حق آخر، بل كل حق فهو، في أنه حق، سواء مع سائر الحقوق كلها، وليس شيء من ذلك مقيسا على غيره. والقول مطرد هكذا بضرورة العقل في كل ما في العالم من الشرائع وغيرها فكذلك كل بر فهو بر، وكل تمر فهو تمر، وكل ما أشبه البر مما ليس برا، فليس برا، وكل ما أشبه الذهب مما ليس ذهبا فليس ذهبا، وكل ما أشبه الحرام مما لم ينه النص عنه فليس حراما، وهكذا جميع الأشياء أولها عن آخرها، فهذا الذي أتوا به مبطل للقياس لو عقلوا وأنصفوا أنفسهم، وبالله تعالى التوفيق. وإنما عول القوم على التمويه والكذب والتلبيس على من اغتر بهم، فقالوا: إن أصحاب الظاهر ينكرون تماثل الأشياء، ثم جعلوا يأتون بآيات وأحاديث ومشاهدات فيها تماثل أشياء. وهذا خداع منهم لعقولهم وما أنكرنا قط تماثل الأشياء، بل نحن أعرف بوجوه التماثل منهم، لأننا حققنا النظر فيها، فأبانها الله تعالى لنا، وهم خلطوا وجه نظرهم، فاختلط الأمر عليهم، وإنما أنكرنا أن نحكم للمتماثلات في صفاتهما من أجل ذلك في الديانة بتحريم أو إيجاب أو تحليل دون نص من الله تعالى أو رسوله صلى الله عليه وسلم أو إجماع من الأمة فهذا الذي أبطلنا وهو الباطل المحض، والتحكم في دين الله تعالى بغير هدى من الله، نعوذ بالله من ذلك، وقالوا أيضا: إن أصحاب الظاهر يبطلون حجج العقول. قال أبو محمد: وكذبوا بل نحن المثبتون لحجج العقول على الحقيقة، وهم المبطلون لها حقا، لأن العقل يشهد أنه يحرم دون الله تعالى، ولا يوجب دون الله تعالى شريعة، وأنه إنما يفهم ما خطب الله تعالى به حامله، ويعرف الأشياء على ما خلقها الله تعالى عليه

[171] **Translator's note (L3261):** The wording وهو قولكم بالفساد وعلى مذاهبكم بالتناقض is syntactically defective or elliptical. The translation takes it as saying that analogy itself pronounces their position unsound and their doctrines contradictory.

[172] **Translator's note (L3264):** The conditional statement about producing the Quran's like is the interlocutors' argument as supplied, not a direct Quran quotation; its wording has been retained. The word يرومون, "they seek," is awkwardly attached at the end of the sentence about resemblance. The translation understands an elliptical reference to the further resemblance they seek to establish. The claim that resemblance to falsehood in being created does not establish falsity is translated as written; the passage does not thereby explicitly characterize the Quran as created.

فقط، وهم يحرمون بعقولهم ويشرعون الشرائع بعقولهم بغير نص من الله تعالى ولا من رسوله صلى الله عليه وسلم ولا إجماع من الأمة فهذا هو إبطال حجج العقول على الحقيقة، وبالله تعالى التوفيق. واحتجوا بالموازنة يوم القيامة. قال أبو محمد: وهذا من أغرب ما أبدوا فيه عن جهلهم، وهل هذا إلا نص جلي؟

وأي شيء من موازنة أعمال العباد؟ وجزاء المحسن بإحسانه، والمسيء بإساءته، والعفو عن التائب بعد أن أجرم، والعفو عن الصغائر باجتناب الكبائر، والمؤاخذة بها لمن فعل كبيرة وأصر عليها، مما يحتج به في إيجاب تحريم الأرز بالأرز متفاضلا، وهل يعقل وجوب هذا من موازنة الأعمال يوم القيامة، وجزاء الحسنة بعشر أمثالها إلى سبعمائة، وجزاء السيئة بمثلها، إلا مجنون مصاب. وقالوا: أخبرونا عن قولكم بالدليل: أبنص قلتموه، أم بغير نص؟ فإن قلتم: قلناه بنص، فأروناه، وإن قلتم: بغير نص، دخلتم فيما عبتم من القياس. قال أبو محمد: وقد أفردنا فيما خلا من كتابنا هذا بابا لبيان الدليل الذي نقول به فأغني عن ترداده، إلا أننا نقول ههنا جوابا لهم، وبالله تعالى التوفيق،

to us. They have muddled their manner of inquiry, and so the matter has become confused for them. What we have denied is only that, on account of their resemblance in attributes, we should assign to similar things a religious ruling of prohibition, obligation, or permission without an explicit text from Allah Most High or His Messenger ﷺ, or a consensus of the community. This is what we have invalidated. It is sheer falsehood and arbitrary ruling in the religion of Allah Most High without guidance from Allah. We seek refuge in Allah from that. They also said, "The adherents of the apparent meaning invalidate the proofs of reason." Abu Muhammed said: They have lied. Rather, we are the ones who truly affirm the proofs of reason, and they are the ones who truly invalidate them. For reason testifies that it prohibits independently of Allah Most High and does not impose any revealed law independently of Allah Most High, and that it only understands what Allah Most High has addressed to its possessor and knows things as Allah Most High has created them. Yet they prohibit by their own reason and institute revealed laws by their own reason, without an explicit text from Allah Most High or from His Messenger ﷺ, or a consensus of the community. This is what truly invalidates the proofs of reason. Success comes through Allah Most High. They also argued from the weighing on the Day of Resurrection. Abu Muhammed said: This is among the strangest instances in which they have exposed their ignorance. Is this anything but a clear, explicit text?[173]

L3270–3272 And what is there in the weighing of servants' deeds, the recompensing of the doer of good for his good conduct and the evildoer for his evil conduct, the pardoning of one who repents after committing a crime, the pardoning of minor sins through avoidance of major sins, and the holding to account for those minor sins of someone who commits a major sin and persists in it, that can serve as an argument for requiring the prohibition of exchanging rice for rice in unequal quantities? Could anyone other than an afflicted madman understand this requirement to follow from the weighing of deeds on the Day of Resurrection, the recompensing of a good deed with ten times

[173] **Translator's note (L3268):** The supplied Arabic reads أنه يحرم, "that it prohibits," although the argument appears to require أنه لا يحرم, "that it does not prohibit." The translation retains the supplied affirmative wording rather than silently inserting the missing negation.

its like up to seven hundred, and the recompensing of an evil deed with its like?

They said: "Tell us about your position concerning inferential proof: did you adopt it on the basis of a text or without a text? If you say, 'We adopted it on the basis of a text,' show it to us. If you say, 'Without a text,' you have fallen into the very analogy you criticized."

Abu Muhammed said: Earlier in this book of ours we devoted a separate chapter to explaining the inferential proof that we uphold, which makes repeating it unnecessary. Nevertheless, in answering them here—and through Allah Most High comes success—we shall state what this passage cannot dispense with presenting: what we call inferential proof is the very meaning intended by the text itself, even if expressed in different words. An example is Allah Most High's statement, "Indeed, Abraham is forbearing, much given to sighing, ever returning in repentance." We necessarily know, therefore, that he is not foolish. Another example is the Messenger of Allah's ﷺ statement: "Every intoxicant is wine, and every wine is forbidden." From this wording it necessarily follows that every intoxicant is forbidden. Thus our inferential proof is the text and consensus themselves, nothing apart from them. And through Allah Most High comes success.

They said: "There is no text concerning the inheritance of someone who is partly free and partly enslaved, or concerning his prescribed punishment or his blood money. What do you say about that? Likewise concerning his marriage, his divorce, and injuries inflicted upon him or by him?"

Abu Muhammed said: The person making this statement would have done better to learn before speaking. For the text lays down inheritance in general terms for sons, daughters, fathers, mothers, brothers, sisters, agnatic relatives, and spouses. It is therefore obligatory that no one be excluded from the text and denied inheritance except on the basis of a text. An authenticated text has indeed been transmitted in the report of Ali and Ibn Abbas: when a slave contracted to purchase his freedom becomes liable to a prescribed punishment, or is involved in a matter of blood money or inheritance, he inherits and is inherited from, the prescribed punishment is inflicted upon

ما لا يستغني هذا المكان عن إيراده وهو أن الدليل نقول: هو المقصود بالنص نفسه وإن كان بغير لفظه، كقول الله تعالى: {إن إبراهيم لحليم أواه منيب} فبالضرورة نعلم أنه ليس بسفيه ومثل قول رسول الله صلى الله عليه وسلم كل مسكر خمر وكل خمر حرام فصح ضرورة من هذا اللفظ أن كل مسكر حرام. فدليلنا هو النص والإجماع نفسه، لا ما سواهما، وبالله تعالى التوفيق. وقالوا: لا نص في ميراث من بعض حر وبعضه عبد، ولا في حده، ولا في ديته، فما تقولون في ذلك؟ وكذلك نكاحه وطلاقه والجناية عليه ومنه. قال أبو محمد: وصاحب هذا الكلام كان أولى به أن يتعلم قبل أن يتكلم، وذلك أن النص ورد بعموم ميراث الأبناء والبنات والآباء والأمهات، والإخوة والأخوات، والعصبة والأزواج، فواجب ألا يخرج عن النص أحد فيمنع الميراث إلا بنص، والنص قد صح من حديث علي، وابن عباس: إن المكاتب إذا أصاب حدا أو دية أو ميراثا، ورث وورث منه، وأقيم عليه الحد، وودي بمقدار ما أدى دية وميراث حر، وبمقدار ما لم يؤده دية عبد وميراث عبد، فخص أن العبد لا يرث. وقد قال قوم من العلماء: إن لهما من الميراث بمقدار ما فيهما من الحرية، وقال آخرون: لا شيء لهما من الميراث فكان قول هؤلاء مساقطا لمخالفته النص، ولأنه دعوى بلا دليل، فلم يبق قول من قال: إن لهما من الميراث بمقدار ما فيهما من الحرية فقلنا به.

him, and blood money is paid for him: in proportion to what he has paid, the blood money and inheritance of a free person, and in proportion to what he has not paid, the blood money of a slave and the inheritance of a slave. Thus it is established that a slave does not inherit. Some scholars have said that the two of them receive inheritance in proportion to the freedom in them, while others have said that neither receives any inheritance. The latter opinion was therefore disqualified because it contradicts the text and because it is a claim without proof. Thus the opinion of those who say that the two of them receive inheritance in proportion to the freedom in them did not remain, so we adopted it.[174][175][176]

L3273–3276 The same, then, is to be said concerning his prescribed punishment and his blood money, since the opinion of those who say that his prescribed punishment is like that of a free person has been invalidated by Ibn Abbas's report concerning the slave contracted to purchase his freedom, since the wording of that report distinguishes between the prescribed punishment of a free person and that of a slave. As for his marriage, the text states that any slave who marries without his masters' permission has contracted a marriage that is fornication. A partly emancipated person is neither wholly enslaved nor wholly free, and he does not pass out of the ruling concerning him that is established by consensus and affirmed by the text except through another text or a consensus. He therefore does not fall outside this text: he may not marry, as other Muslims do, without the permission of whoever has an ownership interest in him. His divorce is valid under the general wording of the text

فهكذا القول في حده وديته إذ قد بطل قول من قال: إن حده كحد الحر بحديث ابن عباس في المكاتب، إذا في نص ذلك الحديث الفرق بين حد الحر وحد العبد. وأما نكاحه فإن النص جاء بأن كل عبد نكح بغير إذن مواليه فنكاحه عهر، والمعتق بعضه ليس عبدا كله ولا حرا كله، ولا ينتقل عن حكمه المجمع عليه، والثابت عليه بالنص إلا بنص آخر أو إجماع، فهو غير خارج عن هذا النص فليس له أن ينكح كسائر المسلمين إلا بإذن من له فيه ملك، وطلاقه جائز على عموم النص في المطلقين. وأما جنايته والجناية عليه وشهادته فكالأحرار، ولا فرق إذ لم يمنع من ذلك نص ولا إجماع هذا مع صحة حديث ابن عباس في ميراث المكاتب وديته وحدوده، وإن ذلك بمقدار ما فيه من الحرية والرق. وقسموا أنواع القياس فقال بعضهم: من القياس قياس المفهوم، مثل قياس رقبة الظهار على رقبة القتل، قالوا: ومنه قياس العلة، كالعلة الجامعة بين النبيذ والخمر وهي الإسكار والشدة، ومنه قياس الشبه، ثم اختلفوا في هذا النوع من القياس، فقالوا: هو على الصفات الموجودة في العلة، وذلك مثل أن يكون في الشيء خمسة أوصاف من التحليل وأربعة من التحريم، فيغلب الذي فيه خمسة أوصاف على الذي فيه أربعة أوصاف، وقال آخرون منهم: وهو على الصور، كالعبد يشبه البهائم في أنه سلعة متملكة، ويشبه الأحرار في الصور الآدمية، وأنه مأمور منهي بالشريعة. قال أبو محمد: وكل هذا فاسد باطل متناقض لأنه كله دعاوى

[174] **Translator's note (L3271):** "Much given to sighing" renders the Qur'anic epithet awwāh, which can also convey frequent supplication or tenderheartedness. The unvocalized forms translated "he inherits and is inherited from" admit some grammatical uncertainty; the rendering follows the apparent legal sense of the passage.

[175] **Translator's note (L3272):** The supplied faḥaṣṣ is apparently a corruption of faṣaḥḥa, "thus it is established," which is the sense rendered here. The Arabic twice uses dual pronouns, "the two of them," although the immediately preceding discussion concerns one partly emancipated person; their referent is unclear. The final sentence literally says that the opinion "did not remain," then says "so we adopted it." An apparent omission of "except" would yield "nothing remained except the opinion," but the contradiction in the supplied wording has been retained.

[176] **Qur'an references (L3270):** Qur'an 11:75 (Hud).

concerning those who divorce. As for injuries he inflicts, injuries inflicted upon him, and his testimony, he is like free persons, with no distinction, since neither a text nor a consensus precludes this. This is in addition to the authenticity of Ibn Abbas's report concerning the inheritance, blood money, and prescribed punishments of the slave contracted to purchase his freedom, and that these are in proportion to the freedom and enslavement in him.

They divided analogy into types. Some of them said: "One type of analogy is analogy based on understood meaning, such as drawing an analogy between the slave to be freed in expiation for declaring one's wife forbidden like one's mother and the slave to be freed in expiation for killing." They said: "Another is analogy based on an effective cause, such as the effective cause common to fermented drink and wine, namely intoxication and potency. Another is analogy based on resemblance." They then disagreed concerning this type of analogy. They said: "It proceeds according to the attributes present in the effective cause. An example is when a thing possesses five attributes supporting permissibility and four supporting prohibition: that which has five attributes is given precedence over that which has four." Others among them said: "It proceeds according to forms: a slave, for example, resembles livestock in being an owned commodity, and resembles free persons in human form and in being subject to the commands and prohibitions of the revealed law."

Abu Muhammed said: All of this is unsound, false, and contradictory, because it consists entirely of feeble claims, without any proof that any of them is sound. Then there is their calling the analogy between the slave to be freed for declaring one's wife forbidden like one's mother and the slave to be freed for killing an "understood meaning." If only I knew by what means they understood it, so that they knew that only a believing slave would suffice! This, although their fellow proponents of analogy among the followers of Abu Hanifah disagreed with them on this matter: they did not understand from this astonishing analogy what the Shafi'i and the Maliki understood. And everything understood from speech is, without doubt, equally accessible to the understanding of those who know the language. Their claim to have understood thus became a lie. Then, if they understood that both slaves

باردة بلا دليل على صحة شيء منها ثم تسميتهم قياس الرقبة في الظهار على الرقبة في القتل أنه مفهوم، وليت شعري بماذا فهموه حتى علموا أنها لا تجزىء إلا مؤمنة؟ هذا وقد خالفهم إخوانهم من القائسين في ذلك من أصحاب أبي حنيفة، فلم يفهموا من هذا القياس العجيب ما فهم الشافعي والمالكي، وكل ما فهم من كلام فأهل اللغة متساوون في فهمه بلا شك، فصار دعواهم للفهم كذبا، ثم هلا إذا فهموا أن كلتا الرقبتين سواء، مشوا في قياسهم ففهموا أنه يجب التعويض من الصيام في القتل إطعام ستين مسكينا كالتعويض لذلك من صيام الظهار، كما تساوى التعويض من رقبتي الظهار والقتل، صيام شهرين متتابعين، فما هذا التباين في فهم ما لا تقضيه الآية ولا اللغة؟. وأما قولهم: قياس العلة، وأن النبيذ مقيس على الخمر فكذب مجرد بارد سمج وجرأة على الله تعالى وقد قال رسول الله صلى الله عليه وسلم كل مسكر خمر وكل مسكر حرام

to be freed are alike, why did they not carry their analogy through and understand that feeding sixty poor people must serve as a substitute for fasting in expiation for killing, just as it serves as a substitute for fasting in expiation for declaring one's wife forbidden like one's mother, just as fasting for two consecutive months serves equally as the substitute for freeing a slave in both cases? What is this disparity in understanding something entailed by neither the verse nor the language?

As for their talk of analogy based on an effective cause, and their assertion that fermented drink is treated by analogy with wine, this is a sheer, feeble, repugnant lie and an audacious presumption against Allah Most High. The Messenger of Allah ﷺ has said: "Every intoxicant is wine, and every intoxicant is forbidden."[177]

L3277–3279

He ﷺ thus placed every intoxicant on an equal footing, without singling out that made from grapes, dates, figs, honey, or anything else. He then stated that every intoxicant is forbidden. Grape wine therefore has no greater claim in this respect than fig wine; nor is grape wine an original case and other wine a derivative case. Rather, all of it is equal by virtue of the text. The feebleness and unsoundness of their position have thus become evident.

If they say, "Why, then, have you not declared someone who deems intoxicating fig drink lawful an unbeliever, just as you declare someone who deems intoxicating grape juice lawful an unbeliever?" the answer to him is—and through Allah Most High comes success: We have declared someone who deems intoxicating grape juice lawful an unbeliever only because the decisive proof has been established through consensus. Were an ignorant person who did not know of the consensus on this matter to deem it lawful, we would not declare him an unbeliever until he knew of it through the consensus. Likewise, we have not declared someone who deems fig drink lawful

[177] **Translator's note (L3274):** The supplied idhā, "when/if," in the opening sentence appears to stand for idh, "since"; the causal sense is rendered here. "Declaring one's wife forbidden like one's mother" renders ẓihār, a technical form of marital repudiation; "the slave to be freed" renders raqabah, literally "a neck," in this expiatory context. "Fermented drink" renders nabīdh, distinguished in the argument from khamr, rendered "wine." "Potency" renders shiddah, referring here to the drink's intoxicating strength.

فساوى صلى الله عليه وسلم بين كل مسكر ولم يخص من عنب ولا تمر ولا تين ولا عسل ولا غير ذلك، ثم أخبر أن كل مسكر حرام، فليست خمر العنب في ذلك بأولى من خمر التين، ولا خمر العنب أصلا وغيرها فرعا، بل كل ذلك سواء بالنص، فظهر برد قولهم وفساده. فإن قالوا: فهلا كفرتم من استحل نبيذ التين المسكر، كما تكفرون مستحل عصير العنب المسكر؟. قيل له، وبالله تعالى التوفيق: إنما كفرنا من استحل عصير العنب المسكر لقيام الحجة بالإجماع، ولو استحله جاهل لم يعرف الإجماع في ذلك ما كفرناه حتى يعرفه بالإجماع، وكذلك لم نكفر مستحل نبيذ التين لجهله بالحجة في ذلك ولو أنه يصح عنه قول النبي صلى الله عليه وسلم في تحريم كل مسكر على عمومه ثم يستجيز مخالفة النبي صلى الله عليه وسلم لكان كافرا بلا شك وقد أفردنا بعد هذا بابا ضخما في إبطال قولهم في العلل، وبالله تعالى التوفيق. وأما قولهم في موازنة صفات التحليل وصفات التحريم، فإنا نقول لهم: هبكم، لو سامحناكم في هذا الهذيان المفترى، وماذا تصنعون إذا تساوت عندكم صفات التحريم وصفات التحليل؟ فإن قالوا: نغلب التحريم احتياطا. قلنا لهم: ولم لا تغلبوا التحليل تيسيرا لقول الله تعالى {شهر رمضان لذي أنزل فيه لقرآن هدى للناس وبينات من لهدى ولفرقان فمن شهد منكم الشهر

an unbeliever because of his ignorance of the decisive proof on this matter. Were the Prophet's ﷺ statement prohibiting every intoxicant in its general scope to be authenticated for him, and were he then to consider himself entitled to contravene the Prophet ﷺ, he would undoubtedly be an unbeliever. We have devoted a substantial chapter later on to refuting their position concerning effective causes. And through Allah Most High comes success.

As for their position concerning weighing attributes supporting permissibility against attributes supporting prohibition, we say to them: Suppose we indulged you in this fabricated delirium: what would you do if the attributes supporting prohibition and the attributes supporting permissibility were equal in your estimation? If they say, "We give prohibition precedence as a precaution," we say to them: Why do you not give permissibility precedence to make things easy, in view of Allah Most High's statement: "The month of Ramadan, in which the Quran was sent down as guidance for people and clear proofs of guidance and discernment. So whoever among you witnesses the month, let him fast it; and whoever is ill or on a journey, then an equal number of other days. Allah desires ease for you and does not desire hardship for you, and that you complete the number and magnify Allah for having guided you, and that perhaps you may give thanks." If they say, "We give permissibility precedence," they are asked: Why did you not give prohibition precedence, and in view of Allah Most High's statement: "Fighting has been prescribed for you, though it is hateful to you. Perhaps you hate something while it is good for you, and perhaps you love something while it is bad for you. Allah knows, and you do not know." The falsity and unsoundness of their position have thus become evident. In sum, giving either alternative precedence has no stronger claim than giving the other precedence. Allah Most High has said: "And do not say, concerning the falsehood your tongues describe, 'This is lawful, and this is forbidden,' thereby fabricating falsehood against Allah. Indeed, those who fabricate falsehood against Allah will not prosper." He Most High thus explicitly states that everyone who declares something forbidden or lawful without a text from Allah Most High is a liar and a fabricator. And through Allah Most High comes success. Furthermore, if an attribute resembling what is forbidden necessitated prohibition, and an

فليصمه ومن كان مريضا أو على سفر فعدة من أيام أخر يريد الله بكم اليسر ولا يريد بكم العسر ولتكملوا العدة ولتكبروا الله على ما هداكم ولعلكم تشكرون} وإن قالوا: نغلب التحليل، قيل لهم: وهلا غلبتم التحريم ولقول الله تعالى {كتب عليكم القتال وهو كره لكم وعسى أن تكرهوا شيئا وهو خير لكم وعسى أن تحبوا شيئا وهو شر لكم والله يعلم وأنتم لا تعلمون} فظهر بطلان قولهم وفساده، وبالجملة فليس تغليب أحد الوجهين أولى من الآخر، وقد قال تعالى {ولا تقولوا لما تصف ألسنتكم الكذب هذا حلال وهذا حرام لتفتروا على الله الكذب إن الذين يفترون على الله الكذب لا يفلحون} فنص تعالى على أن كل محرم ومحلل بغير نص من الله تعالى فهو كاذب ومفتر، وبالله تعالى التوفيق. وأيضا: فلو كانت صفة شبه التحريم توجب التحريم، وصفة شبه التحليل توجب التحليل، لما وجد كلا الأمرين في شيء واحد البتة، لأنه كان يجب من ذلك أن يكون الشيء حراما حلالا معا، وهذا حمق محال. فصح أن الشبه لا يوجب تحريما ولا تحليلا، كثرت الأوصاف بذلك أو قلت.

attribute resembling what is lawful necessitated permissibility, the two could never be found together in a single thing at all. For that would necessarily entail that the thing was simultaneously forbidden and lawful, and this is absurd folly. It is therefore established that resemblance necessitates neither prohibition nor permissibility, whether the attributes involved are many or few.[178][179][180]

L3280–3282 Some of them have gone so far as to say that Allah Most High said: "They ask you about wine and gambling. Say: In them both is great sin and benefits for people, but their sin is greater than their benefit. And they ask you what they should spend. Say: The surplus. Thus Allah makes the signs clear to you, so that you may reflect." They said: "He Most High gave preponderance to the sin and therefore prohibited it." Abu Muhammed said: This is audacity in speaking about Allah Most High without knowledge. This entails that Allah Most High was confronted, in wine and gambling, by two principles: one was benefits and the other was sin, and He therefore gave preponderance to sin. This is the express wording of their statement, its apparent meaning, and what it entails. Would that I knew who placed this sin in wine and gambling, when for a period before their prohibition both were lawful and involved no sin! The most eminent Companions, may Allah be pleased with them, drank wine; it was presented as a gift to the Prophet ﷺ; and righteous men drank it together as companions for more than sixteen years, as matters originally stood. This is authentically established concerning Abd al-Rahman ibn Awf, Saʿd ibn Abi Waqqas, Hamzah, Abu Ubaydah ibn al-Jarrah, Suhayl ibn Baydaʾ, Ubayy ibn Kaʿb, Abu Dujanah, and Abu Talhah and Abu Ayyub, Muʿadh ibn Jabal, Abd Allah ibn Amr ibn Haram, and others. All of them drank wine

وقد أقدم بعضهم فقال إن الله تعالى قال {يسألونك عن الخمر والميسر قل فيهما إثم كبير ومنافع للناس وإثمهما أكبر من نفعهما ويسألونك ماذا ينفقون قل لعفو كذلك يبين الله لكم الآيات لعلكم تتفكرون} قالوا غلب تعالى الإثم فحرمها. قال أبو محمد: هذا من الجرأة على القول على الله تعالى بغير علم، وهذا يوجب إن الله تعالى اعترضه في الخمر والميسر أصلان: أحدهما المنافع، والثاني الإثم، فغلب الإثم، هذا هو نص كلامهم وظاهره ومقتضاه، وليت شعري، من رتب هذا الإثم في الخمر والميسر؟ وقد كانا برهة قبل التحريم حلالين لا إثم فيهما، وقد شربها أفاضل الصحابة رضي الله عنهم وأهديت إلى النبي صلى الله عليه وسلم وتنادم الصالحون عليها أزيد من ستة عشر عاما، في الأصل صح ذلك عن عبد الرحمن بن عوف، وسعد بن أبي وقاص، وحمزة، وأبي عبيدة بن الجراح، وسهيل بن بيضاء، وأبي بن كعب، وأبي دجانة، وأبي طلحة، وأبي أيوب، ومعاذ بن جبل، وعبد الله بن عمرو بن حرام، وغيرهم كلهم شربوا الخمر بعد الهجرة، واصطحبها جماعة يوم أحد ممن أكرمهم الله تعالى في ذلك اليوم بالشهادة، فهل أحدث الإثم فيها بعد أن لم يكن إلا الله تعالى؟ فأين قول هؤلاء النوكى: إن الله تعالى حرمها لأجل الإثم الذي فيها، أو لأجل الشدة والإسكار؟ وهل هذا إلا كذب بحت؟ وهل حدث الإثم إلا بعد حدوث التحريم بلا فصل؟ وهل خلط قط عن الشدة والإسكار مذ خلقها الله تعالى، فبطل قولهم بتجاذب الأوصاف، والحمد لله كثيرا. وأما قولهم في تغليب الصورة الآدمية في العبيد على شبهة البهائم، إنه سلعة

[178] **Translator's note (L3277):** The wording "were ... to be authenticated for him" follows the apparent intended sense of the awkward supplied construction concerning the Prophet's statement.

[179] **Translator's note (L3278):** The Qur'anic quotations repeatedly omit the initial alif in the definite article and in forms of the name Allah. The translations render the identifiable words, while recording these transcription defects here. The connective before the second Qur'anic quotation is awkwardly supplied as "and in view of"; it has been retained rather than silently removed.

[180] **Qur'an references (L3277):** Qur'an 2:185 (Al-Baqarah); Qur'an 2:216 (Al-Baqarah); Qur'an 16:116 (An-Nahl).

مملوكة، فقول بارد وهلا، إذ فعلوا ذلك، قبلوا شهادته إذ غلبوا شبهة الأحرار على شبهة البهائم؟ وهل هذا كله إلا لهو ولعب، وشبيه بالخرافات؟ نعوذ بالله من الخذلان، ومن تعدي حدوده، ومن القول في الدين بغير نص من الله تعالى أو رسوله، وحسبنا الله ونعم الوكيل. وإذا أبطلوا حكم الشبه من أجل شبه آخر أقوى منه، فقد صاروا إلى قولنا في إبطال حكم التشابه في إيجاب حكم له في الدين لم يأت به نص، ثم تناقضوا في إثباته مرة وإبطاله أخرى بلا برهان.

after the Emigration, and a group of those whom Allah Most High honored with martyrdom that day took it with them on the day of Uhud. Was it anyone other than Allah Most High who introduced sin into it after there had been none? Where, then, does that leave these fools' assertion that Allah Most High prohibited it because of the sin within it, or because of its potency and intoxicating effect? Is this anything but an outright lie? Did sin arise at any time other than immediately upon the introduction of prohibition? And has it ever been mixed away from potency and intoxication since Allah Most High created it? Their assertion that attributes pull in competing directions is thus invalidated, and abundant praise belongs to Allah. As for their statement about giving preponderance, in slaves, to human form over resemblance to beasts—the resemblance consisting in a slave's being an owned commodity—it is a feeble statement. Why, having done that, did they not accept his testimony, since they gave preponderance to resemblance to free people over resemblance to beasts? Is all this anything but amusement and play, and something akin to fables? We seek refuge in Allah from being forsaken, from transgressing His limits, and from speaking about religion without an explicit text from Allah Most High or His Messenger. Allah is sufficient for us, and an excellent Trustee is He. If they invalidate the legal effect of resemblance because of another resemblance stronger than it, then they have come around to our position of invalidating the legal effect of similarity in establishing through it a ruling in religion for which no explicit text has been transmitted. They then contradicted themselves by affirming it on one occasion and invalidating it on another, without demonstration.[181][182][183]

وشنع بعضهم بأن قال: إن إبطال القياس مذهب النظام، ومحمد بن عبد الله الإسكافي، وجعفر بن حرب، وجعفر بن مبشر، وعيسى المراد، وأبي عفار، وبعض الخوارج، وإن من هؤلاء من يقول: إن بنات البنين حلال، وكذلك الجدات، وكذلك دماغ الخنزير. قال أبو محمد: ولسنا ننكر أن تقول اليهود لا إله إلا الله، ونقولها أيضا نحن، ولكن إذا ذكروا هؤلاء فلا تنسوا القائلين بقولهم القياس، أبا الهذيل العلاف، وأبا بكر بن كيسان الأصم، وجهم بن صفوان، وبشر بن المعتمر، ومعمرا وبشرا المريسي،

L3283–3284 Some of them sought to discredit us by saying: "The rejection of analogy is the doctrine of al-Nazzam, Muhammed ibn Abd Allah al-Iskafi, Jaʿfar ibn

[181] **Translator's note (L3280):** The phrase "في الأصل" is awkward here. It has been rendered "as matters originally stood," referring to the period before prohibition; its precise attachment is uncertain.

[182] **Translator's note (L3281):** "وهل خلط قط عن الشدة والإسكار" is corrupt or grammatically defective as supplied. The translation retains the awkward sense of "خلط" ("mixed") and "عن" ("away from"). The context appears to ask whether wine has ever lacked potency and intoxicating effect, but that would require an emendation.

[183] **Qur'an references (L3280):** Qur'an 2:219 (Al-Baqarah).

والأزارقة، وأحمد بن حائط، ومن هؤلاء من يقول بقياس الأطفال على الكبار، وأنهم نسخت أرواحهم في الأطفال، وبالقياس على قوم نوح، فأباحوا قتل الأطفال، وقاسوا فناء الجنة والنار على فناء الدنيا، وغير ذلك من شنيع الأقوال. فهذا كل ما موهوا به في نص القياس قد تقصيناه والحمد لله، ولم ندع منه بقية، وبينا بعون الله أنه لا حجة لهم بوجه من الوجوه، ولا متعلق في شيء منه البتة، وأنه كله عائد عليهم، ومبطل لقولهم في إثبات القياس، وقد كان هذا يكفي من تكلف إبطال القياس، لأن كل قول لا يقوم بصحته برهان فهو دعوى ساقطة ولكنا لا نقطع بذلك حتى نورد بحول الله البراهين القاطعة على إبطال القياس والقول به

Harb, Jaʿfar ibn Mubashshir, Isa al-Murad, Abu ʿAffar, and some of the Kharijites. Among these are those who say that sons' daughters are lawful, and likewise grandmothers, and likewise a pig's brain." Abu Muhammed said: We do not deny that the Jews say, "There is no deity but Allah," and we too say it. But when you mention these people, do not forget those who profess your doctrine of analogy: Abu al-Hudhayl al-Allaf, Abu Bakr ibn Kaysan al-Asamm, Jahm ibn Safwan, and Bishr ibn al-Muʿtamir, Maʿmar, Bishr al-Marisi, the Azariqah, and Ahmad ibn Haʾit. Among these are those who maintain an analogy between children and adults and hold that their souls have been transmigrated into children; and, by analogy with Noah's people, they permitted the killing of children. They also drew an analogy between the passing away of Paradise and Hell and the passing away of this world, besides other repugnant doctrines. This, then, is everything with which they have sought to create a deceptive appearance of textual warrant for analogy. We have investigated it exhaustively, praise be to Allah, and have left none of it unexamined. With Allah's help, we have shown that they have no proof whatsoever, nor anything at all to hold on to in any of it, and that all of it rebounds upon them and invalidates their position affirming analogy. This would have sufficed for anyone undertaking to invalidate analogy, since every statement for whose soundness no demonstration is established is a worthless claim. But we shall not stop there, until, through Allah's power, we present the conclusive demonstrations invalidating analogy and its espousal.[184][185]

فصل في إبطال القياس وهذا حين نأخذ في إبطال القياس بالبراهين الضرورية إن شاء الله تعالى.

L3285 Section on Invalidating Analogy

Now is the time for us to begin invalidating analogy through demonstrations that yield necessary knowledge, if Allah Most High wills.

[184]**Translator's note (L3283):** The names "عيسى المراد" and "أبي عفار" are retained as supplied; their readings and identification are uncertain. "Sons' daughters" and "grandmothers" are called "lawful" without specifying the act concerned. In context, lawful marriage or sexual relations appears to be intended.

[185]**Translator's note (L3284):** "نص القياس" is rendered "textual warrant for analogy." The wording is somewhat awkward, but has not been emended to "نصر القياس" ("defending analogy"). The pronoun in "their souls have been transmigrated into children" appears to refer to the adults; the Arabic leaves that reference implicit.

L3286 Abu Muhammed said: Those who espouse analogy are to be asked: Did Allah, Mighty and Majestic, not send Muhammed ﷺ as a messenger to humankind and the jinn, so that the first thing to which he called them was to say, "There is no deity but Allah," to reject everything worshipped besides Allah Most High, whether an idol or anything else, and to acknowledge that he was Allah's Messenger—and that alone? There was originally no religious legislation whatsoever other than this: neither the imposition of an obligatory ruling nor the prohibition of anything. Their answer, and that of every Muslim and unbeliever, is: "Yes." This is something about which no one has any doubt. Since, then, there is no disagreement or doubt about this, and no one denies it, religion and Islam once contained neither prohibition nor imposition of obligation. Then Allah Most High sent down the revealed laws. Whatever He commanded is obligatory, and whatever He forbade is prohibited. Whatever He neither commanded nor forbade is permissible, unrestricted, and lawful, as it had been before. This is something necessarily known to everyone through the innate constitution of their minds. In what, then, is there any need for analogy or personal opinion? Has someone who acknowledges what we have stated, but then makes obligatory something for whose obligation there is no explicit text, or prohibits something for which there is no explicit prohibitory text, not legislated in religion something Allah Most High has not authorized, and said something that it is unlawful to say? This is a manifest, clear, and sufficient demonstration, admitting of no objection. Then they are also to be asked—and success is through Allah Most High—in what is analogy needed? Is it in matters on which Allah Most High and His Messenger ﷺ have made an explicit pronouncement, or in matters on which no explicit pronouncement has been made? If they say, "In matters on which an explicit pronouncement has been made," they have departed from consensus and come close to leaving Islam, because no one has maintained this.[186]

قال أبو محمد: ويقال للقائلين بالقياس أليس قد بعث الله عز وجل محمدا صلى الله عليه وسلم رسولا إلى الإنس والجن فأول ما دعاهم إليه فقول لا إله إلا الله ورفض كل معبود دون الله تعالى، ومن وثن وغيره، وأنه رسول الله فقط لم يكن في الدين شريعة غير هذا أصلا، لا إيجاب حكم، ولا تحريم شيء؟. فمن قولهم وقول كل مسلم وكافر: نعم، هذا أمر لا شك فيه عند أحد، فإذ هذا لا خلاف فيه ولا شك فيه، ولا ينكره أحد، فقد كان الدين والإسلام لا تحريم فيه، ولا إيجاب، ثم أنزل الله تعالى الشرائع، فما أمر به فهو واجب، وما نهى عنه فهو حرام، ومالم يأمر به ولا نهى عنه فهو مباح مطلق، حلال كما كان، هذا أمر معروف ضرورة بفطرة العقول من كل أحد ففي ماذا يحتاج إلى القياس أو إلى الرأي؟. أليس من أقر بما ذكرنا ثم أوجب ما لا نص بإيجابه، أو حرم ما لا نص بالنهي عنه، قد شرع في الدين ما لم يأذن به الله تعالى؟ وقال ما لا يحل القول به؟ وهذا برهان لائح واضح وكاف لا معترض فيه. ثم يقال لهم أيضا وبالله تعالى التوفيق: فماذا يحتاج إلى القياس أفيما نص عليه الله تعالى ورسوله صلى الله عليه وسلم أم فيما لم ينص عليه فإن قالوا فيما نص عليه، فارقوا الإجماع، وقاربوا الخروج عن الإسلام، لأنه لم يقل بهذا أحد،

[186] **Translator's note (L3286):** The supplied wording "دون الله تعالى ومن وثن وغيره" contains an awkward extra conjunction before "من وثن." The translation follows the evident connection between "everything worshipped besides Allah" and "whether an idol or anything else."

وهو مع ذلك قول لا يمكن أحد أن يقوله، لأنه لا قياس إلا على أصل يرد ذلك الفرع إليه، ولا أصل إلا نص أو إجماع، فصح على قولهم أن القياس إنما هو مردود إلى النص.

وإن قالوا: فيما لم ينص عليه، فقلنا وبالله تعالى التوفيق قال الله تعالى {حرمت عليكم لميتة ولدم ولحم لخنزير ومآ أهل لغير لله به ولمنخنقة ولموقوذة ولمتردية ولنطيحة ومآ أكل لسبع إلا ما ذكيتم وما ذبح على لنصب وأن تستقسموا بلأزلام ذلكم فسق ليوم يئس لذين كفروا من دينكم فلا تخشوهم وخشون ليوم أكملت لكم دينكم وأتممت عليكم نعمتي ورضيت لكم لأسلام دينا فمن ضطر في مخمصة غير متجانف لإثم فإن لله غفور رحيم} وقال تعالى {وما من دآبة في لأرض ولا طائر يطير بجناحيه إلا أمم أمثالكم ما فرطنا في لكتاب من شيء ثم إلى ربهم يحشرون} وقال تعالى {بلبينات ولزبر وأنزلنا إليك لذكر لتبين للناس ما نزل إليهم ولعلهم يتفكرون} وقال صلى الله عليه وسلم في حجة الوداع اللهم هل بلغت قالوا نعم قال: اللهم اشهد. حدثنا محمد بن سعيد بن نبات، ثنا أحمد بن عون الله، ثنا قاسم بن أصبغ، ثنا الخشني، ثنا محمد بن المثنى، ثنا عبد الرحمن بن مهدي، ثنا شعبة، عن أبي إسحاق، عن مرة الهمداني قال: قال عبد الله بن مسعود: من أراد العلم فليثر القرآن، فإن فيه علم الأولين والآخرين، هكذا رويناه عن مسروق والزهري، أنه ليس شيء اختلف فيه إلا وهو في القرآن، فصح بنص القرآن أنه لا شيء من الدين وجميع أحكامه إلا وقد نص عليه، فلا حاجة بأحد إلى القياس. فإن قالوا: إنما نقيس النوازل، من الفروع على الأصول. قال أبو محمد: وهذا، لأنه ليس في الدين إلا واجب أو حرام أو مباح، ولا سبيل إلى قسم رابع البتة، فأي هذه أصل، وأي هذه فرع فبطل قولهم، وصح أن أحكام الدين كلها أصول لا فرع فيها، وكلها منصوص عليه، فلما اختلف الناس قط إلا في الأصول،

L3287 Moreover, it is a statement that no one can maintain, because there is no analogy except on the basis of a principal case to which that subsidiary case is referred, and there is no principal basis except an explicit text or consensus. Thus, on their own account, it is established that analogy is referred back only to the explicit text.

L3288–3289 If they say, “Concerning that for which no explicit text has been given,” we say—and success comes through Allah Most High: Allah Most High said: “Forbidden to you are carrion, blood, the flesh of swine, that over which a name other than Allah’s has been invoked, the strangled animal, the animal killed by a blow, the animal killed by a fall, the animal killed by goring, and that which a beast of prey has eaten—except what you slaughter duly—and that which is slaughtered upon sacrificial stones; and that you seek a division by divining arrows. That is transgression. Today those who disbelieve have despaired of your religion, so do not fear them, but fear Me. Today I have perfected your religion for you, completed My favor upon you, and approved Islam as your religion. But whoever is compelled by severe hunger, without inclining toward sin—Allah is indeed forgiving, merciful.” And He Most High said: “There is no creature upon the earth, nor any bird flying with its two wings, but they are communities like you. We have neglected nothing in the Book. Then to their Lord they will be gathered.” And He Most High said: “With clear proofs and scriptures; and We have sent down to you the Reminder, so that you may explain to people what has been sent down to them, and so that they may reflect.” And he ﷺ said during the Farewell Pilgrimage: “O Allah, have I conveyed the message?” They said, “Yes.” He said, “O Allah, bear witness.” Muhammed ibn Saʿid ibn Nabat related to us: Ahmad ibn ʿAwn Allah related to us: Qasim ibn Asbagh related to us: al-Khushani related to us: Muhammed ibn al-Muthanna related to us: ʿAbd al-Rahman ibn Mahdi related to us: Shuʿbah related to us, from Abu Ishaq, from Murrah al-Hamdani, who said: ʿAbd Allah ibn Masʿud said: “Whoever desires knowledge should delve into the Quran, for in it is the knowledge of the first and the last.” We have likewise transmitted from Masruq and al-Zuhri that there is nothing concerning which disagreement has arisen that is not in the Quran. Thus it is established by the explicit text of the Quran that

there is nothing belonging to religion, including all its rulings, for which an explicit text has not been given. No one, therefore, has any need of analogy. If they say, "We merely reason by analogy from foundational cases to new cases belonging to derivative matters," Abu Muhammed said: This is because there is nothing in religion except what is obligatory, forbidden, or permissible, and there is absolutely no possibility of a fourth division. Which of these, then, is foundational, and which is derivative? Their statement is therefore invalid, and it is established that all the rulings of religion are foundational, with nothing derivative among them, and that an explicit text has been given for them all. People have never disagreed except concerning foundational matters, such as ablution, prayer, obligatory almsgiving, pilgrimage, forbidden and lawful sales, marriage contracts, divorce, and the like. If they say, "We do not deny that Allah Most High has neglected nothing in the Book, nor that the Prophet ﷺ explained matters. But explicit textual statement and explanation fall into two divisions: one is an explicit statement concerning a thing by its name, and the second is an explicit statement concerning it through signification. This is what we call analogy: drawing attention to the operative cause of the ruling, so that wherever that operative cause is found, judgment is given on its basis."[187][188]

كالوضوء والصلاة والزكاة والحج، والحرام من البيوع والحلال منها، وعقود النكاح والطلاق وما أشبه ذلك. فإن قالوا: لسنا ننكر أن الله تعالى لم يفرط في الكتاب من شيء ولا أن النبي صلى الله عليه وسلم بين ولكن النص والبيان ينقسم قسمين أحدهما نص على الشيء باسمه، والثاني نص عليها بالدلالة، وهذا هو الذي نسميه قياسا، وهو التنبيه على علة الحكم، فحيثما وجدت تلك العلة حكم بها.

L3290 They say: "This is the concision and the comprehensive speech with which the Messenger of Allah ﷺ was sent." They are to be told—and success comes through Allah Most High: This is falsehood, because what you mention is a claim without evidence. That signification is devoid of being assigned, in

قالوا: وهذا هو الاختصار وجوامع الكلم التي بعث بها رسول الله صلى الله عليه وسلم قيل لهم وبالله تعالى التوفيق هذا هو الباطل، لأن الذي تذكرون دعوى بلا دليل، وتلك الدلالة تخلو من أن تكون موضوعة في اللغة، التي بها خوطبنا وبها نزل القرآن، لذلك المعنى بعينه.

[187] **Translator's note (L3288):** The wording فلما اختلف الناس قط إلا is syntactically problematic. The translation follows the apparent intended sense, 'People have never disagreed except …,' while noting that the supplied فلما appears corrupt. The final pronoun in عليها is feminine although the preceding الشيء is masculine; it has been rendered 'it' without supplying a different referent.

[188] **Qur'an references (L3288):** Qur'an 5:3 (Al-Ma'idah); Qur'an 6:38 (Al-An'am); Qur'an 16:44 (An-Nahl).

the language in which we were addressed and in which the Quran was sent down, to that very meaning[189]

L3291–3293 —in which case this differs from your position, and this is the first division: explicitly stating a thing by its name. So do not mislead by making explicit textual statement into two divisions—or that signification is not assigned, in the language in which we were addressed and in which the Quran was sent down, to that meaning. If it is so, then this is the deception and confusion above which Allah Most High is exalted and from which He has declared His Messenger ﷺ free. It is not lawful for anyone to attribute this to Allah Most High or to His Messenger ﷺ. This is a necessary demonstration, inescapable and clear, containing no obscurity for anyone with the slightest understanding. This is no method of concision, of drawing attention, or of explanation; rather, it is blundering, obscurity, corruption, and concealment. There is neither an indication nor an explanation in someone wishing to teach us the ruling on the marriage payment, yet mentioning no marriage payment and directing us to it through that for which we amputate the hand; or intending eating, yet mentioning intercourse; or intending walnuts, yet mentioning salt; or intending someone who acts mistakenly, yet mentioning someone who acts deliberately. This is imposing what cannot be borne, requiring knowledge of the unseen and soothsaying, and making judgment on the basis of false conjecture obligatory. Exalted is Allah above that, and free of it is the Messenger of Allah ﷺ. Concision, comprehensive speech, and drawing attention consist only in taking a meaning expressed in many words and explaining it in a few concise, comprehensive words, such that absolutely nothing intended by them falls outside them, and they entail absolutely nothing that is not intended by them. This is the true nature of concision, explanation, and drawing attention. An example is the saying of Allah Most High: "The sacred month for the sacred month, and sacred inviolabilities are subject to retaliation. So whoever transgresses against you,

فهذا غير قولكم، وهذا هو القسم الأول من النص على الشيء باسمه، فلا تموهوا فتجعلوا النص قسمين، أو تكون تلك الدلالة غير موضوعة في اللغة، التي بها خوطبنا وبها نزل القرآن، لذلك المعنى، فإن كانت كذلك فهذا هو التلبيس والتخليط الذي تنزه الله تعالى ونزه رسوله صلى الله عليه وسلم عنه ولا يحل لأحد أن ينسب هذا إلى الله تعالى ولا إلى رسوله صلى الله عليه وسلم وهذا برهان ضروري ولا محيد عنه بين لا إشكال فيه على من له أقل فهم، وليس هذا طريق اختصار، ولا تنبيه ولا بيان، ولكنه خبط وإشكال وإفساد وتدليس. ولا تنبيه ولا بيان فيمن يريد أن يعلمنا حكم الصداق، فلا يذكر صداقا ويدلنا على ذلك بما نقطع فيه اليد، أو يريد الأكل فيذكر الوطء، أو يريد الجوز فيذكر الملح، أو يريد المخطىء فيذكر المتعمد، وهذا تكليف ما لا يطاق، وإلزام لعلم الغيب والكهانة، وإيجاب للحكم بالظن الكاذب تعالى الله عن ذلك وتنزه رسول الله صلى الله عليه وسلم عنه وإنما الاختصار وجوامع الكلم والتنبيه أن يأتي إلى المعنى الذي يعبر عنه بألفاظ كثيرة فيبينه بألفاظ مختصرة جامعة يسيرة، لا يشذ عنها شيء من المراد بها البتة، ولا تقتضي من غير المراد بها شيئا أصلا، فهذا هو حقيقة الاختصار والبيان والتنبيه وذلك مثل قول الله تعالى {لشهر لحرام بلشهر لحرام ولحرمات قصاص فمن عتدى عليكم فعتدوا عليه بمثل ما اعتدى عليكم وتقوا لله وعلموا أن لله مع لمتقين} فدخل تحت هذا اللفظ مالو تقصى لملئت منه أسفار عظيمة، من ذكر قطع الأعضاء عضوا عضوا، وكسرها عضوا عضوا، والجراحات جرحا جرحا، والضرب هيئة هيئة، وذكر أحد الأموال وسائر ما يقتضيه هذا المعنى من تولي المجني عليه للاقتصاص ونفاذ أمره في ذلك ومثل قوله صلى الله عليه وسلم جرح العجماء

[189] **Translator's note (L3290):** The supplied تخلو من أن تكون means 'is devoid of being,' but the continuation presents two alternatives and appears to require لا تخلو من أن تكون, 'cannot fall outside the alternatives of being ….' The missing negation has not been silently supplied.

transgress against him in the like of that in which he transgressed against you; and fear Allah, and know that Allah is with those who fear Him." Under this wording falls that which, if exhaustively detailed, would fill immense volumes: mentioning the severing of bodily members, member by member; their breaking, member by member; wounds, wound by wound; striking, manner by manner; mentioning one of the items of property; and everything else entailed by this meaning, including the injured party's undertaking retaliation and his command in that regard taking effect. Another example is his saying ﷺ, "An injury inflicted by a speechless animal entails no compensation," and the rest of his speech ﷺ. But as for someone's omitting meanings he intended, failing to mention them by the name assigned to them in the language in which we were addressed, and hoping to signify them by a name not assigned to them in the language, this is the action of Satan, who wishes to corrupt religion and confuse the Muslims, not the action of the Lord of all worlds and the Seal of the Prophets. And from Allah Most High we seek help. If they say, "We do not say that a new case arises which is not found in the Quran and the Sunnah. Rather, we say that the ruling for some new cases is found by explicit text and for others by evidence,"[190][191]

L3294–3299 they are to be told—and success comes through Allah Most High: This is true. But if this evidence you mention admits only one interpretation, then this is our position, not yours. If, however, that evidence admits two or more interpretations, this falls into two divisions. Either there is another explicit text that clearly explains what Allah Most High intends among those two or more interpretations, or there is a consensus that does likewise; in that case, this is our position and precisely the explicit text itself: we have not departed from it. Or there is neither another explicit text nor a consensus through either of which the intention of Allah, mighty and majestic, in that

جبار وسائر كلامه صلى الله عليه وسلم وأما من إسقاط معاني أرادها فلم يذكرها بالاسم الموضوع لها في اللغة التي بها خوطبنا، وطمع أن يدل عليها باسم غير موضوع لها في اللغة:، فهذا فعل الشيطان المريد إفساد الدين والتخليط على المسلمين، لا فعل رب العالمين، وخاتم النبيين. وبالله تعالى نستعين. فإن قالوا: لسنا نقول: إنه تنزل نازلة لا توجد في القرآن والسنة، لكنا نقول إنه يوجد حكم بعض النوازل نصا وبعضها بالدليل.

قيل لهم، وبالله تعالى التوفيق: إن هذا حق، ولكن إذا كان هذا الدليل الذي تذكرون لا يحتمل إلا وجها واحدا. فهذا قولنا لا قولكم، وأما إن كان ذلك الدليل يحتمل وجهين فصاعدا فهذا ينقسم على قسمين: إما أن يكون هنالك نص آخر بين مراد الله تعالى من ذينك الوجهين فصاعدا بيانا جليا أو إجماع كذلك، فهذا هو قولنا، والنص بعينه لم نزل عنه، وإما ألا يكون هنالك نص آخر ولا إجماع يبين بأحدهما مراد الله عز وجل من ذلك فهذا إشكال وتلبيس، تعالى الله عن ذلك، ولا يحل لأحد أن ينسب هذا إلى شيء من دين الله تعالى الذي قد بينه غاية البيان رسوله صلى الله عليه وسلم فإن قالوا إن التشابه بين الأدلة هو أحد الأدلة على مراد الله تعالى. قيل لهم: هذه دعوى تحتاج إلى دليل يصححها، وما كان هكذا فهو باطل بإجماع، ولا سبيل إلى وجود نص ولا إجماع يصحح هذه الدعوى، ولا فرق بينها وبين من جعل

[190] **Translator's note (L3292):** The supplied أحد الأموال means 'one of the items of property,' an awkward expression here. It may be a corruption of أخذ الأموال, 'taking property,' but that reading has not been substituted. The supplied وأما من إسقاط is grammatically irregular; the translation preserves its apparent sense as introducing the omission of intended meanings.

[191] **Qur'an references (L3291):** Qur'an 2:194 (Al-Baqarah).

matter is explained. This is obscurity and deception—exalted is Allah above that. It is not lawful for anyone to attribute this to anything belonging to the religion of Allah Most High, which His Messenger ﷺ has explained with the utmost clarity. If they say, "Resemblance between the evidences is one of the evidences of what Allah Most High intends," they are to be told: This is a claim that requires evidence to establish its validity, and whatever is like this is invalid by consensus. There is no possibility of finding an explicit text or a consensus that establishes the validity of this claim. There is no difference between it and someone's making the statement of one particular scholar evidence of what Allah Most High intends in that question. All this is falsehood and fabrication against Allah Most High. Furthermore, they disagree concerning the resemblance that necessitates the ruling: some of them make a particular attribute the operative cause of that ruling, while others reject that and produce another operative cause. All this is arbitrary assertion without evidence. Some of them have validated the operative cause by extending it consistently throughout the cases it governs. This is utter confusion, because such consistent extension can be valid only after the operative cause has been established as valid: consistent extension is merely a derivative consequence necessitated by the validity of the operative cause; otherwise, it is invalid. It is impossible for a foundation to be valid only through the validity of its derivatives. Furthermore, when they disagree over the consistent extension of that operative cause, the person who extends it consistently to establish its validity has no stronger claim than the person who declines to extend it consistently in order to invalidate it, and instead extends another cause consistently. All this is arbitrary assertion in religion, which is impermissible. Examples include al-Shafiʿi's consistently extending the operative cause of edibility in usury, and Abu Hanifah's and Malik's rejection of that; Abu Hanifah's consistently extending the operative cause of being measured by weight and by volume, and Malik's and al-Shafiʿi's rejection of that; and Malik's consistently extending the operative cause of storability and edibility, and Abu Hanifah's and al-Shafiʿi's rejection of that. If they say, "Then show us the entirety of new cases explicitly covered by texts," we say: Were we unable to do that, our inability would not constitute an argument against Allah Most High or against His Messenger ﷺ, since we have not claimed to you

قول إنسان من العلماء بعينه دليلا على مراد الله تعالى في تلك المسألة وكل هذا باطل وافتراء على الله تعالى وأيضا فإنهم في التشابه الموجب للحكم مختلفون، فبعضهم يجعل صفة ما علة لذلك الحكم، وبعضهم يمنع من ذلك ويأتي بعلة أخرى، وهذا كله تحكم بلا دليل. وقد صحح بعضهم العلة بطردها في معلولاتها، وهذا تخليط تام، لأن الطرد إنما يصحح بعد صحة العلة، لأن الطرد إنما هو فرع يوجبه صحة العلة، وإلا فهو باطل ومن المحال ألا يصح الأصل إلا بصحة الفروع. وأيضا فإنهم إذا اختلفوا في طرد تلك العلة، فليس من طردها ليصححها بأولى ممن لم يطردها ليبطلها وطرد غيرها، وهذا كله تحكم في الدين لا يجوز، وذلك نحو طرد الشافعي علة الأكل في الربا، ومنع أبي حنيفة ومالك من ذلك، وطرد أبي حنيفة علة الوزن والكيل، ومنع مالك والشافعي من ذلك، وطرد مالك علة الادخار والأكل، ومنع أبي حنيفة والشافعي من ذلك. فإن قالوا: فأرونا جمع النوازل منصوصا عليها. قلنا لو عجزنا عن ذلك لما كان عجزنا حجة على الله تعالى ولا على رسوله صلى الله عليه وسلم إذ لم ندع لكم الواحد فالواحد منه الإحاطة بجميع الفتن، لكن حسبنا أننا نقطع بأن الله تعالى بين لنا كل ما يقع من أحكام الدين إلى يوم القيامة، فكيف ونحن نأتيكم بنص واحد فيه كل نازلة وقعت أو تقع إلى يوم القيامة، وهو الخبر الصحيح الذي ذكرناه قبل بإسناده وهو قوله صلى الله عليه وسلم دعوني ما تركتكم فإنما هلك من كان قبلكم بكثرة مسائلهم واختلافهم على أنبيائهم فإذا أمرتكم بشيء فأتوا منه ما استطعتم وإذا نهيتكم عن شيء فاجتنبوه فصح نصا أن ما لم يقل فيه النبي صلى الله عليه وسلم فليس واجبا لأنه لم يأمر به وليس حراما لأنه لم ينه عنه، فبقي ضرورة أنه مباح، فمن ادعى أنه حرام مكلف أن يأتي فيه بنهي من النبي صلى الله عليه وسلم فإن جاء سمعنا وأطعنا وإلا فقوله باطل ومن ادعى فيه إيجابا كلف أن يأتي فيه بأمر من النبي صلى الله عليه وسلم فإن جاء

به سمعنا وأطعنا وإن لم يأت به فقوله باطل وصح بهذا النص أن كل ما أمر به صلى الله عليه وسلم فهو فرض علينا إلا ما لم نستطع من ذلك وأن كل ما نهانا عنه فحرام حاشا ما بينه صلى الله عليه وسلم أنه مكروه أو ندب فقط فلم يبق في الدين حكم إلا وهو ههنا منصوص جملة. ثم نعكس عليهم هذا السؤال وهذا القول فنقول لهم: أنتم تقولون: لا نازلة إلا ولها نظير في القرآن أو السنة، فنحن نعكس السؤال عن تلك النوازل التي تريدون سؤالنا عنها، من دينار وقع في محبرة وسائر تلك الحماقات، فأرونا نظائرها في القرآن والسنة، وأنتم تقرون أنه لا نصوص فيها، فخبرونا كيف تصنعون فيها أتحكمون فيها بقولكم؟ فهذا دينكم لا دين الله ففي هذا ما فيه، فظهر فساد كل سؤال لهم والحمد لله رب العالمين كثيرا. وقال من سلف من أصحابنا رحمهم الله: يقال لمن قال بالقياس قد أجمعتم أنتم وجميع المسلمين بلا خلاف من أحد منهم، على أن الأحكام كلها في الديانة جائز أن تؤخذ نصا، واتفقوا كلهم بلا خلاف من واحد منهم لا من القائلين بالقياس ولا من غيرهم، على أن أحكام الديانة كلها لا يجوز أن تؤخذ قياسا، ولا بد عندهم من نص يقاس عليه، فيقال لأصحاب القياس، عندكم حقا فمن ههنا ابدؤوا به فقيسوا ما اختلفنا فيه من المسائل التي جوزتم القياس فيها، ومنعنا نحن منها، على ما اتفقنا عليه من المسائل التي أقررتم أنها لا يجوز أن تؤخذ قياسا، فإن لم تفعلوا فقد تركتم القياس،

that each individual among us comprehends all trials. Rather, it suffices us that we know with certainty that Allah Most High has explained to us every ruling of religion that will arise until the Day of Resurrection. How, then, when we bring you with a single text encompassing every eventuality that has occurred or will occur until the Day of Resurrection. It is the authentic report that we previously cited with its chain of transmission, namely his statement ﷺ: "Leave me alone so long as I leave you alone. Those before you perished only because of their many questions and their disagreement with their prophets. When I command you to do something, do as much of it as you can; and when I forbid you something, avoid it." Thus it is established by explicit text that whatever has not been addressed by the Prophet ﷺ is not obligatory, because he did not command it, and is not forbidden, because he did not prohibit it. It therefore necessarily remains permissible. Anyone who claims that it is forbidden is required to produce a prohibition concerning it from the Prophet ﷺ. If he produces one, we hear and obey; otherwise, his statement is false. Anyone who claims that it is obligatory is required to produce a command concerning it from the Prophet ﷺ. If he produces it, we hear and obey; if he does not produce it, his statement is false. This text establishes that everything he ﷺ commanded is obligatory for us, except what we cannot do, and that everything he forbade us is forbidden, except what he ﷺ explained to be merely disapproved or recommended. Thus no ruling in religion remains without being explicitly covered here in general terms. We then turn this question and this statement back upon them, saying to them: You say that no eventuality lacks a counterpart in the Quran or the Sunnah. We therefore turn the question back upon you concerning those eventualities about which you wish to question us—a dinar falling into an inkwell and all those other absurdities. Show us their counterparts in the Quran and the Sunnah, while you yourselves acknowledge that there are no explicit texts concerning them. Tell us, then, how you deal with them. Do you rule on them according to your own opinion? Then this is your religion, not Allah's religion, with all that this entails. The invalidity of every question they raise has thus become evident. Abundant praise belongs to Allah, Lord of all worlds. Those of our predecessors among our companions—may Allah have mercy on them—said: It should be said to anyone who

advocates analogy: You and all Muslims have unanimously agreed, without dissent from any of them, that all rulings in religion may be derived from explicit texts. They have also all agreed, without dissent from a single one of them, whether an advocate of analogy or anyone else, that not all rulings in religion may be derived through analogy: according to them, there must be an explicit text upon which an analogy is based. It should therefore be said to the advocates of analogy: It is truly valid according to you; so begin with it here, and draw an analogy between the disputed questions in which you permit analogy and we prohibit it, and the questions upon which we agree and which you acknowledge cannot be derived through analogy. If you do not do so, you have abandoned analogy.[192][193]

L3300–3303 And if you do so, you have abandoned analogy. We do not say that this procedure is valid according to us, but it is valid according to your own principles. Nothing is more invalid than a position whose parts contradict one another. It should also be said to them: We have found many questions concerning which you and the entire community have unanimously agreed to abandon analogy, such as a killer who repents and feels remorse before he is apprehended: no one holds that legal retaliation is thereby waived for him. Yet you have not drawn an analogy between this and a perpetrator of armed brigandage who repents before he is apprehended, for whom the prescribed punishment for armed brigandage is waived. Likewise, they agree that no analogy is to be drawn between a wrongful appropriator and a thief, although both have deliberately taken property unlawfully. Another example is their refusal to draw an analogy between substituting the feeding of others for fasting in accidental killing and substituting it for fasting in the expiation for

[192]**Translator's note (L3296):** The supplied الواحد فالواحد منه, literally 'each individual from him/it,' has an unclear referent. The translation takes the apparently intended reference to be individual members of the author's group; منا, 'among us,' may have been intended. The supplied الفتن means 'trials' or 'dissensions' and has been retained as 'trials.' In this context it may be a corruption of الفنون, 'branches of learning,' but that reading has not been substituted.

[193]**Translator's note (L3298):** The clause rendered "It is truly valid according to you" is syntactically incomplete in the supplied Arabic: the referent of "valid" is not explicitly stated. The context suggests analogy or the advocates' own method of reasoning.

وإن فعلتم تركتم القياس، ولسنا نقول إن هذا العمل صحيح عندنا ولكن صحيح على أصولكم ولا أبطل من قول نقض بعضه بعضا. ويقال لهم وجدنا مسائل كثيرة قد أجمعتم وأنتم وجميع الأمة على ترك القياس فيها، كقاتل تاب قبل أن يقدر عليه وندم، فلا يسقط عنه القصاص عند أحد، ولم تقيسوا ذلك على محارب تاب قبل أن يقدر عليه، فالحد في الحرابة عنه ساقط، وكذلك اتفقوا على ألا يقاس الغاصب على السارق، وكلاهما أخذ مالا محرما عمدا، أو كترك قياس تعويض الإطعام من الصيام في قتل الخطأ على تعويضه من الصيام في الظهار، ومثل هذا كثير جدا، بل هو أكثر مما قاسوا فيه، فلو كان القياس حقا ما جاز الإجماع على تركه، كما لا يجوز الإجماع على ترك الحق الذي هو القرآن أو كلام الرسول صلى الله عليه وسلم مما صح عنه فإنه لم يجمع قط على ترك شيء منه إلا لنص آخر ناسخ له فقط، وهذا يوجب بطلان القياس ضرورة. ويقال لهم أخبرونا عن القياس، أيخلو عندكم أن يحكم للشيء الذي لا نص فيه ولا إجماع بمثل الحكم الذي فيه نص أو إجماع، إما لعلة فيهما معا، هي في المحكوم فيه علامة الحكم، وإما لنوع من الشبه بينهما، وإما مطارفة لا لعلة ولا لشبه ولا سبيل إلى قسم رابع أصلا؟ فإن قالوا: مطارفة لا لعلة ولا لشبه كفونا مؤنتهم، وصار قائل هذا ضحكة ومهزأة، ولم يكن أيضا أولى بما يحكم به من غيره، يحكم في ذلك الأمر بحكم

declaring one's wife forbidden by likening her to one's mother. Such examples are very numerous; indeed, they outnumber the matters in which they have applied analogy. If analogy were true, unanimous agreement to abandon it would not be permissible, just as unanimous agreement to abandon the truth—the Quran or authentically established words of the Messenger ﷺ—is not permissible. There has never been unanimous agreement to abandon anything of that except on account of another explicit text abrogating it, and for that reason alone. This necessarily entails the invalidity of analogy. It should also be said to them: Tell us about analogy. According to you, can it be anything other than assigning to something concerning which there is neither an explicit text nor consensus a ruling like that established by an explicit text or consensus, either because of a cause present in both, which is the sign of the ruling in the case being adjudicated; or because of some kind of resemblance between them; or arbitrarily, without either a cause or a resemblance? There is absolutely no fourth possibility. If they say, "Arbitrarily, without either a cause or a resemblance," they spare us the trouble of dealing with them, and whoever says this becomes a laughingstock and an object of ridicule. Nor would he have any greater warrant for the ruling he gives than someone else who gives a different ruling on that matter. None of them says this. If they say, "Rather, because of some kind of resemblance," it should be said to them: What is your evidence that this kind of resemblance necessarily entails that ruling? There is no way to find such evidence. Moreover, you can be opposed with another resemblance entailing another ruling, and so on forever. If they say, "Rather, because of a cause common to the two rulings," we ask them: What is the evidence that what you make the cause of the ruling is its actual cause? If they claim an explicit text, then the ruling belongs to the explicit text, and we do not reject this when we find it. If they say, "Something other than an explicit text," we say: This is falsehood and a claim for whose validity there is no demonstration. Anything of this kind is rejected by the explicit text of the Quran, the judgment of consensus, and reason. If they say, "Consistently extending the ruling attached to the cause is evidence of its validity," it should be said to them: Your own consistent extension, or that of the people of Islam? If they say, "That of the people of Islam," it should be said: This is consensus, concerning which there is no

آخر، وهذا ما لا يقوله أحد منهم. فإن قالوا: بل لنوع من الشبه، قيل لهم: وما دليلكم على أن ذلك النوع من الشبه يجب به ذلك الحكم، ولا سبيل إلى وجود ذلك الدليل، وتعارضون أيضا بشبه آخر يوجب حكما آخر، وهذا أبدا. فإن قالوا: بل لعلة جامعة بين الحكمين، سألناهم: ما الدليل على أن الذي تجعلونه علة الحكم هي علة الحقيقة؟ فإن ادعوا نصا فالحكم حينئذ للنص، ونحن لا ننكر هذا إذا وجدناه. فإن قالوا: غير النص قلنا: هذا الباطل والدعوى التي لا برهان على صحتها وما كان هكذا فهو ساقط بنص القرآن، وبحكم الإجماع والعقول، وإن قالوا: طرد حكم العلة دليل على صحتها، قيل لهم: طردكم أنتم، أو طرد أهل الإسلام. فإن قالوا: طرد أهل الإسلام، قيل: هذا إجماع لا خلاف فيه، ولسنا نخالفكم في صحة الإجماع إذا وجد يقينا، وإن قالوا: بل طردنا نحن قيل لهم: ما طردكم أنتم حجة على أحد، فهاتوا برهانكم على صحة دعواكم إن كنتم صادقين، وهذا ما لا مخلص منه أصلا. والحمد الله رب العالمين.

disagreement. We do not disagree with you about the validity of consensus when it is established with certainty. If they say, “Rather, our own consistent extension,” it should be said to them: Your own consistent extension is no authoritative proof against anyone. Produce your demonstration of the validity of your claim, if you are truthful. There is absolutely no escape from this. Praise belongs to Allah, Lord of all worlds.

L3304–3306 Abu Muhammed said: And he said: Explicit texts have come invalidating analogy. Among them is the statement of Allah Most High: {O you who believe, do not advance before Allah and His Messenger, and fear Allah. Indeed, Allah is All-Hearing, All-Knowing.} And He Most High said: {Do not pursue that of which you have no knowledge. Indeed, hearing, sight, and the heart—each of these will be questioned.} And He Most High said: {There is no creature on the earth, nor any bird flying with its two wings, but they are communities like you. We have neglected nothing in the Book. Then to their Lord they will be gathered.} And He Most High said: {We descend only by your Lord’s command. To Him belongs what is before us, what is behind us, and what is between these; and your Lord is never forgetful.} These are explicit texts invalidating analogy and speaking about religion without an explicit text. For analogy, as we have explained, is pursuing that of which they have no knowledge, advancing before Allah Most High and His Messenger ﷺ, and supplying, as a correction to Allah Most High and His Messenger ﷺ, something they did not mention. If the advocates of analogy say, “Perhaps your rejection of analogy is speaking without knowledge, pursuing that of which you have no knowledge, and advancing before Allah and His Messenger,” it should be said to them—and success comes through Allah Most High: We will show you that our rejection of analogy is a statement based on knowledge, an explicit text, and certainty. For Allah, Mighty and Majestic, said: {Allah brought you forth from your mothers’ wombs knowing nothing, and gave you hearing, eyes, and hearts, so that you might give thanks.} Thus it is established with certainty, without any doubt, by the explicit wording of Allah, Mighty and Majestic, that people entered this world knowing absolutely nothing. And He Most High said: {Just as We have sent among you a messenger from among yourselves, reciting Our signs to you, purifying

قال أبو محمد وقال جاءت نصوص بإبطال القياس فمن ذلك قول الله تعالى {يأيها لذين آمنوا لا تقدموا بين يدي لله ورسوله وتقوا لله إن لله سميع عليم} وقال تعالى {ولا تقف ما ليس لك به علم إن لسمع ولبصر ولفؤاد كل أولئك كان عنه مسؤولا} وقال تعالى {وما من دآبة في لأرض ولا طائر يطير بجناحيه إلا أمم أمثالكم ما فرطنا في لكتاب من شيء ثم إلى ربهم يحشرون} وقال تعالى: {وما نتنزل إلا بأمر ربك له ما بين أيدينا وما خلفنا وما بين ذلك وما كان ربك نسيا} وهذه نصوص مبطلة للقياس، وللقول في الدين بغير نص، لأن القياس على ما بينا قفو لما لا علم لهم به وتقدم بين يدي الله تعالى ورسوله صلى الله عليه وسلم واستدراك على الله تعالى ورسوله صلى الله عليه وسلم ما لم يذكراه فإن قال أهل القياس فلعل إنكاركم للقياس قول بغير علم، وقفو لما لا علم لكم به، وتقدم بين يدي الله ورسوله. قيل لهم، وبالله تعالى التوفيق: نحن نريكم إنكارنا للقياس أنه قول بعلم وبنص وبيقين وذلك أن الله عز وجل قال {ولله أخرجكم من بطون أمهاتكم لا تعلمون شيئا وجعل لكم لسمع ولأبصار ولأفئدة لعلكم تشكرون} فصح يقينا لا شك فيه أن الناس خرجوا إلى الدنيا لا يعلمون شيئا أصلا بنص كلام الله عز وجل. وقال تعالى: {كما أرسلنا فيكم رسولا منكم يتلوا عليكم آياتنا ويزكيكم ويعلمكم لكتاب ولحكمة ويعلمكم ما لم تكونوا تعلمون} فصح يقينا أن الله أرسل محمدا رسوله صلى الله عليه وسلم إلينا ليعلمنا ما لم نعلم فصح ضرورة أن ما علمنا الرسول صلى الله عليه وسلم من أمور الدين فهو الحق وما لم يعلمنا منها فهو الباطل، وحرام

you, teaching you the Book and wisdom, and teaching you what you did not know.} Thus it is established with certainty that Allah sent Muhammed, His Messenger ﷺ, to us to teach us what we did not know. It therefore necessarily follows that whatever the Messenger ﷺ taught us concerning religious matters is the truth, and whatever he did not teach us concerning them is falsehood, and it is forbidden to assert it. And He Most High said, meaning thereby the accursed Iblis: {He commands you only to evil and indecency, and to say of Allah what you do not know.} And He Most High said: {Say: My Lord has forbidden only indecencies—what is manifest of them and what is hidden—and sin, and aggression without right, and that you associate with Allah that for which He has sent down no authority, and that you say of Allah what you do not know.}[194][195]

L3307–3313 Thus it is established by the explicit text of the Quran that we came into this world knowing nothing. Then we were forbidden to say about Allah Most High what we do not know, and He Most High informed us that Iblis commands us to say about Allah what we do not know. These texts therefore necessarily establish that making assertions by analogy or without analogy is like affirming the existence of the phoenix, the ghoul, and alchemy, or like the statements of the Rejecters concerning the imam, or the statements of those who profess inspiration. To assert any of this about Allah Most High in matters of religion is forbidden, coupled with associating partners with Him, and is one of Iblis's commands. The exception is what the Messenger of Allah ﷺ taught us: that is the truth that we state about Allah Most High, and we are not permitted to state anything else about Him. Since he, peace be upon him, did not command us to employ analogy, it is forbidden and unquestionably belongs to Satan's commands. We have already explained all

القول به وقال تعالى يعني به إبليس اللعين {إنما يأمركم بلسوء ولفحشآء وأن تقولوا على الله ما لا تعلمون} وقال تعالى {قل إنما حرم ربي لفواحش ما ظهر منها وما بطن ولإثم ولبغي بغير لحق وأن تشركوا بالله ما لم ينزل به سلطانا وأن تقولوا على الله ما لا تعلمون}

فصح بنص القرآن أننا خرجنا إلى الدنيا لا نعلم شيئا ثم حرم علينا القول على الله تعالى بما لا نعلم، وأخبرنا تعالى أن إبليس يأمرنا بأن نقول على الله ما لا نعلم، فقد صح بهذه النصوص، ضرورة أن القول بقياس وبغير القياس، كمن أثبت العنقاء والغول والكيميا وكقول الروافض في الإمام، وكقول من قال بالإلهام وكل هذا، فالقول به على الله تعالى في الدين حرام. مقرون بالشرك أمر من أمر إبليس إلا ما علمنا رسول الله صلى الله عليه وسلم فهو الحق الذي نقوله على الله تعالى ولا يحل لنا أن نقول عليه غيره، فإذ لم يأمرنا عليه السلام بالقياس فهو حرام من أمر الشيطان بلا شك، وقد بينا فيما خلا، كل ما شغبوا مما أرادوا التمويه به فيه بالحديث فحرم القول بالقياس البتة. وبهذا بطل كل قول بلا برهان على صحته، حتى لو لم يقيم برهان بإبطاله، فلو لم يكن لنا برهان على إبطال القياس لكان عدم البرهان على إثباته برهانا في إبطاله، لأن الفرض علينا ألا نوجب في الدين شيئا إلا ببرهان، وإذ ذلك كذلك فالفرض علينا أن نبطل كل قول قيل في الدين، حتى يقوم برهان بصحته، وهذا برهان ضروري لا محيد عنه، وبالله تعالى التوفيق. وقد اعترض بعضهم في قول الله تعالى {حرمت عليكم لميتة ولدم ولحم لخنزير ومآ أهل لغير لله به ولمنخنقة ولموقوذة ولمتردية ولنطيحة ومآ أكل لسبع

[194] **Translator's note (L3304):** The opening contains the awkward additional "and he said" after "Abu Muhammed said"; both are retained. The cited Quranic passages contain recurrent transcriptional omissions of the initial alif in definite articles and in the name Allah. These have been understood as orthographic defects; their intended words are otherwise clear.

[195] **Qur'an references (L3304):** Qur'an 49:1 (Al-Hujurat); Qur'an 17:36 (Al-Isra); Qur'an 6:38 (Al-An'am); Qur'an 19:64 (Maryam); Qur'an 16:78 (An-Nahl); Qur'an 2:151 (Al-Baqarah); Qur'an 6:151 (Al-An'am); Qur'an 7:33 (Al-A'raf).

the specious objections through which they sought to obscure this matter by invoking hadith. Making assertions by analogy is therefore absolutely forbidden. This also invalidates every assertion for whose soundness there is no demonstration, even if no demonstration establishing its invalidity has been produced. Thus, even if we had no demonstration invalidating analogy, the absence of a demonstration establishing it would itself be a demonstration invalidating it, because our obligation is to impose nothing in religion without a demonstration. Since that is so, our obligation is to invalidate every assertion made in religion until a demonstration establishing its soundness is produced. This is a necessary demonstration from which there is no escape. Success comes through Allah Most High.

Some of them have raised an objection concerning the statement of Allah Most High: "Forbidden to you are carrion, blood, the flesh of swine, that over which a name other than Allah's has been invoked, the strangled animal, the animal beaten to death, the animal killed by a fall, the animal gored to death, and that which a beast of prey has eaten—except what you slaughter—and that which has been slaughtered upon sacrificial stones; and that you seek allotments by divining arrows. That is transgression. Today those who disbelieve have despaired of your religion, so do not fear them, but fear Me. Today I have perfected your religion for you, completed My favor upon you, and approved Islam as a religion for you. But whoever is compelled by severe hunger, without inclining toward sin—then Allah is forgiving, merciful," by invoking what is reported from the Messenger of Allah ﷺ on Thursday, four days before his death ﷺ: "Bring me writing material, so that I may write you a document after which you will never go astray after me"; and by invoking the reported statement of Aishah, may Allah be pleased with her: "Revelation had never been more abundant than shortly before the death of the Prophet ﷺ." They said: "These are things additional to what existed when He Most High said during the Farewell Pilgrimage: 'Forbidden to you are carrion, blood, the flesh of swine, that over which a name other than Allah's has been invoked, the strangled animal, the animal beaten to death, the animal killed by a fall, the animal gored to death, and that which a beast of prey has eaten—except what you slaughter—and that which has been slaughtered

إلا ما ذكيتم وما ذبح على لنصب وأن تستقسموا بلأزلام ذلكم فسق ليوم يئس لذين كفروا من دينكم فلا تخشوهم وخشون ليوم أكملت لكم دينكم وأتممت عليكم نعمتي ورضيت لكم لأسلام دينا فمن ضطر في مخمصة غير متجانف لإثم فإن لله غفور رحيم} بما روي عن رسول الله صلى الله عليه وسلم يوم الخميس قبل موته صلى الله عليه وسلم بأربعة أيام ائتوني بكتاب أكتب لكم كتابا لن تضلوا من بعدي وبما روي عن عائشة رضي الله عنها قولها لم يكن الوحي قط أكثر منه قبيل موت النبي صلى الله عليه وسلم فقالوا هذه أشياء زائدة على ما كان حين قوله تعالى في حجة الوداع {حرمت عليكم لميتة ولدم ولحم لخنزير ومآ أهل لغير لله به ولمنخنقة ولموقوذة ولمتردية ولنطيحة ومآ أكل لسبع إلا ما ذكيتم وما ذبح على لنصب وأن تستقسموا بلأزلام ذلكم فسق ليوم يئس لذين كفروا من دينكم فلا تخشوهم وخشون ليوم أكملت لكم دينكم وأتممت عليكم نعمتي ورضيت لكم لأسلام دينا فمن ضطر في مخمصة غير متجانف لإثم فإن لله غفور رحيم} واعترض آخرون من أهل الجهل على الحديث المذكور بالآية المذكورة، وصوبوا فعل عمر وقوله في ذلك اليوم. قال أبو محمد: وهذان الاعتراضان من هاتين الطائفتين لا يشبهان اعتراض المسلمين، وإنما يشبهان اعتراض أهل الكفر والإلحاد، وبعيد عندنا أن يعترض بها مسلم صحيح الباطن، لأن الطائفة الأولى مكذبة لله عز وجل في قوله إنه أكمل ديننا، مدعية أنه كانت هنالك أشياء لم تكمل والطائفة الثانية مجهلة لرسول الله صلى الله عليه وسلم مدعية عليه الكذب في أمر الكتاب الذي أراد أن يكتبه، أو التخطيط في كلامه وأن قول عمر أصوب من قول رسول الله صلى الله عليه وسلم وكلا هذين القولين كفر مجرد وكل هذه النصوص حق لا تعارض بين شيء منها بوجه من الوجوه، لأن الآية المذكورة نزلت يوم عرفة في حجة الوداع قبل موته صلى الله عليه وسلم بثلاثة أشهر وحتى لو نزلت بعد ذلك شرائع لما كان نزولها

upon sacrificial stones; and that you seek allotments by divining arrows. That is transgression. Today those who disbelieve have despaired of your religion, so do not fear them, but fear Me. Today I have perfected your religion for you, completed My favor upon you, and approved Islam as a religion for you. But whoever is compelled by severe hunger, without inclining toward sin—then Allah is forgiving, merciful.'" Others among the ignorant objected to the aforementioned hadith by invoking the aforementioned verse, and judged Umar's action and statement on that day to be correct.

Abu Muhammed said: These two objections from these two groups do not resemble the objections of Muslims; they resemble only the objections of people of unbelief and impiety. We consider it unlikely that a Muslim sound in his inward belief would raise such objections. For the first group declares Allah, mighty and majestic, untruthful in His statement that He has perfected our religion, claiming that there were things that had not been completed. The second group attributes ignorance to the Messenger of Allah ﷺ, alleging that he lied concerning the document he wished to write, or that there was line-drawing in his speech, and that Umar's statement was more correct than the statement of the Messenger of Allah ﷺ. Both these positions are sheer unbelief. All these texts are true, and none of them conflicts with any other in any respect. For the aforementioned verse was revealed on the Day of Arafah during the Farewell Pilgrimage, three months before his death ﷺ. Even if further laws had been revealed afterward, their revelation would not have conflicted with the aforementioned verse, because religion is complete and perfect at every moment. Allah Most High may efface whatever He wishes from religion, add to it, and confirm it; no one else may do so. Indeed, the Prophet's ﷺ command shortly before his death, by an hour, to expel the unbelievers from the Arabian Peninsula and to allow no two religions to remain there, is established as authentic. This law had not come previously; had it come, the Messenger of Allah ﷺ would not have allowed them to remain. Our point concerning this verse is simply that Allah Most High undertook the perfection of religion, and no one may add to what Allah Most High has perfected any opinion or analogy that Allah Most High has

معارضا للآية المذكورة، لأن الدين في كل وقت تام كامل، ولله تعالى أن يمحو من الدين ما يشاء، وأن يزيد فيه، وأن يثبت وليس ذلك لغيره بل قد صح أمر النبي صلى الله عليه وسلم قبيل موته بساعة بإخراج الكفار من جزيرة العرب، وألا يبقى فيها دينان، ولمن يكن هذا الشرع ورد قبل ذلك ولو ورد لما أقرهم رسول الله صلى الله عليه وسلم وإنما غرضنا في هذه الآية أن الله تعالى تولى إكمال الدين، وما أكمله الله تعالى فليس لأحد أن يزيد فيه رأيا ولا قياسا لم يزدهما الله تعالى في الدين، وهذا بين. وبالله تعالى التوفيق وأما أمر الكتاب الذي أراد رسول الله صلى الله عليه وسلم أن يكتبه يوم الخميس قبل وفاته صلى الله عليه وسلم بأربعة أيام فإنما كان في النص على أبي بكر رضي الله عنه، ولقد وهل عمر وكل من ساعده على ذلك، وكان ذلك القول منهم خطأ عظيما، ولكنهم اخير أرادوا، فهم معذورون مأجورون، وإن كانوا قد عوقبوا على ذلك بأمر رسول الله صلى الله عليه وسلم إياهم بالخروج عنه وإنكاره عليهم التنازع بحضرته. ولقد ولد الامتناع من ذلك الكتاب من فرقة الأنصار يوم السقيفة ما كاد يكون فيه بوار الإسلام، لولا أن الله تداركنا بمنه، وولد من اختلاف الشيعة وخروج طوائف منهم عن الإسلام، أمرا يشجي نفوس أهل الإسلام، فلو كتب ذلك الكتاب لانقطع الاختلاف في الإمامة، ولما ضل أحد فيها، لكن يقضي الله أمرا كان مفعولا. وقد أبى ربك إلا ما ترى. وهذه زلة عالم، نعني قول عمر رضي الله عنه يومئذ، قد حذرنا من مثلها، وعلى كل حال فنحن نثبت ونقطع ونوقن، ونشهد بشهادة الله تعالى ونبرأ من كل من لم يشهد بأن الذي أراد صلى الله عليه وسلم أن يمله في ذلك اليوم في الكتاب الذي أراد أن يكتبه، لو كان شرعا زائدا من تحريم شيء لم يتقدم تحريمه، أو تحليل شيء تقدم تحريمه، أو إيجاب شيء لم يتقدم إيجابه إو إسقاط إيجاب شيء تقدم إيجابه لما ترك صلى الله عليه وسلم بيانه ولا كتابه لقول

not added to religion. This is clear, and success comes through Allah Most High.

As for the document that the Messenger of Allah ﷺ wished to write on Thursday, four days before his death ﷺ, it concerned only the explicit designation of Abu Bakr, may Allah be pleased with him. Umar and everyone who supported him in that certainly erred, and that statement of theirs was a grave error. Yet they intended good, and so they are excused and rewarded, although they were punished for it by the Messenger of Allah's ﷺ command that they leave him and his rebuke of their disputing in his presence. Preventing that document from being written certainly gave rise to such division among the Helpers on the Day of the Portico that Islam might almost have perished through it, had Allah not come to our aid through His favor. It also produced, through the disagreement of the Shia and the departure of groups among them from Islam, something that grieves the souls of the people of Islam. Had he written that document, disagreement over the imamate would have ceased, and no one would have gone astray concerning it. But Allah brings about a matter that was to be accomplished, and your Lord has willed nothing other than what you see. This is a scholar's lapse—we mean Umar's statement —may Allah be pleased with him—on that day, the like of which we have been warned against. In any event, we affirm, declare definitively, hold with certainty, and testify with Allah Most High's testimony—and we disavow everyone who does not testify—that if what he ﷺ wished to dictate that day in the document he wished to write had been an additional law, prohibiting something whose prohibition had not previously been established, permitting something whose prohibition had previously been established, or imposing as obligatory something whose obligation had not previously been established, or removing the obligation of something whose obligation had previously been established, he ﷺ would not have refrained from explaining it or writing it because of Umar's statement or the statement of any other person. It is therefore necessarily established that it concerned what he already knew, through Allah Most High's revelation to him, would come to pass concerning Abu Bakr's assumption of authority. This is made clear by his statement ﷺ in the hadith of Aishah that we mentioned earlier: "Allah and

عمر ولا لقول أحد من الناس. فصح ضرورة أنه فيما قد علم بوحي الله تعالى إليه أنه سيتم من ولاية أبي بكر وذلك بين قوله صلى الله عليه وسلم في حديث عائشة الذي قد ذكرنا قبل ويأبى الله والمؤمنون وروي أيضا والنبيون إلا أبا بكر فوضح البرهان بصحة قولنا يقينا. والحمد لله كثيرا.

the believers will refuse”—and it is also transmitted as “and the prophets”—“anyone but Abu Bakr.” Thus the demonstration establishing the soundness of our position has become clear with certainty. Abundant praise belongs to Allah.[196][197][198][199][200]

L3314–3315 As for the successive coming of revelation, it was undoubtedly only a confirmation of the obligation to adhere to what had previously been revealed of the Quran, as in what has been transmitted concerning {When Allah’s help and the conquest come, * and you see people entering Allah’s religion in multitudes}, the revelation of {And fear a day when you will be returned to Allah; then every soul will be paid in full for what it has earned, and they will not be wronged}, and the verse concerning inheritance in the absence of direct ascendants and descendants, whose ruling had already preceded it. It is therefore established that none of these texts conflicts with any other. Praise be to Allah, Lord of all worlds.

If they say, “Then show us, according to your position, every case that arises in the text of the Quran and the Sunnah,” we say to them: Yes; success comes through Allah Most High, and this is incumbent upon us. The first step is to establish what religious observance consists in. We say that the rulings of the revealed law, from first to last, fall into three categories, with no fourth: an obligation, which must be acknowledged in belief and also

وأما تتابع الوحي فإنما كان بلا شك تأكيدا في التزام ما نزل من القرآن قبل ذلك ومثل ما روي من {إذا جآء نصر الله ولفتح * ورأيت لناس يدخلون في دين الله أفواجا} ونزول {وتقوا يوما ترجعون فيه إلى الله ثم توفى كل نفس ما كسبت وهم لا يظلمون} وآية الكلالة التي قد تقدم حكمها. فصح أنه لا تعارض بين شيء من هذه النصوص. والحمد لله رب العالمين. فإن قالوا: فأرونا كل نازلة تنزل على ما تقولون في نص القرآن والسنة. قلنا لهم: نعم، وبالله تعالى التوفيق، وهذا واجب علينا وأول ذلك: أن نقرر ما الديانة؟ وهي أن نقول: إن أحكام الشريعة كلها أولها عن آخرها تنقسم ثلاثة أقسام لا رابع لها: وهي فرض لا بد من اعتقاده، والعمل به مع ذلك، وحرام لا بد من اجتنابه قولا وعقدا وعملا، وحلال مباح فعله ومباح تركه. وأما المكروه والمندب إليه فداخلان تحت المباح على ما بينا قبل، لأن المكروه لا يأثم فاعله، ولو أثم لكان حراما، ولكن يؤجر فاعله. والمندوب إليه لا يأثم تاركه، ولو أثم لكان فرضا، ولكن يؤجر فاعله. فهذه أقسام الشريعة بإجماع من كل مسلم، وبضرورة وجود العقل في القسمة الصحيحة، إلى ورود السمع بها فإذ لا شك في هذا فقد قال الله عز وجل {هو لذي خلق لكم ما في لأرض جميعا ثم ستوى إلى لسمآء فسواهن سبع سماوات وهو بكل شيء عليم} وقال تعالى {وما لكم ألا تأكلوا مما ذكر سم لله عليه وقد فصل لكم ما حرم عليكم إلا ما ضطررتم إليه وإن كثيرا ليضلون بأهوائهم بغير علم إن ربك هو أعلم بلمعتدين} فصح بهاتين الآيتين أن كل شيء في الأرض، وكل عمل فمباح حلال، إلا ما فصل الله تعالى لنا تحريمه اسمه نصا عليه في القرآن وكلام النبي صلى الله عليه وسلم المبلغ عن ربه عز وجل والمبين لما أنزل عليه.

[196] **Translator’s note (L3307):** “The Rejecters” renders the polemical designation al-Rawāfiḍ. “Alchemy” renders al-kīmiyā’, listed here among things whose existence the author rejects.

[197] **Translator’s note (L3310):** The supplied text reads al-takhṭīṭ, literally “line-drawing” or “marking out,” in the phrase concerning his speech. This is contextually anomalous and may be a transcription error for al-takhlīṭ, “confusion” or “incoherence”; the supplied reading has been retained. The supplied wa-laman yakun is grammatically anomalous in context; the translation follows its apparent intended negative sense, “had not.”

[198] **Translator’s note (L3311):** “The Day of the Portico” renders yawm al-Saqīfah, the reference to the gathering associated with the succession after the Prophet’s death.

[199] **Translator’s note (L3313):** The supplied phrase wa-dhālika bayyina qawluhu is syntactically awkward; it has been rendered according to its apparent sense, that the following statement makes the point clear. The alternative wording “and the prophets” has been preserved as transmitted without reconciling it with the preceding wording.

[200] **Qur’an references (L3307):** Qur’an 5:3 (Al-Ma’idah).

acted upon; a prohibition, which must be avoided in speech, conviction, and action; and something lawful, which one is permitted to do and permitted to leave undone. As for the disfavored and the recommended, both fall under the permissible, as we explained previously. Someone who does what is disfavored incurs no sin; if he incurred sin, it would be prohibited. But someone who does it is rewarded. Someone who leaves the recommended undone incurs no sin; if he incurred sin, it would be obligatory. But someone who does it is rewarded. These, then, are the categories of the revealed law, by the consensus of every Muslim and by the necessary recognition of reason in making a correct division, in addition to their being conveyed through revelation.

Since there is no doubt about this, Allah, Mighty and Majestic, has said: {He is the One who created for you everything on earth; then He turned to heaven and fashioned them into seven heavens, and He knows all things}. And He Most High said: {What is the matter with you that you do not eat of that over which Allah's name has been mentioned, when He has explained in detail to you what He has prohibited to you, except what you are compelled to consume? Indeed, many lead others astray through their desires, without knowledge. Your Lord knows best those who transgress}. Through these two verses it is therefore established that everything on earth and [every] action is permissible and lawful, except what Allah Most High has explained to us to be prohibited, naming it explicitly in the Quran and in the speech of the

Prophet ﷺ, who conveys from his Lord, Mighty and Majestic, and explains what has been sent down to him,[201][202][203]

L3316–3317 and in the consensus of the entire community, adherence to which is explicitly prescribed in the Quran. This itself refers back to the text, as we explained previously. If we find something that the text has prohibited by forbidding it, or that consensus has prohibited by name, we declare it prohibited. If we do not find something expressly forbidden by name or subject to consensus, then it is lawful by the explicit wording of the first verse. Allah Most High has confirmed this in more than one place in His Book. He, Mighty and Majestic, said: {O you who believe, do not prohibit the good things that Allah has made lawful for you, and do not transgress. Indeed, Allah does not love those who transgress}. Allah Most High thus made clear that everything is lawful for us except what He has expressly prohibited, and He forbade us to transgress what He Most High has commanded us. Anyone who prohibits something that neither Allah Most High nor His Messenger ﷺ has expressly prohibited and forbidden, and whose prohibition has not been established by consensus, has transgressed and disobeyed Allah Most High.

Then He Most High gave us further clarification, saying: {Say: Bring your witnesses who testify that Allah has prohibited this. If they testify, do not testify with them, and do not follow the desires of those who deny Our

وفي إجماع الأمة كلها المنصوص على اتباعه في القرآن، وهو راجع إلى النص على ما بينا قبل، فإن وجدنا شيئا حرمه النص بالنهي عنه أو الإجماع باسمه حرمناه، وإن لم نجد شيئا منصوصا على النهي عنه باسمه ولا مجمعا عليه فهو حلال بنص الآية الأولى. وقد أكد الله تعالى هذا في غير ما موضع من كتابه فقال عز وجل {يأيها لذين آمنوا لا تحرموا طيبات مآ أحل لله لكم ولا تعتدوا إن لله لا يحب لمعتدين} فبين الله تعالى أن كل شيء حلال لنا إلا ما نص على تحريمه، ونهانا عن اعتداء ما أمرنا تعالى به، فمن حرم شيئا لم ينص الله تعالى ولا رسوله صلى الله عليه وسلم على تحريمه والنهي عنه ولا أجمع على تحريمه، فقد اعتدى وعصى الله تعالى، ثم زادنا تعالى بيانا فقال {قل هلم شهدآءكم لذين يشهدون أن لله حرم هذا فإن شهدوا فلا تشهد معهم ولا تتبع أهوآء لذين كذبوا بآياتنا ولذين لا يؤمنون بلآخرة وهم بربهم يعدلون} فصح بنص هذه الآية صحة لا مرية فيها أن كل ما لم يأت النهي فيه باسمه من عند الله تعالى على لسان رسوله صلى الله عليه وسلم فهو حلال لا يحل لأحد أن يشهد بتحريمه وقال تعالى {يا أيها لذين آمنوا أطيعوا لله وأطيعوا لرسول وأولي لأمر منكم فإن تنازعتم في شيء فردوه إلى لله ولرسول إن كنتم تؤمنون بلله وليوم لآخر ذلك خير وأحسن تأويلا} وقال تعالى {يأيها لذين آمنوا لا تسألوا عن أشيآء إن تبد لكم تسؤكم وإن تسألوا عنها حين ينزل لقرآن تبد لكم عفا لله عنها ولله غفور حليم * قد سألها قوم من قبلكم ثم أصبحوا بها كافرين} فبين الله تعالى أن ما أمرنا به في القرآن أو على لسان نبيه صلى الله عليه وسلم فهو واجب طاعته وضد الطاعة المعصية فمن لم يطع فقد عصى، ومن لم يفعل ما أمر به فلم يطع،

[201] **Translator's note (L3314):** The source says that the person who does what is disfavored is rewarded. This has been preserved, although the argument appears to call for the person who refrains from it to be rewarded. The phrase translated as "in addition to their being conveyed through revelation" has awkward wording in the supplied Arabic, literally using "to the arrival of transmitted revelation." The Quranic quotations contain recurrent omissions of initial alifs in the transcription; the recognizable words have been translated without reproducing those orthographic defects.

[202] **Translator's note (L3315):** The supplied wording "وكل عمل" is corrupt or irregular in this context. "[Every] action" represents the probable intended sense, but the transcription itself does not clearly say "every action." The construction translated as "naming it explicitly" is also irregular in the supplied text; it appears to mean that the prohibited thing is expressly identified by name.

[203] **Qur'an references (L3314):** Qur'an 2:281 (Al-Baqarah); Qur'an 3:161 (Ali 'Imran); Qur'an 37:182 (As-Saffat); Qur'an 2:29 (Al-Baqarah); Qur'an 6:119 (Al-An'am).

signs and those who do not believe in the Hereafter and who set others as equals to their Lord}. Through the explicit wording of this verse it is thus established, with a validity admitting of no doubt, that everything for which no prohibition identifying it by name has come from Allah Most High through the tongue of His Messenger ﷺ is lawful, and no one may lawfully testify that it is prohibited.

He Most High said: {O you who believe, obey Allah and obey the Messenger and those vested with authority among you. If you dispute over anything, refer it to Allah and the Messenger, if you believe in Allah and the Last Day. That is better and best in outcome}. And He Most High said: {O you who believe, do not ask about things which, if disclosed to you, would distress you. If you ask about them while the Quran is being sent down, they will be disclosed to you. Allah has pardoned them, and Allah is Forgiving, Forbearing. * A people before you asked about them, then came to disbelieve in them}. Allah Most High thus made clear that obedience to whatever He commands us in the Quran or through the tongue of His Prophet ﷺ is obligatory. The opposite of obedience is disobedience: whoever does not obey has disobeyed, and whoever does not do what he has been commanded has not obeyed.[204]

L3318 And He forbade us to ask about anything at all, without exception. He did not leave us in uncertainty such that someone might say, "This verse was revealed concerning questions like that asked by Abd Allah ibn Hudhafah: 'Who is my father?'" Allah declared their suppositions false; rather, Allah Most High said: {A people before you asked about them, then came to disbelieve in them}. It is therefore established that this concerns the ordinances of the revealed law, the denial of which constitutes unbelief and the abandonment of which leads one astray. It is thus established that whatever is not prescribed by a text or consensus is not obligatory upon us.[205]

L3319–3324 What, then, remains after this? Is there any case in the world that falls outside someone's saying, "This is obligatory," whereupon we say to him: "If

ونهانا عن أن نسأل عن شيء جملة البتة ولم يدعنا في لبس أن يقول قائل: إن هذه الآية نزلت في السؤال عن مثل ما سأل عنه عبد الله بن حذافة: من أبي؟ فأكذب الله ظنونهم لكن قال الله تعالى: {قد سألها قوم من قبلكم ثم أصبحوا بها كافرين} فصح أن ذلك في الشرائع التي يكفر في جحدها، ويضل من تركها، فصح أن ما لم يأت به نص أو إجماع فليس واجبا علينا.

فأي شيء بقي بعد هذا؟ وهل في العالم نازلة تخرج من أن يقول قائل: هذا واجب؟ فنقول له: إن أتيت على إيجابه بنص من القرآن أو بكلام صحيح عن رسول الله صلى الله عليه وسلم أو إجماع فسمعا وطاعة وهو واجب ومن أبى عن إيجابه حينئذ

[204] **Qur'an references (L3316):** Qur'an 5:87 (Al-Ma'idah); Qur'an 6:150 (Al-An'am); Qur'an 4:59 (An-Nisa); Qur'an 5:101 (Al-Ma'idah); Qur'an 5:102 (Al-Ma'idah).

[205] **Qur'an references (L3318):** Qur'an 5:102 (Al-Ma'idah).

you produce a text from the Quran, an authentic statement from the Messenger of Allah ﷺ, or consensus establishing its obligatory character, then we hear and obey, and it is obligatory. Whoever then refuses to acknowledge its obligatory character is an unbeliever"? If he produces neither a text nor consensus establishing its obligatory character, then he is a liar, and the matter stated is not obligatory. Or someone says—he says—"This is prohibited," whereupon we say to him: "If you produce a text or consensus forbidding it, then it is prohibited, and we hear and obey. Whoever then seeks to treat it as lawful is sinful, a liar, and disobedient. If you [do not] produce a text or consensus forbidding it, then you are a liar, and that thing is not prohibited." Is there any ruling in the world that falls outside this? It is therefore established that the text encompasses every ruling that arises or has arisen, until the Day of Resurrection. There is no possibility of a case falling outside these three rulings. Success comes through Allah Most High.

The reports from the Messenger of Allah ﷺ have also conveyed the same as these verses. Thus Abd al-Rahman ibn Abd Allah al-Hamadhani related to us: Abu Ishaq Ibrahim ibn Ahmad al-Balkhi related to us: Muhammed ibn Yusuf related to us: Muhammed ibn Ismail related to us: Ismail—that is, Ibn Abi Uways—related to us: Malik ibn Anas related to us, from Abu al-Zinad, from al-Araj, from Abu Hurayrah, from the Prophet ﷺ, who said: "Leave me alone so long as I leave you alone. Those before you perished only through their questioning and their disagreements with their prophets. When I forbid you something, avoid it; and when I command you to do something, do as much of it as you can."

Abu Muhammed said: This report comprehensively embraces everything we have mentioned. In it he ﷺ explained that when he forbids something, avoiding it is obligatory; that when he commands something, doing it to the full extent of one's ability is obligatory; and that whatever he has neither forbidden nor commanded must not be investigated during his lifetime ﷺ. Since this is its character, it is obligatory upon every Muslim not to declare it prohibited or obligatory. If it is neither prohibited nor obligatory, then it is necessarily permissible, since there is no category beyond these three. When two of them are ruled out, the third must necessarily apply. This is

فهو كافر، وإن لم يأت على إيجابه بنص ولا إجماع، فإنه كاذب وذلك القول ليس بواجب أو يقول قال: هذا حرام، فنقول له: إن أتيت على النهي عنه بنص أو إجماع فهو حرام، وسمعا وطاعة، ومن أراد استباحته حينئذ فهو آثم كاذب عاص، وإن تأت على النهي عنه بنص ولا إجماع فأنت كاذب، وذلك الشيء ليس حراما. فهل في العالم حكم يخرج عن هذا؟ فصح أن النص مستوعب لكل حكم يقع أو وقع إلى يوم القيامة، ولا سبيل إلى نازلة تخرج عن هذه الأحكام الثلاثة، وبالله تعالى التوفيق ثم قد جاءت الأحاديث عن رسول الله صلى الله عليه وسلم بمثل ما جاءت به هذه الآيات كما حدثنا عبد الرحمن بن عبد الله الهمذاني، ثنا أبو إسحاق إبراهيم بن أحمد البلخي، ثنا محمد بن يوسف، ثنا محمد بن إسماعيل، ثنا إسماعيل هو ابن أبي أويس، ثنا مالك بن أنس، عن أبي الزناد عن الأعرج عن أبي هريرة عن النبي صلى الله عليه وسلم قال دعوني ما تركتكم إنما هلك من كان قبلكم بسؤالهم واختلافهم على أنبيائهم فإذا نهيتكم عن شيء فاجتنبوه وإذا أمرتكم بأمر فأتوا منه ما استطعتم. قال أبو محمد فهذا حديث جامع لكل ما ذكرنا بين فيه صلى الله عليه وسلم أنه إذا نهى عن شيء فواجب أن يجتنب وأنه إذا أمر بأمر فواجب أن يؤتى منه حيث بلغت الاستطاعة، وأن ما لم ينه عنه ولا أمر به فواجب ألا يبحث عنه في حياته صلى الله عليه وسلم وإذ هذه صفته ففرض على كل مسلم ألا يحرمه ولا يوجبه، وإذا لم يكن حراما، ولا واجبا، فهو مباح ضرورة، إذ لا قسم إلا هذه الأقسام الثلاثة، فإذا بطل منها اثنان وجب الثالث، ولا بد ضرورة، وهذه قضية النص، وقضية السمع، وقضية العقل التي لا يفهم العقل غيرها، إلا الضلال والكهانة والسخافة التي يدعيها أصحاب القياس أنهم يفهمون من الوطء الأكل ومن الثمر الجلوز ومن قطع السرقة مقدار الصداق، وحسبنا الله ونعم الوكيل. ثم نعكس عليهم سؤالهم فنقول لهم: إذا جوزتم وجود نوازل

the judgment of the text, the judgment of transmitted revelation, and the judgment of reason. Reason recognizes nothing beyond it except the error, soothsaying, and foolishness claimed by the proponents of analogy: that they understand eating from sexual intercourse, hazelnuts from fruit, and the amount of the bridal dower from amputation for theft. Allah suffices us, and He is the best trustee.

We then turn their question back upon them and say to them: If you allow the existence of cases for which there is no ruling in the Quran or the Sunnah, then tell us what you do about them. This question is incumbent upon you, whereas it is not incumbent upon us, because in our view this is false and nonexistent, with no possibility of its ever existing. Tell us, then: if you encounter those cases, do you refrain from giving judgment in them? That is not your position. Or do you rule on them? There is no possible third alternative. If you rule on them, tell us about your ruling on them: have you ruled on them according to the ruling of Allah Most High and the ruling of His Messenger ﷺ? If you say, "Yes," we say: "You have contradicted yourselves, because you said that there is no explicit text concerning them containing a ruling from Allah Most High or His Messenger ﷺ. The end of your statement has belied its beginning." And if you say, "By something other than the ruling of Allah Most High, or something other than the ruling of His Messenger ﷺ," we declare ourselves before Allah Most High free of every ruling in religion that Allah, Mighty and Majestic, has not decreed. This suffices for anyone who understands. Thus it has become clear to us, and everything besides it is invalid. Praise be to Allah, Lord of the worlds. All the reports have come confirming and supporting one another on this point, as Hammam ibn Ahmad narrated to us: Abd Allah ibn Ibrahim narrated to us: Abu Zayd al-Marwazi narrated to us: al-Firabri narrated to us: al-Bukhari narrated to us: Abd Allah ibn Zayd, the Quran reciter, narrated to us: Sa'id narrated to us: 'Aql narrated to us, from Ibn Shihab, from 'Amir ibn Sa'd ibn Abi Waqqas, from his father, that the Prophet ﷺ said: "The Muslim whose offense is greatest is someone who asks about something that has not been prohibited, whereupon it is prohibited because of his question." Thus he ﷺ explicitly stated, as you hear, that everything for which no prohibition has

لا حكم لها في قرآن ولا سنة، فقولوا لنا: ماذا تصنعون فيها؟ فهذا لازم لكم وليس يلزمنا، لأن هذا عندنا باطل معدوم لا سبيل إلى وجوده أبدا، فأخبرونا إذا وجدتم تلك النوازل أتتركون الحكم فيها؟ فليس هذا قولكم، أم تحكمون فيها؟ ولا سبيل إلى قسم ثالث، فإن حكمتم فيها فأخبرونا عن حكمكم فيها أبحكم الله تعالى وحكم رسوله صلى الله عليه وسلم حكمتم فيها فإن قلتم نعم قلنا قد تناقضتم لأنكم قلتم ليس فيها نص بحكم الله تعالى ولا لرسوله صلى الله عليه وسلم وقد كذب آخر قولكم أوله وإن قلتم بغير حكم الله تعالى أو بغير حكم رسوله صلى الله عليه وسلم نحن برآء إلى الله تعالى من كل حكم في الدين لم يحكم به الله عز وجل، وفي هذا كفاية لمن عقل فوضح لنا وبطل ما سواه، والحمد لله رب العالمين. وبهذا جاءت الأحاديث كلها مؤكدة متناصرة، كما ثنا حمام بن أحمد، ثنا عبد الله بن إبراهيم، ثنا أبو زيد المروزي، ثنا الفربري، ثنا البخاري، ثنا عبد الله بن زيد المقرىء، ثنا سعيد، ثنا عقل، عن ابن شهاب، عن عامر بن سعد بن أبي وقاص عن أبيه أن النبي صلى الله عليه وسلم قال إن أعظم المسلمين جرما من سأل عن شيء لم يحرم فحرم من أجل مسألته فنص صلى الله عليه وسلم كما تسمع أن كل ما لم يأت به تحريم من الله تعالى فهو غير محرم وهكذا أخبر صلى الله عليه وسلم في الواجب أيضا كم ثنا عبد الله بن يوسف بن نامي، ثنا أحمد بن فتح، ثنا عبد الوهاب بن عيسى، ثنا أحمد بن محمد الفقيه الأشقر، ثنا أحمد بن علي القلانسي، ثنا مسلم بن الحجاج، حدثني زهير بن حرب، ثنا يزيد بن هارون، ثنا الربيع بن مسلم القرشي، عن محمد بن زياد عن أبي هريرة قال خطبنا رسول الله صلى الله عليه وسلم فقال أيها الناس قد فرض الله عليكم الحج فحجوا. فقال رجل: أكل عام يا رسول الله فسكت حتى قالها ثلاثا فقال رسول الله صلى الله عليه وسلم لو قلت نعم لوجبت ولما استطعتم ثم قال ذروني ما تركتكم، فإنما هلك من كان قبلكم بكثرة

come from Allah Most High is not prohibited. He ﷺ likewise informed us concerning what is obligatory, also, as Abd Allah ibn Yusuf ibn Nami narrated to us: Ahmad ibn Fath narrated to us: Abd al-Wahhab ibn Isa narrated to us: Ahmad ibn Muhammed, the jurist al-Ashqar, narrated to us: Ahmad ibn Ali al-Qalansi narrated to us: Muslim ibn al-Hajjaj narrated to us: Zuhayr ibn Harb narrated to me: Yazid ibn Harun narrated to us: al-Rabi' ibn Muslim al-Qurashi narrated to us, from Muhammed ibn Ziyad, from Abu Hurayrah, who said: "The Messenger of Allah ﷺ addressed us, saying: 'People, Allah has made the pilgrimage obligatory upon you, so perform the pilgrimage.' A man said: 'Every year, Messenger of Allah?' He remained silent until the man had said it three times. Then the Messenger of Allah ﷺ said: 'Had I said yes, it would have become obligatory, and you would not have been able to do it.' Then he said: 'Leave me alone so long as I leave you alone. Those before you perished only because of their many questions and their disagreements with their prophets. When I command you to do something, do as much of it as you can; and when I forbid you something, leave it alone.'" Abu Muhammed said: The Messenger of Allah ﷺ thus explicitly stated that whatever he has not made obligatory is not obligatory, and whatever he has made obligatory by his command is obligatory to the extent that one is able to perform it; that whatever he has not prohibited is lawful; and that whatever he has forbidden is unlawful. Where, then, is there any opening for analogy, when the explicit texts have encompassed everything over which people have disagreed, and every new case that will arise until the Day of Resurrection, by its name? Success comes through Allah Most High. And He, Most High, said: "Or do they have partners who have prescribed for them in religion that for which Allah has given no permission? Were it not for the word

سؤالهم واختلافهم على أنبيائهم، فإذا أمرتكم بشيء فأتوا منه ما استطعتم، وإذا نهيتكم عن شيء فدعوه قال أبو محمد فنص رسول الله صلى الله عليه وسلم على أن ما لم يوجبه فهو غير واجب وما أوجبه بأمره فواجب ما أستطيع منه، وأن ما لم يحرمه فهو حلال، وأن ما نهى عنه فهو حرام، فأين للقياس مدخل؟ والنصوص قد استوعبت كل ما اختلف الناس فيه، وكل نازلة تنزل إلى يوم القيامة باسمها وبالله تعالى التوفيق وقال تعالى {أم لهم شركاء شرعوا لهم من لدين ما لم يأذن به لله ولولا كلمة لفصل لقضي بينهم وإن لظالمين لهم عذاب أليم}

of decision, judgment would have been passed between them. Indeed, the wrongdoers shall have a painful punishment."[206][207][208][209][210][211][212]

L3325–3326 Abu Muhammed said: It is therefore established by the explicit text that everything not explicitly prescribed is something for which Allah Most High has given no permission. This is the description of analogy, and this is unlawful. And He, Most High, said: "Indeed, among them is a group who twist their tongues with the Book so that you may think it is from the Book, although it is not from the Book. They say, 'It is from Allah,' although it is not from Allah; and they knowingly speak lies against Allah." Abu Muhammed said: Thus, everything that is not explicitly designated by name in the Quran and the Sunnah as obligatory, commanded or forbidden—whoever makes it obligatory or criminalizes it, or acts contrary to what the explicit text has brought, then that is from someone other than Allah Most High. There is no explicit text in either of them commanding analogy; it is therefore from someone other than Allah Most High, and whatever is from someone other

قال أبو محمد فصح بالنص أن كل ما لم ينص عليه، فهو شيء لم يأذن به الله تعالى، وهذه صفة القياس، وهذا حرام. وقال تعالى {وإن منهم لفريقا يلوون ألسنتهم بالكتاب لتحسبوه من الكتاب وما هو من الكتاب ويقولون هو من عند الله وما هو من عند الله ويقولون على الله الكذب وهم يعلمون} قال أبو محمد فكل ما ليس في القرآن والسنة منصوصا باسمه، واجبا مأمورا به أو منهيا عنه، فمن أوجبه أو جرمه، أو خالف لما جاء به النص، فهو من عند غير الله تعالى، والقياس غير منصوص على الأمر به فيهما، فهو من عند غير الله تعالى، وما كان من عند غير الله تعالى فهو باطل وقال تعالى {يأيها النبي إذا طلقتم النساء فطلقوهن لعدتهن وأحصوا العدة وتقوا الله ربكم لا تخرجوهن من بيوتهن ولا يخرجن إلا أن يأتين بفاحشة مبينة وتلك حدود الله ومن يتعد حدود الله فقد ظلم نفسه لا تدرى لعل الله يحدث بعد ذلك أمرا} وقد علمنا ضرورة أن الله تعالى إذا حرم بالنص شيئا فحرم إنسان شيئا غير ذلك، قياسا على ما حرم الله تعالى، أو أحل بعض ما حرم الله قياسا، أو أوجب غير ما أوجب الله تعالى قياسا، أو أسقط بعض ما أوجب الله تعالى قياسا، فقد تعدى حدود الله تعالى، فهو ظالم بشهادة الله تعالى عليه بذلك وقد قال تعالى {فبدل لذين ظلموا قولا غير لذي قيل لهم فأنزلنا على لذين ظلموا رجزا من لسمآء بما كانوا يفسقون} قال أبو محمد وهذه كالتي قبلها سواء بسواء. وقال تعالى: {أم تقولون إن إبراهيم وإسماعيل وإسحاق ويعقوب والأسباط كانوا هودا أو نصارى قل أأنتم أعلم أم لله ومن أظلم ممن كتم شهادة عنده من لله وما لله بغافل عما تعملون} قال أبو محمد ومن استدرك برأيه وقياسه على ربه تعالى شيئا من الحرام والواجب لم يأت بتحريمها ولا إيجابها نص فقد دخل تحت هذه العظيمة المذكورة في هذه الآية، ونحمد الله تعالى على توفيقه، لا إله إلا هو.

[206] **Translator's note (L3319):** The source has the redundant wording "or someone says—he says"; the repetition is preserved. In "وان تأت", the supplied text lacks the negative required by the surrounding argument. "[Do not]" marks the contextual supplementation rather than silently correcting the text. "The matter stated" renders the source's "ذلك القول", literally "that statement"; the wording is awkward because the argument concerns whether the thing asserted to be obligatory is actually obligatory.

[207] **Translator's note (L3321):** "Hazelnuts" renders "الجلوز", a term for hazelnuts or filberts. The terse examples are the author's polemical characterizations of analogical inferences; their unstated legal details have not been supplied.

[208] **Translator's note (L3322):** The transmission chain reads "Abd Allah ibn Zayd" and "'Aql." These potentially corrupt names have been retained as supplied rather than silently replaced with names from other versions of the report.

[209] **Translator's note (L3323):** The supplied "كم " before the transmission chain is syntactically defective; the translation takes it as a damaged introductory "as," apparently intended as "كما."

[210] **Translator's note (L3324):** The Quran quotation, corresponding to 42:21, contains defective spellings, including "لدين," "لله," "لفصل," and "لظالمين," with missing initial letters. The translation reflects their identifiable words.

[211] **Hadith references (L3319):** Sahih Muslim 1337; Sahih al-Bukhari 7288; Sahih al-Bukhari 7289.

[212] **Qur'an references (L3319):** Qur'an 42:21 (Ash-Shuraa).

than Allah Most High is invalid. And He, Most High, said: "O Prophet, when you divorce women, divorce them for their prescribed waiting period, and count the waiting period, and fear Allah, your Lord. Do not expel them from their houses, nor are they to leave, unless they commit a manifest indecency. These are Allah's limits. Whoever transgresses Allah's limits has wronged himself. You do not know: perhaps Allah will bring about some matter after that." We know necessarily that, if Allah Most High prohibits something by an explicit text and a person then prohibits something else by analogy with what Allah Most High has prohibited, or makes lawful some of what Allah has prohibited by analogy, or makes obligatory something other than what Allah Most High has made obligatory by analogy, or removes some of what Allah Most High has made obligatory by analogy, he has transgressed Allah's limits. He is therefore a wrongdoer, by Allah Most High's testimony against him to that effect. And He, Most High, has said: "Then those who did wrong substituted a saying other than what had been said to them, so We sent down upon those who did wrong a punishment from heaven because they used to act defiantly." Abu Muhammed said: This is exactly like the preceding one. And He, Most High, said: "Or do you say that Abraham, Ishmael, Isaac, Jacob, and the Tribes were Jews or Christians? Say: 'Do you know better, or does Allah?' Who is more unjust than someone who conceals testimony that he possesses from Allah? Allah is not unaware of what you do." Abu Muhammed said: Whoever, by his own opinion and analogy, presumes to supplement his Lord Most High concerning anything unlawful or obligatory for whose prohibition or imposition no explicit text has come, has come

under the grave condemnation mentioned in this verse. We praise Allah Most High for granting success. There is no deity but Him.[213][214][215]

L3327–3335 And He, Most High, said, describing His speech: “And on the day when We raise up in every community a witness against them from among themselves, and bring you as a witness against these; and We have sent down to you the Book as an explanation of everything, and as guidance, mercy, and glad tidings for those who submit.” And He, Most High, said: “When We recite it, follow its recitation. Then its explanation rests upon Us.” And He, Most High, said: “With clear proofs and scriptures. And We have sent down to you the Reminder so that you may explain to people what has been sent down to them, and so that they may reflect.” Abu Muhammed said: Allah Most High thus explicitly stated that He did not entrust the explanation of the revealed law to any person, or to opinion, or to analogy, but only to the explicit text of the Quran and to His Messenger ﷺ. Everything apart from these two is error, falsehood, and absurdity. And He, Most High, said: “And of camels, two, and of cattle, two. Say: ‘Has He prohibited the two males, or the two females, or what the wombs of the two females contain? Or were you witnesses when Allah enjoined this upon you?’ Who is more unjust than someone who fabricates a lie against Allah to lead people astray without knowledge? Indeed, Allah does not guide wrongdoing people.” Abu Muhammed said: It is therefore established that everything concerning which no injunction has come to us from Allah, Mighty and Majestic, is a fabrication against Allah, a lie, and whoever attributes it to Allah Most High

وقال تعالى يصف كلامه: {ويوم نبعث في كل أمة شهيدا عليهم من أنفسهم وجئنا بك شهيدا على هؤلآء ونزلنا عليك لكتاب تبيانا لكل شيء وهدى ورحمة وبشرى للمسلمين} وقال تعالى {فإذا قرأناه فتبع قرآنه * ثم إن علينا بيانه} وقال تعالى {بلبينات ولزبر وأنزلنا إليك لذكر لتبين للناس ما نزل إليهم ولعلهم يتفكرون} قال أبو محمد: فنص الله تعالى على أنه لم يكل بيان الشريعة إلى أحد من الناس، ولا إلى رأي ولا إلى قياس لكن إلى نص القرآن وإلى رسوله صلى الله عليه وسلم فقط وما عداهما فضلال وباطل ومحال وقال تعالى {ومن لإبل ثنين ومن لبقر ثنين قل ءآلذكرين حرم أم لأنثيين أما شتملت عليه أرحام لأنثيين أم كنتم شهدآء إذ وصاكم لله بهذا فمن أظلم ممن فترى على لله كذبا ليضل لناس بغير علم إن لله لا يهدي لقوم لظالمين} قال أبو محمد فصح أن كل ما لم يأتنا به وصية من عند الله عز وجل فهو افتراء على الله كذب، وناسبه إلى الله تعالى ظالم، ولم تأتنا وصية قط من قبله تعالى بالحكم بالقياس، فهو افتراء وباطل، وكذب، بل جاءتنا وصاياه عز وجل بألا نتعدى كلامه وكلام رسوله صلى الله عليه وسلم وألا نحرم ولا نوجب إلا ما أوجبا وحرما ونهيا فقط، فبطل كل ما عدا ذلك، والقياس مما عدا ذلك فهو باطل وقال تعالى {أولم يكفهم أنآ أنزلنا عليك لكتاب يتلى عليهم إن في ذلك لرحمة وذكرى لقوم يؤمنون} فأوجب تعالى أن يكتفى بتلاوة الكتاب، وهذا هو الأخذ بظاهره، وإبطال كل تأويل لم يأت به نص أو إجماع، وألا نطلب غير ما يقتضيه لفظ القرآن فقط وقال تعالى {وما ختلفتم فيه من شيء فحكمه إلى لله ذلكم لله ربي عليه توكلت وإليه أنيب} وقال تعالى {يا أيها لذين آمنوا أطيعوا لله وأطيعوا لرسول وأولي لأمر منكم فإن تنازعتم في شيء فردوه

[213] **Translator’s note (L3325):** The Quran quotation, corresponding to 3:78, contains repeated defective spellings, including “بلكتاب,” “لكتاب,” “لله,” and “لكذب.” The translation reflects the identifiable words while retaining the quotation’s repetitions.

[214] **Translator’s note (L3326):** The supplied “جرمه” means “criminalizes it” or “declares it an offense.” In this context it may be a transcription error for “حرمه,” “prohibits it”; the supplied reading has been retained. The Quran quotations, corresponding to 65:1, 2:59, and 2:140, contain numerous defective spellings with missing initial letters. The translation reflects the identifiable words. The quotation corresponding to 2:59 ends with “because they used to act defiantly,” wording associated with the parallel passage at 7:162; the usual wording at 2:59 is “because they used to do wrong.” The supplied wording has been retained.

[215] **Qur’an references (L3325):** Qur’an 3:78 (Ali ’Imran); Qur’an 65:1 (At-Talaq); Qur’an 2:140 (Al-Baqarah).

is a wrongdoer. No injunction has ever come to us from Him, Most High, to rule by analogy; it is therefore fabrication, falsehood, and a lie. Rather, His injunctions, Mighty and Majestic is He, have come to us that we must not go beyond His words and the words of His Messenger ﷺ, and that we must neither prohibit nor make obligatory anything except what the two have made obligatory, prohibited, and forbidden, and nothing else. Everything beyond that is therefore invalid, and analogy is among what lies beyond that, so it is invalid. And He, Most High, said: "Has it not sufficed them that We have sent down to you the Book, which is recited to them? Indeed, in that are mercy and a reminder for people who believe." He, Most High, thus made it obligatory to be content with the recitation of the Book. This means adopting its apparent meaning, invalidating every interpretation for which no explicit text or consensus has come, and seeking only what the wording of the Quran entails. And He, Most High, said: "Whatever you disagree about, its judgment belongs to Allah. That is Allah, my Lord; in Him I have placed my trust, and to Him I turn." And He, Most High, said: "O you who believe, obey Allah, and obey the Messenger and those in authority among you. If you dispute over anything, refer it to Allah and the Messenger, if you believe in Allah and the Last Day. That is better and best in outcome." Thus Allah Most High did not permit, in cases of dispute and disagreement, seeking judgment from or referring a matter to anything except the Quran and the words of the Messenger —may Allah bless him and grant him peace ﷺ—alone, neither to anyone other than the Prophet ﷺ, nor to opinion, nor to analogy. All this is therefore invalid with certain invalidity. Praise be to Allah, Lord of the worlds, for granting success. This, together with the stringency of the condition imposed by Allah, exalted is He, in His saying: "O you who believe, obey Allah and obey the Messenger and those vested with authority among you. Then, if you dispute about anything, refer it to Allah and the Messenger, if you believe in Allah and the Last Day. That is better and best in outcome." Every Muslim against whom the proof has been established must indeed fear that this description should attach to him, and he is obliged not to follow those predecessors who interpreted and erred. Someone against whom the proof has been established is not like someone concerning whom we do not know whether the proof was established against

إلى الله ولرسول إن كنتم تؤمنون بالله وليوم لآخر ذلك خير وأحسن تأويلا} فلم يبح الله تعالى عند التنازع والاختلاف أن يتحاكم أو يرد إلا إلى القرآن وكلام الرسول صلى الله عليه وسلم فقط لا إلى أحد دون النبي صلى الله عليه وسلم ولا إلى رأي ولا قياس فبطل كل هذا بطلانا متيقنا، والحمد لله رب العالمين على توفيقه هذا مع شدة شرط الله تعالى بقوله {يا أيها لذين آمنوا أطيعوا لله وأطيعوا لرسول وأولي لأمر منكم فإن تنازعتم في شيء فردوه إلى لله ولرسول إن كنتم تؤمنون بالله وليوم لآخر ذلك خير وأحسن تأويلا} فلقد يجب على كل مسلم قامت عليه الحجة أن يهاب لحقوق هذه الصفة به، وفرض عليه ألا يقتدي بمن سلف ممن تأول نخطأ، فليس من قامت عليه الحجة كمن لا ندري أقامت عليه الحجة أم لم تقم؟ إلا أننا نحسن الظن بهم، كما نحسنه بسائر المؤمنين والله أعلم بحقيقة أمر كل أحد وقال تعالى {ولا تقولوا لما تصف ألسنتكم لكذب هذا حلال وهذا حرام لتفتروا على لله لكذب إن لذين يفترون على لله لكذب لا يفلحون} فحرم تعالى الحكم في الشيء من الدين بتحريم أو تحليل، وسمى من فعل ذلك كاذبا، وفعله كذبا إلا أن يحرمه الله أو يحلله الله في النص أو الإجماع وقال تعالى {قل أرأيتم مآ أنزل لله لكم من رزق فجعلتم منه حراما وحلالا قل ءآلله أذن لكم أم على لله تفترون} فسمى تعالى من حرم بغير إذن من الله تعالى في تحريم ذلك الشيء، أو حلل بغير إذن من الله في تحليله: مفتريا، وهذه صفة القائسين المحرمين المحللين الموجبين بالقياس بغير إذن من الله تعالى وقال تعالى {فلا تضربوا لله لأمثال إن لله يعلم وأنتم لا تعلمون} فنص تعالى على ألا تضرب له الأمثال، وهذا نص جلي على إبطال القياس وتحريمه، لأن القياس ضرب أمثال للقرآن، وتمثيل ما لا نص فيه بما فيه النص، ومن مثل ما لم ينص الله تعالى على تحريمه أو إيجابه بما حرمه الله تعالى وأوجبه، فقد ضرب له الأمثال، وواقع المعصية، نعوذ بالله من ذلك، ونص تعالى

him or not. Nevertheless, we think well of them, just as we think well of all other believers. Allah knows best the true circumstances of each person. And He, exalted is He, said: “Do not say, concerning the falsehood your tongues describe, ‘This is lawful and this is forbidden,’ so as to fabricate falsehood against Allah. Indeed, those who fabricate falsehood against Allah will not prosper.” Thus He, exalted is He, forbade passing judgment on anything in religion by declaring it forbidden or lawful, and called whoever does so a liar and his action a lie, unless Allah forbids it or Allah permits it in an explicit text or through consensus. And He, exalted is He, said: “Say: Have you considered the provision Allah has sent down for you, of which you have made some forbidden and some lawful? Say: Has Allah given you permission, or are you fabricating against Allah?” Thus He, exalted is He, called someone who forbids something without permission from Allah, exalted is He, to forbid that thing, or permits something without permission from Allah to permit it, a fabricator. This is the description of those who employ analogy, declaring things forbidden, lawful, and obligatory through analogy without permission from Allah, exalted is He. And He, exalted is He, said: “So do not strike likenesses for Allah. Indeed, Allah knows, and you do not know.” He, exalted is He, thus explicitly stipulated that likenesses must not be struck for Him. This is a clear, explicit text invalidating analogy and forbidding it, because analogy consists in striking likenesses for the Quran and likening that concerning which there is no explicit text to that concerning which there is an explicit text. Whoever likens something whose prohibition or obligation Allah, exalted is He, has not explicitly stated to something Allah, exalted is He, has forbidden or made obligatory has struck likenesses for Him and committed disobedience. We seek refuge in Allah from that. He, exalted is He, explicitly stated that He knows and we do not know. Had He, exalted is He, known that what He had not explicitly addressed was like what He had explicitly addressed, He would have informed us of that; He would not have neglected it or left it unattended. He, exalted is He, said: “We descend only at the command of your Lord. To Him belongs what is before us, what is behind us, and what is between that; and your Lord is never forgetful.” And He, exalted is He, said: “We have sent no messenger except in the language of his people, so that he might make matters clear to them. Then Allah leads

على أنه يعلم ونحن لا نعلم، فلو علم تعالى أن الذي لم ينص عليه مثل الذي نص عليه لأعلمنا بذلك وما أغفله وما ضيعه، قال تعالى: {وما نتنزل إلا بأمر ربك له ما بين أيدينا وما خلفنا وما بين ذلك وما كان ربك نسيا} وقال تعالى: {ومآ أرسلنا من رسول إلا بلسان قومه ليبين لهم فيضل لله من يشآء ويهدي من يشآء وهو لعزيز لحكيم} فصح أن العربية بها أرسل الله تعالى رسوله صلى الله عليه وسلم فبهذا بين لنا وقال تعالى {وما ينطق عن لهوى * إن هو إلا وحي يوحى} فكل ما بينه رسول الله صلى الله عليه وسلم فعن الله تعالى بينه وقد علمنا يقينا وقوع كل اسم في اللغة على مسماه فيها وأن البر لا يسمى تبنا، وأن الملح لا يسمى زبيبا، وأن التمر لا يسمى أرزا، وأن الشعير لا يسمى بلوطا، ولا الواطىء آكلا، ولا الآكل واطئا، ولا القاتل مظاهرا، ولا المظاهر قاتلا، ولا المعرض قاذفا. فإذ قد أحكم اللسان كل اسم على مسماه لا على غيره ولم يبعث محمدا صلى الله عليه وسلم بالعربية التي ندريها فقد علمنا يقينا أنه صلى الله عليه وسلم إذا نص في القرآن أو كلامه على اسم ما بحكم ما، فواجب ألا يوقع ذلك الحكم إلا على ما اقتضاه ذلك الاسم فقط، ولا نتعدى به الموضع الذي وضعه رسول الله صلى الله عليه وسلم فيه وألا يخرج عن ذلك الحكم شيء مما يقتضيه الاسم ويقع عليه فالزيادة على ذلك في الدين وهو القياس، والنقص منه نقص من الدين، وهو التخصيص، وكل ذلك حرام بالنصوص التي ذكرنا، فسبحان من خص أصحاب القياس بكلا الأمرين فمرة يزيدون إلى النص ما ليس فيه، ويقولون هذا قياس، ومرة يخرجون من النص بعض ما يقتضيه ويقولون: هذا خصوص، ومرة يتركونه كله ويقولون: ليس عليه العمل، والعبرة معترضة عليه كما فعل الحنفيون في حديث المصراة والإقراع بين الأعبد، وكما فعل المالكيون في حديث تمام الصوم لمن أكل ناسيا، وحديث الحج على المريض البائس والميت وغير ذلك، وحسبنا الله ونعم الوكيل وقال الله تعالى: {إن هي إلا أسمآء سميتموهآ أنتم وآبآؤكم مآ أنزل لله بها من

astray whom He wills and guides whom He wills, and He is the Almighty, the Wise." It is therefore established that Arabic is the language with which Allah, exalted is He, sent His Messenger ﷺ, and through it he made matters clear to us. And He, exalted is He, said: "He does not speak from desire. It is nothing but revelation revealed." Thus everything the Messenger of Allah ﷺ explained, he explained from Allah, exalted is He. We know with certainty that every name in the language applies to what it names in that language, and that wheat is not called straw and that salt is not called raisins, dates are not called rice, and barley is not called acorns; nor is someone engaging in intercourse called an eater, nor an eater someone engaging in intercourse, nor a killer someone who pronounces the repudiation likening his wife to his mother, nor someone who pronounces that repudiation a killer, nor someone who insinuates an accusation someone who explicitly accuses another of unlawful sexual intercourse. Since the language has firmly assigned every name to what it names, and not to anything else, and He did not send Muhammed ﷺ with the Arabic that we know, we know with certainty that when he ﷺ explicitly assigns a ruling to a particular name in the Quran or in his own speech, that ruling must be applied only to what that name encompasses, and we must not extend it beyond the place in which the Messenger of Allah ﷺ placed it, nor may anything encompassed by that name and falling under it be excluded from that ruling. Thus, adding to that in religion is analogy, while subtracting from it is a subtraction from religion, namely, specification. All of that is forbidden by the explicit texts we have mentioned. Glory be to Him who has singled out the proponents of analogy for both practices! Sometimes they add to the explicit text what is not in it and say, 'This is analogy.' Sometimes they exclude from the explicit text part of what it encompasses and say, 'This is a specific restriction.' Sometimes they abandon it entirely and say, 'Practice does not follow it, and reasoning stands against it.' This is what the Hanafis did with the report concerning an animal whose milk has been allowed to accumulate in its udder and with the drawing of lots among slaves, and what the Malikis did with the report concerning the completion of the fast by someone who ate forgetfully, and the report concerning pilgrimage on behalf of the sick, afflicted person and the deceased, and other cases. Allah suffices us, and He is the best Trustee.

سلطان إن يتبعون إلا لظن وما تهوى لأنفس ولقد جآءهم من ربهم لهدى} قال أبو محمد والقياس اسم في الدين لم يأذن به الله تعالى، ولا أنزل به سلطانا، وهو ظن منهم بلا شك، لتجاذبهم علل القياسات بينهم، كتعليلهم الربا بالأكل، وقال آخرون منهم: بالكيل والوزن، وقال آخرون: بالادخار، وهذه كلها ظنون فاسدة، وتخاليط وأسماء لم يأذن تعالى بها، ولا أنزل بها سلطانا وقال تعالى {فخلف من بعدهم خلف ورثوا لكتاب يأخذون عرض هذا لأدنى ويقولون سيغفر لنا وإن يأتهم عرض مثله يأخذوه ألم يؤخذ عليهم ميثاق لكتاب أن لا يقولوا على لله إلا لحق ودرسوا ما فيه ولدار لآخرة خير للذين يتقون أفلا تعقلون} وقال تعالى {ويحق لله لحق بكلماته ولو كره لمجرمون} فنص تعالى على ألا يقال عليه إلا الحق، وأخبر تعالى أنه يحق الحق بكلماته، فما لم يأتنا كلام الله تعالى بأنه حق من الدين فهو باطل، لا حق.

And Allah, exalted is He, said: "They are nothing but names you and your fathers have named, for which Allah has sent down no authority. They follow nothing but conjecture and what their souls desire, although guidance has already come to them from their Lord." Abu Muhammed said: Analogy is a name introduced into religion which Allah, exalted is He, has not authorized and for which He has sent down no authority. It is undoubtedly conjecture on their part, since they dispute among themselves over the operative causes of analogies: for example, their assigning edibility as the operative cause of usury, while others among them say it is measurement by volume and weight, and still others say it is storability. All these are corrupt conjectures, muddled notions, and names which He, exalted is He, has not authorized and for which He has sent down no authority. And He, exalted is He, said: "Then successors came after them who inherited the Book, taking the passing goods of this lower world and saying, 'We shall be forgiven.' And if similar passing goods come to them, they take them. Was not the covenant of the Book taken from them, that they should say nothing about Allah except the truth? And they have studied what is in it. And the abode of the Hereafter is better for those who are mindful of Allah. Will you not then understand?" And He, exalted is He, said: "Allah establishes the truth by His words, even though the criminals dislike it." He, exalted is He, thus explicitly stipulated that nothing should be said about Him except the truth, and He, exalted is He, declared that He establishes the truth by His words.

Whatever the speech of Allah, exalted is He, has not conveyed to us as a truth belonging to religion is therefore falsehood, not truth.[216]21621721821922022[1]

L3336–3340 And He, exalted is He, said, recounting the words of His messengers—may Allah bless them and grant them peace ﷺ: "Their messengers said to them: We are only human beings like you, but Allah bestows His favor upon whom He wills among His servants. It is not for us to bring you any authority except by Allah's permission. And in Allah let the believers place their trust." Abu Muhammed said: Allah, exalted is He, thus explicitly related concerning the truthful prophets that it is not for them to bring any authority except by permission from Allah, exalted is He. Authority is undoubtedly proof. Every

وقال تعالى حكاية عن رسله صلى الله عليهم وسلم: {قالت لهم رسلهم إن نحن إلا بشر مثلكم ولكن لله يمن على من يشآء من عباده وما كان لنآ أن نأتيكم بسلطان إلا بإذن لله وعلى لله فليتوكل لمؤمنون} قال أبو محمد فنص الله تعالى عن الأنبياء الصادقين أنه ليس لهم أن يأتوا بسلطان إلا بإذن الله تعالى، والسلطان الحجة بلا شك، فكل حجة لم يأذن الله تعالى بها في كلامه فهو باطل، ولم يأذن قط تعالى في القياس فهو باطل وقال تعالى {ما جعل لله لرجل من قلبين في جوفه وما جعل أزواجكم للائي تظاهرون منهن أمهاتكم وما جعل أدعيآءكم أبنآءكم ذلكم قولكم بأفواهكم ولله يقول لحق وهو يهدي لسبيل * دعوهم لآبآئهم هو أقسط عند لله فإن لم تعلموا آباءهم فإخوانكم في لدين ومواليكم وليس عليكم جناح فيمآ أخطأتم به ولكن ما تعمدت قلوبكم وكان لله غفورا رحيما} وقال تعالى {لذين يظاهرون منكم من نسآئهم ما هن أمهاتهم إن أمهاتهم إلا للائي ولدنهم وإنهم ليقولون منكرا من لقول وزورا وإن لله لعفو غفور} فأنكر تعالى غاية الإنكار أن يجعل أحد أمه غير التي ولدته، ولا أن يجعل ابنه إلا ولده، وهو تعالى قد جعل أمهاتنا من لم تلدنا كنساء النبي صلى الله عليه وسلم واللواتي أرضعتنا وجعل أبناءنا من لم تلده كنحن لنساء النبي صلى الله عليه وسلم وكمن أرضعه نساءنا بألساننا فصح بالنص أن الشيء إذا حكم الله تعالى به فقد لزم دون تعليل، وأن من أراد أن يحكم بمثل ذلك بما لا نص فيه فقد قال منكرا من القول وزورا، وأنه ليس لأحد أن يقول بغير ما لم يقل الله تعالى به. وفي هذا كفاية لمن جعلنا نحن وهم نساء النبي صلى الله عليه وسلم أمهاتنا في التحريم كما جاء النص فقط ثم لم نقس على ذلك رؤيتهن كما نرى أمهاتنا، بل حرم ذلك علينا، ولا قسنا إخوتهم وبنيهم على

[216] **Translator's note (L3327):** The Quran quotations, corresponding to 16:89, 75:18–19, 16:44, and 6:144, contain defective spellings with missing initial letters. Their identifiable words have been translated. The quotation beginning "With clear proofs and scriptures" begins with a dependent phrase in the source; that fragmentary construction has been retained.

[217] **Translator's note (L3328):** The Quran quotations, corresponding to 29:51, 42:10, and 4:59, contain defective spellings with missing initial letters. Their identifiable words have been translated.

[218] **Translator's note (L3330):** The wording لحقوق هذه الصفة به is anomalous. The translation takes it as referring to this description attaching to the person, as the context suggests; the supplied form لحقوق would ordinarily concern 'rights' or 'claims.'

[219] **Translator's note (L3333):** The supplied ولم يبعث means 'and He did not send.' This negation contradicts the preceding argument that the Messenger was sent with the Arabic language known to his audience; it has been retained rather than silently corrected. The distinction between insinuating an accusation and explicitly making one concerns the legal category of accusations of unlawful sexual intercourse. The repudiation mentioned is ẓihār, in which a husband likens his wife to his mother or another prohibited female relative.

[220] **Translator's note (L3334):** The phrase والعبرة معترضة عليه, rendered 'reasoning stands against it,' is awkward. العبرة may refer here to reasoning or analogical consideration; the precise intended formulation is uncertain. The opening clause about adding to religion is syntactically compressed in the supplied text. The translation preserves its contrast between analogy as addition and specification as subtraction.

[221] **Qur'an references (L3327):** Qur'an 16:89 (An-Nahl); Qur'an 75:19 (Al-Qiyamah); Qur'an 16:44 (An-Nahl); Qur'an 6:144 (Al-An'am); Qur'an 29:51 (Al-'Ankabut); Qur'an 42:10 (Ash-Shuraa); Qur'an 4:59 (An-Nisa); Qur'an 16:116 (An-Nahl); Qur'an 10:59 (Yunus); Qur'an 19:64 (Maryam); Qur'an 14:4 (Ibrahim); Qur'an 53:4 (An-Najm); Qur'an 53:23 (An-Najm); Qur'an 7:169 (Al-A'raf).

proof which Allah, exalted is He, has not authorized in His speech is therefore invalid. He, exalted is He, has never authorized analogy, so it is invalid. And He, exalted is He, said: "Allah has not placed two hearts within any man's breast, nor has He made your wives, whom you repudiate by likening them to your mothers, your mothers; nor has He made your adopted sons your sons. That is your saying with your mouths, but Allah speaks the truth and guides to the way. Call them after their fathers; that is more equitable before Allah. If you do not know their fathers, then they are your brothers in religion and your clients. There is no blame upon you for what you do mistakenly, but only for what your hearts deliberately intend. Allah is ever Forgiving, Merciful." And He, exalted is He, said: "Those among you who repudiate their wives by likening them to their mothers—their wives are not their mothers. Their mothers are only those who gave birth to them. They certainly utter a reprehensible saying and falsehood. And Allah is indeed Pardoning, Forgiving." Thus He, exalted is He, condemned in the strongest terms anyone's making someone other than the woman who bore him his mother, or making anyone other than his own offspring his son. Yet He, exalted is He, has made women who did not bear us our mothers, such as the wives of the Prophet ﷺ and the women who suckled us; and He has made those whom she did not bear our sons, as we are in relation to the wives of the Prophet ﷺ, and as are those whom our wives suckled with our milk. It is therefore established by the explicit text that when Allah, exalted is He, rules on something, it becomes binding without assigning an operative cause, and that whoever wishes to issue a similar ruling concerning something for which there is no explicit text has uttered a reprehensible saying and falsehood, and that no one may assert anything other than what Allah, exalted is He, has not asserted. This suffices for those who, together with us, regard the wives of the Prophet ﷺ as our mothers with respect to the prohibition of marriage, solely as the explicit text states, while we have not then inferred by analogy from that that we may see them as we see our mothers; rather, that has been forbidden to us. Nor have we analogized their brothers and sons to maternal uncles by birth and brothers by birth. Rather, it is lawful for them to marry Muslim women, and lawful for Muslim men to marry their sisters and daughters. The validity of ruling by analogy

أخوال الولادة وإخوة الولادة. بل حل لهم نكاح نساء المسلمين، وحل لرجال المسلمين نكاح إخواتهن وبناتهن، فبطل حكم القياس يقينا وصح لزوم النص فقط، وألا يتعدى أصلا. وفي آية واحدة مما ذكرنا كفاية لمن اتقى الله عز وجل ونصح نفسه، فكيف، وقد تظاهرت الآيات بإبطال ما يدعونه من القياس في دين الله تعالى. وكذلك أيضا جاءت الأحاديث الصحاح عن رسول الله صلى الله عليه وسلم بإبطال القياس كما حدثنا عبد الله بن يوسف بن نامي، ثنا أحمد بن فتح، ثنا عبد الوهاب بن عيسى، ثنا أحمد بن محمد، ثنا أحمد بن علي، ثنا مسلم، ثنا ابن نمير، ثنا روح بن عبادة، ثنا شعبة، مسلم: وحدثني زهير بن حرب، ثنا يحيى بن سعيد، عن شعبة قال: أخبرني أبو بكر بن حفص عن سالم بن عمر قال: إن عمر رأى على رجل من آل عطارد قباء من ديباج أو حرير فقال لرسول الله صلى الله عليه وسلم لو اشتريته فقال إنما يلبس هذا من لا خلاق له فأهدي لرسول الله صلى الله عليه وسلم حلة سيراء فأرسل بها إلي فقلت أرسلت بها إلي وقد سمعتك قلت فيها ما قلت؟ قال: إنما بعثت إليك لتستمتع بها. وقال ابن نمير في حديثه: إنما بعثتها إليك لتنتفع بها، ولم أبعث بها إليك لتلبسها. والسند المذكور إلى مسلم قال: حدثنا شيبان بن فروخ، ثنا جرير بن حازم، ثنا نافع عن ابن عمر قال: رأى عمر عطاردا اليمني يقيم بالسوق حلة سيراء، فقال عمر: يا رسول الله، إني رأيت عطاردا يقيم في السوق حلة سيراء، فلو اشتريتها فلبستها لوفود العرب إذ قد مرا عليك فقال رسول الله صلى الله عليه وسلم إنما يلبس الحرير في الدنيا من لا خلاق له في الآخرة فلما كان بعد ذلك أتي رسول الله صلى الله عليه وسلم بحلل سيراء فبعث إلى عمر بحلة وإلى ابن زيد بحلة، وأعطى علي بن أبي طالب حلة، وقال: اشققها خمرا بين نسائك فذكر أمر عمر، قال: وأما أسامة فراح في حلته فنظر إليه رسول الله صلى

is therefore disproved with certainty, and the obligation to adhere solely to the explicit text, without ever going beyond it, is established. A single verse among those we have mentioned suffices for anyone who is mindful of Allah, mighty and majestic, and sincerely seeks his own good. How much more so when the verses reinforce one another in invalidating the analogy they claim in the religion of Allah, exalted is He! Likewise, authentic reports have also come from the Messenger of Allah ﷺ invalidating analogy, as ʿAbd Allah ibn Yusuf ibn Nami related to us: Ahmad ibn Fath related to us: ʿAbd al-Wahhab ibn ʿIsa related to us: Ahmad ibn Muhammed related to us: Ahmad ibn ʿAli related to us: Muslim related to us: Ibn Numayr related to us: Rawh ibn ʿUbada related to us: Shuʿba related to us. Muslim: And Zuhayr ibn Harb related to me: Yahya ibn Saʿid related to us, from Shuʿba, who said: Abu Bakr ibn Hafs informed me, from Salim ibn ʿUmar, who said: "'Umar saw a man of the family of ʿUtarid wearing an outer robe of silk brocade or silk, and said to the Messenger of Allah ﷺ: 'If only you would buy it.' He said: 'Only someone who has no share wears this.' Then the Messenger of Allah ﷺ was given a striped silk suit as a gift, and he sent it to me. I said: 'You have sent it to me, although I heard you say what you said about it!' He said: 'I sent it to you only so that you might derive some benefit from it.'" Ibn Numayr said in his report: "'I sent it to you only so that you might benefit from it; I did not send it to you for you to wear it.'"

And through the aforementioned chain of transmission to Muslim, who said: Shayban ibn Farrukh related to us: Jarir ibn Hazim related to us: Nafiʿ related to us, from Ibn ʿUmar, who said: "'Umar saw ʿUtarid the Yemeni offering a striped silk suit for sale in the market. ʿUmar said: 'O Messenger of Allah, I saw ʿUtarid offering a striped silk suit for sale in the market. If only you would buy it and wear it for the Arab delegations when they pass by you.' The Messenger of Allah ﷺ said: 'Only someone who has no share in the Hereafter wears silk in this world.' Later, some striped silk suits were brought to the Messenger of Allah ﷺ. He sent one suit to ʿUmar and one suit to Ibn Zayd, and gave ʿAli ibn Abi Talib a suit, saying: 'Tear it into head coverings to distribute among your women.'" He then mentioned the affair of ʿUmar. He said: "As for Usama, he went out in his suit. The Messenger of Allah ﷺ

الله عليه وسلم نظرا عرف أن رسول الله صلى الله عليه وسلم قد أنكر ما صنع فقال يا رسول الله ما تنظر إلي، فأنت بعثت بها إلي؟

looked at him in such a way that he recognized that the Messenger of Allah ﷺ disapproved of what he had done. He said: ‘O Messenger of Allah, why are you looking at me? You yourself sent it to me!’[222][223][224][225]

L3341–3349 He said: ‘I did not send it to you for you to wear it. Rather, I sent it so that you could tear it into head coverings to distribute among your women.’” Thus the Messenger of Allah ﷺ reproved ‘Umar for equating ownership, sale, and deriving benefit with the prohibited wearing, and he also reproved Usama for equating ownership with wearing. Each of these is an analogy: one of them prohibited by analogy, and the other permitted by analogy. He ﷺ therefore rejected both analogies together. This is the invalidation of analogy itself. And concerning these two reports, one of two positions must necessarily be adopted: either someone says that, when the Prophet ﷺ prohibited wearing silk and then gave the two of them silk suits, he thereby confused the matter for them—and for someone to say this is unbelief—

فقال: إني لم أبعثها إليك لتلبسها، ولكن بعثت بها لتشققها خمرا بين نسائك فأنكر رسول الله صلى الله عليه وسلم على عمر تسويته بين الملك والبيع والانتفاع، وبين اللباس المنهي، وأنكر على أسامة تسويته بين الملك واللباس أيضا، وكل واحد منهما قياس، فأحدهما حرم قياسا والآخر أحلى قياسا فأنكر صلى الله عليه وسلم القياسين معا وهذا هو إبطال القياس نفسه. ولا بد في هذين الحديثين من أحد مذهبين إما أن يقول قائل إن النبي صلى الله عليه وسلم إذ نهى عن لباس الحرير ثم وهبهما حلل الحرير، أن يكون لبس عليهما وهذا كفر من قائله أو أنه صلى الله عليه وسلم بين عليهم المحرم من الحرير وهو اللباس المنصوص عليه فقط، وبقي ما لم يذكر على أصل الإباحة، فأخطآ رضي الله عنهما إذا قاسا، وهذا هو الحق الذي لا يحل لأحد أن يعتقد غيره. وبالله تعالى التوفيق. حدثنا أحمد بن قاسم، ثنا أبي قاسم بن محمد بن قاسم، ثنا جدي قاسم بن أصبغ، نا بكر بن حماد، نا حفص بن غياث، عن داود بن أبي هند، عن مكحول عن أبي ثعلبة الخشني قال قال رسول الله صلى الله عليه وسلم إن الله فرض فرائض فلا تضيعوها وحد حدودا فلا تعتدوها، ونهى عن أشياء فلا تنتهكوها، وسكت عن أشياء من غير نسيان لها رحمة لكم فلا تبحثوا عنها. كتب إلي النمري يوسف بن عبد الله، نا أحمد بن عبد الله بن محمد علي الباجي، نا الحسين بن إسماعيل، نا عبد الملك بن يحيى، نا محمد بن إسماعيل، ثنا سنيد بن داود، نا محمد بن فضيل، عن داود بن أبي هند، عن مكحول عن أبي ثعلبة الخشني قال قال رسول الله صلى الله عليه وسلم إن الله فرض فرائض فلا تضيعوها ونهى عن أشياء فلا تنتهكوها؛ وحد حدودا فلا تعتدوها. وعفا عن أشياء رحمة لكم لا عن نسيان فلا تبحثوا عنها. حدثنا أحمد بن قاسم

[222] **Translator’s note (L3337):** In وجعل أبناءنا من لم تلده, the verb تلده is feminine singular: literally, ‘those whom she did not bear.’ Its subject is unclear, and the wording does not fit smoothly with ‘our sons.’ The irregularity is retained. ‘With our milk’ preserves بألباننا, which attributes the wives’ nursing milk to their husbands in the discussion of kinship through suckling. The supplied بغير ما لم يقل الله تعالى به contains a negative that makes the clause say ‘other than what Allah has not asserted,’ contrary to the apparent argument. That negative has been retained. The construction لمن جعلنا نحن وهم نساء النبي ... أمهاتنا is grammatically awkward. The translation provisionally understands it as referring to the author and his opponents jointly recognizing the Prophet’s wives as their mothers.

[223] **Translator’s note (L3338):** The supplied إخوتهم وبنيهم uses masculine plural possessive suffixes where the context appears to refer to the Prophet’s wives. English ‘their’ leaves this grammatical irregularity unresolved.

[224] **Translator’s note (L3340):** The source names the transmitter as Salim ibn ‘Umar; this has been retained without correcting or expanding the name. The isolated ‘Muslim’ before the second transmission chain is treated as an attribution marking Muslim’s resumption of the report. The wording إذ قد مرا عليك is grammatically irregular in context. ‘When they pass by you’ gives its apparent sense without attempting to reconstruct the Arabic. ‘Striped silk suit’ renders حلة سيراء, a technical designation for a set of garments made from silk-striped fabric.

[225] **Qur’an references (L3336):** Qur’an 14:11 (Ibrahim); Qur’an 33:4 (Al-Ahzab); Qur’an 33:5 (Al-Ahzab); Qur’an 58:2 (Al-Mujadila).

or that he ﷺ made clear to them what was prohibited concerning silk, namely, only the wearing expressly specified in the text, while what he did not mention remained subject to the original presumption of permissibility. Thus the two of them, may Allah be pleased with them, erred when they reasoned by analogy. This is the truth, which no one may lawfully believe otherwise. Success comes through Allah Most High.

Ahmad ibn Qasim related to us: My father, Qasim ibn Muhammed ibn Qasim, related to us: My grandfather, Qasim ibn Asbagh, related to us: Bakr ibn Hammad related to us: Hafs ibn Ghiyath related to us, from Dawud ibn Abi Hind, from Makhul, from Abu Thaʿlaba al-Khushani, who said: The Messenger of Allah ﷺ said: "Allah has prescribed obligatory duties, so do not neglect them; He has set limits, so do not transgress them; He has forbidden things, so do not violate their sanctity; and He has remained silent concerning things, without having forgotten them, as a mercy to you, so do not investigate them."

Al-Namari, Yusuf ibn ʿAbd Allah, wrote to me: Ahmad ibn ʿAbd Allah ibn Muhammed ʿAli al-Baji related to us: Al-Husayn ibn Ismaʿil related to us: ʿAbd al-Malik ibn Yahya related to us: Muhammed ibn Ismaʿil related to us: Sunayd ibn Dawud related to us: Muhammed ibn Fudayl related to us, from Dawud ibn Abi Hind, from Makhul, from Abu Thaʿlaba al-Khushani, who said: The Messenger of Allah ﷺ said: "Allah has prescribed obligatory duties, so do not neglect them; He has forbidden things, so do not violate their sanctity; He has set limits, so do not transgress them; and He has left things exempt, as a mercy to you, not out of forgetfulness, so do not investigate them."

Ahmad ibn Qasim related to us, saying: My father, al-Qasim ibn Muhammed ibn Qasim, related to us, saying: My grandfather, Qasim ibn Asbagh, related to us: Muhammed ibn Ismaʿil al-Tirmidhi related to us: Nuʿaym ibn Hammad related to us: ʿAbd Allah ibn al-Mubarak related to us: ʿIsa ibn Yunus related to us, from Jarir—that is, Ibn ʿUthman—from ʿAbd al-Rahman ibn Jubayr ibn Nufayr, from his father, from ʿAwf ibn Malik al-Ashjaʿi, who said: The Messenger of Allah ﷺ said: "My community will split into seventy-odd factions. Those among them who cause the greatest trial for my community

قال: نا أبي القاسم بن محمد بن قاسم، قال: نا جدي قاسم بن أصبغ، نا محمد بن إسماعيل الترمذي، نا نعيم بن حماد، نا عبد الله بن المبارك، ثنا عيسى بن يونس، عن جرير هو ابن عثمان عن عبد الرحمن بن جبير بن نفير، عن أبيه، عن عوف بن مالك الأشجعي قال قال رسول الله صلى الله عليه وسلم تفترق أمتي على بضع وسبعين فرقة أعظمها فتنة على أمتي قوم يقيسون الأمور برأيهم، فيحلون الحرام ويحرمون الحلال. قال أبو محمد: حريز بن عثمان ثقة، وقد روينا عنه أنه تبرأ مما أنسب إليه من الانحراف، عن علي رضي الله عنه، ونعيم بن حماد قد روى عن البخاري في الصحيح، وفي الأحاديث التي ذكرنا في هذا الفصل وفيما قبل هذا من أمره صلى الله عليه وسلم بأن يتركوا ما تركهم وأن ينتهوا عما نهاهم، وأن يفعلوا ما أمرهم به ما استطاعوا كفاية في إبطال القياس لمن نصح نفسه. وقد قال بعض أصحاب القياس: إنما أنكر في هذه الأحاديث من يقيس برأيه، وأما من يقيس على تشابه المنصوص فلم يذم. قال أبو محمد: فقلنا لهم: من أين فرقتم هذا الفرق؟ وهل رددتموها على الدعوة المفتراة الكاذبة شيئا؟ وقولكم هذا من أشد المجاهرة بالباطل. وقد وجدنا للصحابة فتاوى كثيرة بالرأي يتبرؤون فيها من خطأ، إن كان إلى الله تعالى، ولا يوجدون شيئا منها دينا، ولا يقولون إنه الحق، بل يذمون القول بالرأي في خلال ذلك، خوف أن يظن ظان أنه منهم على سبيل الإيجاب والقطع بأنه حق، فمن تعلق بالرأي هكذا فله متعلق. وأما القياس الذي ذكر هذا القائل على التعديل، واستخراج، علة الشبه، فما نطق بذلك قط أحد من الصحابة، ولا قال به، فالذي فر إليه أشد مما فر عنه. وبالله تعالى التوفيق. وقد جاء عن الصحابة رضي الله عنهم، وعمن بعدهم إبطال القياس نصا. كالذي ذكرنا عن أبي هريرة من قوله لابن عباس إذ أتاك الحديث عن رسول الله صلى الله عليه وسلم فلا تضرب له الأمثال وهذا نص من أبي هريرة على إبطال القياس. حدثنا عبد الله

will be people who judge matters by analogy according to their own opinion, thereby permitting what is forbidden and forbidding what is permitted."

Abu Muhammed said: Hariz ibn ʿUthman is a trustworthy transmitter. We have transmitted from him that he disavowed the hostility toward ʿAli, may Allah be pleased with him, that was attributed to him. And Nuʿaym ibn Hammad transmitted from al-Bukhari in the Sahih. The reports we have mentioned in this section and earlier, concerning his ﷺ command that they leave alone what he left alone for them, refrain from what he forbade them, and do what he commanded them as far as they were able, suffice to invalidate analogy for anyone who is sincere with himself.

Some advocates of analogy have said: "These reports reject only someone who reasons by analogy according to his own opinion. Someone who reasons by analogy on the basis of similarities between matters expressly specified in the texts is not censured." Abu Muhammed said: We said to them: "On what basis have you drawn this distinction? And have you referred it back to the fabricated, false claim in any respect? This statement of yours is among the most flagrant avowals of falsehood." We have found many legal opinions issued by the Companions on the basis of personal opinion, in which they disclaim responsibility for any error, if there was any, before Allah Most High. They do not find any of these opinions to constitute religion, nor do they say that it is the truth. Rather, in the course of doing so, they censure speaking on the basis of personal opinion, for fear that someone might suppose that their statements were intended to impose an obligation and assert decisively that they were true. Whoever appeals to personal opinion in this manner has something to which he can appeal. But as for the analogy mentioned by this speaker, based on equating cases and extracting the effective cause of resemblance, no Companion ever uttered such a thing or professed it. What he has fled to is therefore worse than what he has fled from. Success comes through Allah Most High.

Explicit invalidation of analogy has been transmitted from the Companions, may Allah be pleased with them, and from those after them, such as what we mentioned from Abu Hurayra, when he said to Ibn ʿAbbas: "When a report

بن يوسف نامي، نا أحمد بن فتح، نا عبد الوهاب بن عيسى، نا أحمد بن محمد، نا أحمد بن علي، نا مسلم بن الحجاج، نا أحمد بن عبد الله بن يونس، ثنا زهير، ثنا منصور، عن هلال بن يساف، عن ربيع بن عميلة عن سمرة بن جندب قال قال رسول الله صلى الله عليه وسلم أحب الكلام إلى الله عز وجل أربع فذكر الحديث وفي آخره: لا تسمين غلامك يسارا ولا رباحا ولا نجيحا ولا أفلح، فإنك تقول أثم هو؟ فيقول لا: إنما هن أربع، فلا تزيدوا علي. قال أبو محمد: فهذا سمرة بن جندب لم يستجز القياس، وأخبر أنه زيادة في السنة، ولم يستجز أن يقول: ومثل هذا يلزم في خيرة وسعد وفرج، فتقول: أثم سعد أثم فرج، أثم خيرة؟ فيقول: لا. هذا وقد نص على السبب المانع من التسمية بالأسماء المذكورة التي يسمون مثلها التي يكذبون في استخراجها علة يقيسون عليها، فقد كان ينبغي، لو اتقوا الله عز وجل أن يقولوا إن التي نص عليها رسول الله صلى الله عليه وسلم أولى أن يقاس عليها ما يشبهها لكن لم يفعلوا ذلك ولا فعل ذلك رسول الله صلى الله عليه وسلم إذ خص هذه الأسماء ولا سمرة بعده وهذا إبطال صحيح للقياس. فإن قالوا: لعل هذا الكلام: إنما هن أربع فلا تزيدون علي هو من لفظ النبي صلى الله عليه وسلم قيل لهم فذلك أشد عليهم وأبطل لقولكم أن يكون رسول الله صلى الله عليه وسلم نهى عن القياس والتعليل وأمر بالاقتصار على ما نص عليه فقط.

from the Messenger of Allah ﷺ reaches you, do not draw comparisons for it." This is an explicit statement by Abu Hurayra invalidating analogy.

ʿAbd Allah ibn Yusuf Nami related to us: Ahmad ibn Fath related to us: ʿAbd al-Wahhab ibn ʿIsa related to us: Ahmad ibn Muhammed related to us: Ahmad ibn ʿAli related to us: Muslim ibn al-Hajjaj related to us: Ahmad ibn ʿAbd Allah ibn Yunus related to us: Zuhayr related to us: Mansur related to us, from Hilal ibn Yasaf, from Rabiʿ ibn ʿUmayla, from Samura ibn Jundab, who said: The Messenger of Allah ﷺ said: "The words most beloved to Allah, Mighty and Majestic, are four." He then mentioned the report, at the end of which is: "Do not name your boy Yasar, Rabah, Najih, or Aflah, for you will say, 'Is he there?' and someone will say, 'No.' They are only four, so do not add to what I have related."

Abu Muhammed said: Here is Samura ibn Jundab: he did not deem analogy permissible, and stated that it was an addition to the Sunna. Nor did he deem it permissible to say: "The same must apply to Khayra, Saʿd, and Faraj: you say, 'Is Saʿd there? Is Faraj there? Is Khayra there?' and someone says, 'No.'" This is so even though he expressly stated the reason preventing the use of the aforementioned names—a reason of the kind that they, making false claims in extracting it, call an effective cause upon which to base analogy. Had they feared Allah, Mighty and Majestic, they ought to have said that the cause expressly stated by the Messenger of Allah ﷺ was more deserving of having similar cases assimilated to it by analogy. Yet they did not do so; nor did the Messenger of Allah ﷺ do so when he singled out these names, nor did Samura after him. This is a sound invalidation of analogy. If they say, "Perhaps these words, 'They are only four, so do not add to them on my authority,' are the Prophet's own words, may Allah bless him and grant him peace ﷺ," they are to be told: That would bear still more heavily against them and invalidate your position still further: Allah's Messenger, may Allah bless him and grant him peace ﷺ, would thereby have forbidden analogy

and the assignment of effective causes, and commanded that one confine oneself solely to what he expressly specified.[226][227][228][229][230][231][232][233][234]

[226] **Translator's note (L3341):** The source reads أحلى, which does not ordinarily mean 'permitted' in this construction. The parallel with حرم, 'prohibited,' makes that the apparent intended sense; the irregular reading has not been silently treated as unproblematic.

[227] **Translator's note (L3342):** The source's بين عليهم is an awkward construction here; it has been rendered according to its apparent sense, 'made clear to them.'

[228] **Translator's note (L3343):** The final name reads 'Ahmad ibn ʿAbd Allah ibn Muhammed ʿAli,' without an explicit 'ibn' between Muhammed and ʿAli. This irregularity has been retained. The following segment supplies the designation al-Baji. The abbreviated transmission formula نا before the final name is rendered as the introduction to a transmitted report, with the naming phrase continuing into the next unit.

[229] **Translator's note (L3344):** The transmission chain reads 'Jarir—that is, Ibn ʿUthman,' whereas the author's subsequent assessment names 'Hariz ibn ʿUthman.' Both readings have been preserved. The source says that Nuʿaym ibn Hammad 'transmitted from al-Bukhari in the Sahih.' This appears to reverse the intended direction of transmission, but the translation retains the supplied wording. The transmission formula preceding Ahmad ibn ʿAbd Allah's name occurs in the previous unit; 'related to us' follows the completed name here so that the two units rejoin naturally.

[230] **Translator's note (L3345):** The wording وهل رددتموها على الدعوة المفتراة, continuing into the next unit, is syntactically and semantically awkward. 'Referred it back' preserves the apparent wording rather than replacing it with a conjectured reading. الدعوة is understood here as 'claim.'

[231] **Translator's note (L3346):** 'In any respect' renders شيئا, whose grammatical relationship to the preceding clause is unclear in the supplied text.

[232] **Translator's note (L3347):** The source reads ولا يوجدون, literally 'they do not find,' an awkward expression here. It has been retained rather than silently changed to a possible reading meaning 'they do not make obligatory.' The source reads التعديل, rendered 'equating cases,' rather than التعليل, 'identifying an effective cause.' Here the transmitter's name is written "Abd Allah ibn Yusuf Nami,' without the additional 'ibn' found in unit 3340:0. The names Yasar, Rabah, Najih, and Aflah evoke ease or prosperity, gain, success, and flourishing respectively. The quoted negative answer is relevant because these names can also be understood through their favorable meanings. The attribution of 'They are only four, so do not add to what I have related' is left open by the source; the surrounding argument initially treats it as Samura's statement.

L3350–3360 ʿAbd Allah ibn Rabiʿ al-Tamimi related to us: Muhammed ibn Muʿawiyah al-Marwani related to us: Ahmad ibn Shuʿayb al-Nasaʾi related to us: Muhammed ibn Bashshar related to us: Muhammed ibn Jaʿfar, Abu Dawud al-Tayalisi, ʿAbd al-Rahman ibn Mahdi, Yahya ibn Saʿid al-Qattan, Abu al-Walid al-Tayalisi, and Muhammed ibn Abi ʿAdi related to us; they said: Shuʿbah related to us, saying: I heard Sulayman ibn ʿAbd al-Rahman say: I heard ʿUbayd ibn Fayruz say: I said to al-Baraʾ ibn ʿAzib, "Tell me what Allah's Messenger, may Allah bless him and grant him peace ﷺ, disapproved of—or forbade—among sacrificial animals." He gestured thus with his hand—his hand being shorter than the hand of Allah's Messenger, may Allah bless him and grant him peace ﷺ—and said, "Four do not suffice as sacrificial animals," and he recounted the report. He said, "I dislike there being a defect in the horn or the ear." He replied, "Whatever you dislike of that, leave it, but do not declare it forbidden to anyone." We have also transmitted something similar from ʿUtbah ibn ʿAbd al-Sulami: that one should not go beyond what Allah's Messenger, may Allah bless him and grant him peace ﷺ, forbade. Ahmad ibn ʿUmar al-ʿUdhri related to us: ʿAbd Allah ibn Husayn ibn ʿIqal al-Farisi related to us: Ibrahim ibn Muhammed al-Dinawari related to us: Muhammed ibn Ahmad ibn al-Jahm related to us: Ahmad ibn al-Haytham related to us: Muhammed ibn Sharik related to us, from ʿAmr ibn Dinar, from Abu al-Shaʿthaʾ, from Ibn ʿAbbas, who said: "The people of the Age of Ignorance used to eat certain things and leave certain things out of disgust. Then Allah sent His Prophet, may Allah bless him and grant him peace ﷺ, revealed His Book, made lawful what He made lawful, and forbade what He forbade. Whatever He made lawful is lawful; whatever He forbade is forbidden; and whatever He left unmentioned is pardoned." And he recounted the

حدثنا عبد الله بن ربيع التميمي، نا محمد بن معاوية المرواني، نا أحمد بن شعيب النسائي، نا محمد بن بشار، نا محمد بن جعفر، وأبو داود الطيالسي، وعبد الرحمن بن مهدي، ويحيى بن سعيد القطان، وأبو الوليد الطيالسي، ومحمد بن أبي عدي قالوا: ثنا شعبة قال: سمعت سليمان بن عبد الرحمن قال: سمعت عبيد بن فيروز قال: قلت للبراء بن عازب حدثني ما كره أن نهى عنه رسول الله صلى الله عليه وسلم من الأضاحي فقال هكذا بيده ويده أقصر من يد رسول الله صلى الله عليه وسلم أربع لا تجزىء في الأضاحي وذكر الحديث قال: فإني أكره أن يكون نقص في القرن والأذن قال: فما كرهت منه فدعه ولا تحرمه على أحد. وروينا نحو ذلك عن عتبة بن عبد السلمي ألا يتعدى ما نهى عنه رسول الله صلى الله عليه وسلم حدثنا أحمد بن عمر العذري ثنا عبد الله بن حسين بن عقال الفريسي، نا إبراهيم بن محمد الدينوري، نا محمد بن أحمد بن الجهم، نا أحمد بن الهيثم، نا محمد بن شريك، عن عمرو بن دينار، عن أبي الشعثاء، عن ابن عباس قال: كان أهل الجاهلية يأكلون أشياء ويتركون أشياء تقذرا فبعث الله نبيه صلى الله عليه وسلم وأنزل كتابه وأحل حلاله وحرم حرامه فما أحل فهو حلال، وما حرم فهو حرام، وما سكت عنه فهو عفو، وذكر الحديث. وقال محمد بن أحمد بن الجهم: ثنا أحمد بن الهيثم، ثنا سليمان بن حرب، ثنا حماد ابن زيد، نا المعلى بن زياد، عن الحسن قال: بينا عمر بن الخطاب يمشي في بعض طرق المدينة، إذ وطىء رجل من القوم عقبه فقطع نعله، فأهوى له ضربة. فقال: يا أمير المؤمنين، لطمتني وظلمتني، لا والله ما هذا أردت، فألقى إليه الدرة. فقال: دونك فاقتص، فقال بعضهم: اغفرها لأمير المؤمنين، فقال: لا والله ما أريد مغفرتها، لقد كتبت وحفظت، ولكن إن شئت دللتك على خير من ذلك {وكتبنا عليهم فيها أن لنفس بلنفس ولعين بلعين ولأنف بلأنف ولأذن بلأذن ولسن بلسن ولجروح قصاص فمن تصدق به فهو كفارة له ومن لم يحكم بما أنزل لله فأولئك هم لظالمون} قال فإني قد تصدقت فجاء عمر رقيق فأعطاه خادما

[233]**Translator's note (L3348):** Khayra, Saʿd, and Faraj evoke goodness, felicity, and relief respectively; as with the preceding names, a negative answer can be heard as denying the favorable quality. The phrase التي يسمون مثلها التي يكذبون في استخراجها علة is grammatically tangled. The translation follows its apparent argument: the stated reason is of the kind the advocates of analogy call an effective cause, while the author accuses them of falsehood in extracting such causes.

[234]**Translator's note (L3349):** The opening words complete the preceding segment's reference to Samurah. The wording "do not add to them on my authority" follows the supplied reading of the quotation.

report. Muhammed ibn Ahmad ibn al-Jahm said: Ahmad ibn al-Haytham related to us: Sulayman ibn Harb related to us: Hammad ibn Zayd related to us: al-Muʿalla ibn Ziyad related to us, from al-Hasan, who said: While ʿUmar ibn al-Khattab was walking along one of the streets of Medina, a man from the group stepped on his heel and broke his sandal. He swung a blow at him. The man said, "Commander of the Faithful, you have struck me and wronged me! No, by Allah, that was not what I intended." He tossed him the whip and said, "Here, take retaliation." One of them said, "Forgive the Commander of the Faithful for it." He replied, "No, by Allah, I do not want it forgiven. It has already been recorded and preserved. But, if you wish, I shall direct you to something better than that: 'And We prescribed for them therein: a life for a life, an eye for an eye, a nose for a nose, an ear for an ear, a tooth for a tooth, and retaliation for wounds. But whoever gives it up as charity, it is an expiation for him. And whoever does not judge by what Allah has revealed—those are the wrongdoers.'" He said, "Then I have given it up as charity." Some slaves were brought to ʿUmar, and he gave him a servant. And he recounted the report. Abu Muhammed said: Here is ʿUmar, who did not consider it permissible to draw an analogy between forgiveness and charity, although the effective cause is one and the same according to those who employ analogy. Nor do I consider that he would depart from the apparent meaning of the text. Yusuf ibn ʿAbd Allah al-Namari related to us: ʿAbd al-Warith ibn Jabrun related to us: Qasim ibn Asbagh related to us: related to us Abu Bakr ibn Abi Khaythamah: My father—namely, Zuhayr ibn Harb—related to us: Jarir related to us, from Layth ibn Abi Sulaym, from Mujahid, that ʿUmar ibn al-Khattab forbade measuring one thing against another. Mujahid said: "He means reasoning by analogy." Muhammed ibn Saʿid ibn Nabat related to us: Ismaʿil ibn Ishaq al-Basri related to us: ʿIsa related to us ibn Habib: ʿAbd al-Rahman ibn ʿAbd Allah ibn Yazid al-Muqriʾ related to us: My grandfather, Muhammed ibn ʿAbd Allah ibn Yazid, related to us: Sufyan ibn ʿUyaynah related to us, from Khalaf ibn Hawshab, from Salamah ibn Kuhayl, who said: ʿUmar ibn al-Khattab said, "Matters have become clear, established practices have been instituted, and no room for pronouncement has been left to anyone, unless one servant should stray from another servant." Ibn Nabat related to us: Ahmad ibn ʿAwn Allah related to us: Qasim

وذكر الحديث. قال أبو محمد: فهذا عمر لم يستجز قياس المغفرة على الصدقة، والعلة عند القائسين واحدة، ولا أرى أن يفارق ظاهر النص. حدثنا يوسف بن عبد الله النمري، نا عبد الوارث بن جبرون، نا قاسم بن أصبغ، ثنا أبو بكر بن أبي خيثمة، نا أبي هو زهير بن حرب نا جرير، عن ليث بن أبي سليم عن مجاهد: أن عمر بن الخطاب نهى عن المكايلة، قال مجاهد: يعني المقايسة. حدثنا محمد بن سعيد بن نبات، نا إسماعيل بن إسحاق البصري، نا عيسى بن حبيب، نا عبد الرحمن بن عبد الله بن يزيد المقرىء، نا جدي محمد بن عبد الله بن يزيد، نا سفيان بن عيينة، عن خلف بن حوشب، عن سلمة بن كهيل قال: قال عمر بن الخطاب: وقد وضحت الأمور، وسنت السنن، ولم يترك لأحد متكلم إلا أن يضل عبد عن عبد. حدثنا ابن نبات، نا أحمد بن عون الله، نا قاسم بن أصبغ، نا محمد بن عبد السلام الخشني، نا محمد بن بشار، نا محمد بن جعفر، حدثنا شعبة عن عبد الملك بن ميسرة، عن النزال بن سبرة: أن رجلا وامرأته أتيا ابن مسعود في تحريم فقال: إن الله تعالى بين فمن أتى الأمر من قبل وجهه فقد بين له، ومن خالف فوالله ما نطيق خلافه، وربما قال: خلافكم. قال أبو محمد: فهذا ابن مسعود يجعل كل ما ليس في النص خلافا لله تعالى، ويخبر أن البيان قد تم، وهذا إبطال القياس. أخبرنا المهلب التميمي، نا بن مناس، نا محمد بن مسرور القيرواني، أنا يونس بن عبد الأعلى، نا عبد الله بن وهب قال: سمعت سفيان بن عيينة يحدث عن المجالد بن سعيد، عن الشعبي، عن مسروق، عن عبد الله بن مسعود أنه قال: ليس عام إلا والذي بعده شر منه، لا أقول عام أمطر من عام، ولا عام أخصب من عام، ولا أمير خير من أمير، ولكن ذهاب خياركم وعلمائكم ثم يحدث قوم يقيسون الأمور برأيهم فينهدم الإسلام وينثلم. وكتب إلي النمري أحمد بن فتح الرسان، نا أحمد بن الحسن بن عتبة الرازي، نا عبد الله بن محمد بن عبد العزيز العمري، نا الزبير بن بكار، حدثني سعيد بن داود بن أبي زبر، عن مالك بن أنس، عن داود بن الحصين، عن

ibn Asbagh related to us: Muhammed ibn ʿAbd al-Salam al-Khushani related to us: Muhammed ibn Bashshar related to us: Muhammed ibn Jaʿfar related to us: Shuʿbah related to us, from ʿAbd al-Malik ibn Maysarah, from al-Nazzal ibn Sabrah, that a man and his wife came to Ibn Masʿud concerning a declaration of prohibition. He said, "Allah Most High has made matters clear. Whoever approaches a matter in its proper way has had it made clear to him. As for whoever acts contrary to this—by Allah, we cannot bear his opposition." Sometimes he said, "your opposition." Abu Muhammed said: Here Ibn Masʿud makes everything that is not in the text an act of opposition to Allah Most High, and declares that clarification has been completed. This invalidates analogy. Al-Muhallab al-Tamimi informed us: Ibn Munas related to us: Muhammed ibn Masrur al-Qayrawani related to us: Yunus ibn ʿAbd al-Aʿla informed us: ʿAbd Allah ibn Wahb related to us, saying: I heard Sufyan ibn ʿUyaynah relate, from al-Mujalid ibn Saʿid, from al-Shaʿbi, from Masruq, from ʿAbd Allah ibn Masʿud, that he said: "There is no year but that the one after it is worse than it. I do not mean that one year has more rain than another, or that one year is more fertile than another, or that one ruler is better than another. Rather, it is the passing of the best among you and your scholars. Then people will arise who assess matters by analogy according to their own opinion, and Islam will be demolished and breached." Al-Namari wrote to me: Ahmad ibn Fath al-Rassan; Ahmad ibn al-Hasan ibn ʿUtbah al-Razi related to us: ʿAbd Allah ibn Muhammed ibn ʿAbd al-ʿAziz al-ʿUmari related to us: al-Zubayr ibn Bakkar related to us: Saʿid ibn Dawud ibn Abi Zabr related to me, from Malik ibn Anas, from Dawud ibn al-Husayn, from Tawus, from ʿAbd Allah ibn ʿUmar, who said: "Knowledge consists of three things: a Book that speaks, an established prophetic practice, and 'I do not know.'" Ahmad ibn ʿUmar related to us: Abu Dharr ʿAbd ibn Ahmad al-Harawi related to us: Ahmad ibn ʿAbdan ibn Muhammed, the hadith master of Nishapur, related to us at al-Ahwaz: Muhammed ibn Sahl related to us ibn ʿAbd Allah al-Muqriʾ, a resident of Fasa: related to us Muhammed ibn Ismaʿil al-Bukhari, the compiler of the Sahih, who said: Sadaqah said to me, from al-Fadl ibn Musa, from Ibn ʿUqbah, from al-Dahhak, from Jabir ibn Zayd, who said: Ibn ʿUmar met me and said, "Jabir, you are one of the jurists of Basra, and you will be asked for legal opinions. Give no legal opinion ex-

طاوس، عن عبد الله بن عمر قال: العلم ثلاثة أشياء: كتاب ناطق وسنة ماضية، ولا أدري. حدثنا أحمد بن عمر، حدثنا أبو ذر عبد بن أحمد الهروي، حدثنا أحمد بن عبدان بن محمد الحافظ النيسابوري بالأهواز، نا محمد بن سهل بن عبد الله المقرىء نزيل فسا، ثنا محمد بن إسماعيل البخاري مؤلف الصحيح قال: قال لي صدقة، عن الفضل بن موسى، عن ابن عقبة، عن الضحاك، عن جابر بن زيد قال: لقيني ابن عمر قال: يا جابر إنك من فقهاء البصرة، وستستفتى، فلا تفتين إلا بكتاب ناطق أو سنة ماضية. قال أبو محمد: وهذا نص المنع من القياس والرأي والتقليد. حدثنا عبد الرحمن بن سلمة الكناني، نا أحمد بن خليل، نا خالد بن سعيد، نا طاهر بن عبد العزيز، نا أبو القاسم مسعدة العطار بمكة وكان طاهر وأحمد بن خالد يحسنان الثناء عليه قال: أنا الخزامي يعني إبراهيم بن المنذر، وحدثنا طاهر بن عصام كان طاهرا وكان ثقة عن مالك بن أنس، عن نافع، عن ابن عمر أنه قال: العلم ثلاثة: كتاب الله الناطق، وسنة ماضية، ولا أدري. حدثنا محمد بن سعيد، نا أحمد بن عبد البصير، نا قاسم بن أصبغ، نا محمد بن عبد السلام الخشني، نا المثنى، نا عبد الرحمن بن مهدي، نا سفيان الثوري، عن سليمان الشيباني هو أبو إسحاق سمعت عبد الله بن أبي أوفى يقول نهى رسول الله صلى الله عليه وسلم عن نبيذ الجر الأخضر قلت فالأبيض قال لا أدري. قال أبو محمد: فلو جاز القياس عند ابن أبي أوفى لقال: ما الفرق بين الأخضر والأبيض كما يقول هؤلاء: الفرق بين الزيت والسمن؟ وبين الفأر الميت والسنور الميت، وبين الأرز والبر، وسائر ما قاسوا فيه لكنه وقف عند النص، وهذا الذي لا يجوز غيره. حدثنا عبد الرحمن بن عبد الله بن خالد، نا إبراهيم بن أحمد، نا الفريري، نا البخاري، نا أبو اليمان الحكم بن نافع، أنا شعيب هو ابن حمزة عن الزهري، قال: كان محمد بن جبير بن مطعم يحدث أنه كان عند معاوية في وفد من قريش، فقام فحمد الله وأثنى عليه بما هو أهله، ثم قال: أما بعد، فإنه بلغني أن رجالا منكم يتحدثون أحاديث ليست

في كتاب الله تعالى ولا تؤثر عن رسول الله صلى الله عليه وسلم فأولئك جهالكم وذكر باقي الكلام والخبر حدثنا عبد الله بن ربيع بن محمد بن عثمان نا أحمد بن خالد، نا علي بن عبد العزيز، نا الحجاج بن المنهال، نا حماد بن سلمة، أنا أيوب السختياني، عن أبي قلابة، عن زيد بن عميرة، عن معاذ بن جبل قال: تكون فتن يكثر فيها الملل، ويفتح فيها القرآن حتى يقرؤه الرجل والمرأة، والصغير والكبير، والمؤمن والمنافق، فيقرؤه الرجل فلا يتبع، فيقول: والله لأقرأنه علانية، فيقرؤه علانية فلا يتبع فيتخذ مسجدا، ويبتدع كلاما ليس من كتاب الله ولا من سنة رسوله صلى الله عليه وسلم فإياكم وإياه فإنها بدعة ضلالة قالها ثلاث مرات. فهؤلاء عمر وابن عمر، وابن مسعود وأبو هريرة، ومعاذ بن جبل، وسمرة بن جندب، وابن عباس والبراء بن عازب، وعبد الله بن أبي أوفى ومعاوية، كلهم يبطل القياس، وما ليس موجودا في القرآن ولا في السنة عن رسول الله صلى الله عليه وسلم وهذه صفة الرأي والقياس والتعليل وقد قدمنا أنه لا يصح خلاف هذا عن أحد من الصحابة بوجه من الوجوه، وبالله تعالى التوفيق.

cept on the basis of a Book that speaks or an established prophetic practice." Abu Muhammed said: This is an explicit prohibition of analogy, personal opinion, and uncritical adherence to another's authority. ʿAbd al-Rahman ibn Salamah al-Kattani related to us: Ahmad ibn Khalil related to us: Khalid ibn Saʿid related to us: Tahir ibn ʿAbd al-ʿAziz related to us: Abu al-Qasim Masʿadah al-ʿAttar related to us at Mecca—Tahir and Ahmad ibn Khalid used to speak highly of him—saying: Al-Khuzami informed us, meaning Ibrahim ibn al-Mundhir; and Tahir ibn ʿIsam related to us—he was pure in conduct and trustworthy—from Malik ibn Anas, from Nafiʿ, from Ibn ʿUmar, that he said: "Knowledge consists of three things: Allah's speaking Book, an established prophetic practice, and 'I do not know.'" Muhammed ibn Saʿid related to us: Ahmad ibn ʿAbd al-Basir related to us: Qasim ibn Asbagh related to us: Muhammed ibn ʿAbd al-Salam al-Khushani related to us: al-Muthanna related to us: ʿAbd al-Rahman ibn Mahdi related to us: Sufyan al-Thawri related to us, from Sulayman al-Shaybani—he is Abu Ishaq—who said: I heard ʿAbd Allah ibn Abi Awfa say, "Allah's Messenger, may Allah bless him and grant him peace ﷺ, forbade the infusion prepared in green earthenware jars." I said, "What about white ones?" He said, "I do not know." Abu Muhammed said: Had analogy been permissible in Ibn Abi Awfa's view, he would have said, "What difference is there between green and white, just as these people speak of the difference between oil and clarified butter, between a dead mouse and a dead cat, between rice and wheat, and all the other things to which they have applied analogy. Rather, he stopped at the explicit text, and nothing else is permissible.

Abd al-Rahman ibn Abd Allah ibn Khalid related to us: Ibrahim ibn Ahmad related to us: al-Fariri related to us: al-Bukhari related to us: Abu al-Yaman, al-Hakam ibn Nafi, related to us: Shuayb—namely, Ibn Hamrah—informed us, from al-Zuhri, who said: Muhammed ibn Jubayr ibn Mutim used to relate that he was with Muawiyah among a delegation from Quraysh. Muawiyah stood, praised Allah, and extolled Him as He deserves, then said: "To proceed: I have learned that men among you relate accounts that are neither in the Book of Allah Most High nor transmitted from the Messenger of Allah ﷺ.

Those are the ignorant among you." He mentioned the remainder of the speech and the report.

Abd Allah ibn Rabi ibn Muhammed ibn Uthman related to us: Ahmad ibn Khalid related to us: Ali ibn Abd al-Aziz related to us: al-Hajjaj ibn al-Minhal related to us: Hammad ibn Salamah related to us: Ayyub al-Sakhtiyani informed us, from Abu Qilabah, from Zayd ibn Umayrah, from Muadh ibn Jabal, who said: "There will be trials during which religious creeds proliferate and the Quran is opened up, until men and women, young and old, believers and hypocrites read it. A man will read it but gain no followers, so he will say, 'By Allah, I shall certainly read it publicly.' He will read it publicly but gain no followers, so he will establish a mosque and invent discourse that belongs neither to the Book of Allah nor to the Sunnah of His Messenger ﷺ. Beware of him, for it is an innovation of misguidance." He said this three times.

Here, then, are Umar, Ibn Umar, Ibn Masud, Abu Hurayrah, Muadh ibn Jabal, Samurah ibn Jundab, Ibn Abbas, al-Bara ibn Azib, Abd Allah ibn Abi Awfa, and Muawiyah: every one of them rejects analogy and whatever is not found in the Quran or in the Sunnah transmitted from the Messenger of Allah ﷺ. This describes personal opinion, analogy, and the assignment of legal causes. We have already established that nothing contrary to this is authentically

reported from any of the Companions in any manner whatsoever. Success comes through Allah Most High.[235][236][237][238][239][240][241][242]

L3361–3362 As for the Successors and those after them, Yunus ibn Abd Allah, the judge, related to us: Yahya ibn Malik ibn Aidh related to us: Hisham ibn Muhammed ibn Qurrah, known as Ibn Abi Hanifah, related to us: Abu Jafar Ahmad ibn Muhammed ibn Salamah al-Tahawi related to us: Ibn Ghulayb related to us: Imran ibn Abi Imran related to me: Yahya ibn Sulayman al-Taifi related to us: Dawud ibn Abi Hind related to me, saying: I heard Muhammed ibn Sirin say: “Analogy is ill fortune. The first to apply analogy was Iblis,

وأما التابعون ومن بعدهم، فحدثنا يونس بن عبد الله القاضي، نا يحيى بن مالك بن عائذ، نا هشام بن محمد بن قرة المعروف بابن أبي حنيفة، نا أبو جعفر أحمد بن محمد بن سلامة الطحاوي، نا ابن غليب، حدثني عمران بن أبي عمران، ثنا يحيى بن سليمان الطائفي، حدثني داود بن أبي هند قال: سمعت محمد ين سيرين يقول: القياس شؤم، وأول من قاس إبليس فهلك، وإنما عبدت الشمس والقمر بالقياس. حدثنا المهلب، نا ابن مناس، نا محمد بن مسرور القيرواني، نا يونس بن عبد الأعلى، نا ابن وهب قال: أخبرني مسلمة بن علي أن شريحا الكندي، هو القاضي، قال: إن السنة سبقت قياسكم. كتب إلي النمري قال: قال أبو ذر الهروي: نا أبو نعيم أحمد بن عبد الله الأصبهاني بالري، نا عبد الرحمن بن أبي حاتم، نا محمد بن إسماعيل الأحمسي، نا وهب بن إسماعيل، عن داود الأودي قال: قال لي الشعبي: احفظ عني ثلاثا لهما شأن: إذا سئلت عن مسألة فأجبت فيها فلا تتبع مسألتك: أرأيت فإن الله تعالى قال في كتابه {أرأيت من تخذ إلهه هواه أفأنت تكون عليه وكيلا} حتى فرغ من الآية. والثانية: إذا سئلت عن مسألة فلا تقس شيئا بشيء، فربما حرمت حلالا أو حللت حراما. والثالثة: إذا سئلت عما لا تعلم فقل لا أعلم، وأنا شريكك. كتب إلي يوسف بن عبد الله: نا خلف بن قاسم، نا ابن شعبان، نا محمد بن محمد، نا أبو همام، نا الأشجعي، عن جابر، عن الشعبي، عن مسروق قال: لا أقيس شيئا بشيء. قلت: لم؟ قال: أخاف أن تزل رجلي.

[235] **Translator’s note (L3350):** The wording rendered “disapproved of—or forbade” is syntactically irregular: the supplied text places “that” or “or” between the two verbs. The uncertainty is retained rather than silently repaired.

[236] **Translator’s note (L3352):** “Nor do I consider that he would depart” follows the supplied first-person reading. Its syntax is awkward; it may instead have been intended to say that ʿUmar did not consider departing from the text permissible. The final “related to us” introduces Abu Bakr ibn Abi Khaythamah in the next segment.

[237] **Translator’s note (L3353):** “Measuring one thing against another” renders mukayalah; Mujahid’s gloss identifies it here with analogical comparison. The name ʿIsa continues with “ibn Habib” in the following segment.

[238] **Translator’s note (L3354):** The phrase “unless one servant should stray from another servant” is obscure in the supplied text; it has been translated literally without substituting a conjectural reading. “A declaration of prohibition” leaves unspecified what was declared forbidden; the text does not explicitly identify the declaration or its wording. The transmission following “al-Namari wrote to me” places Ahmad ibn Fath al-Rassan’s name without an explicit transmission verb. This gap is preserved.

[239] **Translator’s note (L3357):** “The infusion” renders nabidh, a beverage made by steeping dates, raisins, or similar ingredients; the term does not by itself establish that the beverage was intoxicating. The description of Tahir ibn ʿIsam as “pure in conduct” renders the adjective tahir, which repeats his given name.

[240] **Translator’s note (L3358):** The opening continues the preceding segment’s question about green and white vessels. The subsequent wording about “the difference” is elliptical in the supplied Arabic. The supplied transmitter names read “al-Fariri” and “Ibn Hamrah”; these readings have been retained rather than silently normalized.

[241] **Translator’s note (L3359):** The supplied word al-milal means “religious creeds”; the unvocalized spelling can also signify weariness. The context may suggest a textual corruption, but the supplied reading has not been replaced.

[242] **Qur’an references (L3350):** Qur’an 5:45 (Al-Ma’idah).

and he perished. It was only through analogy that the sun and moon came to be worshipped."

Al-Muhallab related to us: Ibn Munas related to us: Muhammed ibn Masrur al-Qayrawani related to us: Yunus ibn Abd al-Ala related to us: Ibn Wahb related to us, saying: Maslamah ibn Ali informed me that Shurayh al-Kindi—namely, the judge—said: "The Sunnah preceded your analogy."

Al-Namari wrote to me, saying: Abu Dharr al-Harawi said: Abu Nuaym Ahmad ibn Abd Allah al-Asbahani related to us in Rayy: Abd al-Rahman ibn Abi Hatim related to us: Muhammed ibn Ismail al-Ahmasi related to us: Wahb ibn Ismail related to us, from Dawud al-Awdi, who said: al-Shabi said to me: "Remember three things from me that are of consequence. When you are asked about a question and give an answer concerning it, do not follow up your question with 'What if …?' For Allah Most High said in His Book: 'Have you considered him who has taken his own desire as his god? Will you, then, be a guardian over him?'"—until he finished the verse—"and the second: when you are asked about a question, do not draw an analogy between one thing and another, for you may declare something lawful forbidden or something forbidden lawful. And the third: when you are asked about something you do not know, say, 'I do not know,' and I am your partner in that."

Yusuf ibn Abd Allah wrote to me: Khalaf ibn Qasim related to us: Ibn Shaban related to us: Muhammed ibn Muhammed related to us: Abu Hammam related to us: al-Ashjai related to us, from Jabir, from al-Shabi, from Masruq, who said: "I do not draw an analogy between one thing and another." I said: "Why?" He said: "I fear that my foot may slip."[243][244]

L3363–3367 Al-Namari wrote to me: Abd al-Rahman ibn Yahya ibn Muhammed al-Attar related to us: Ali ibn Muhammed ibn Masrur related to us: Ahmad related to us: Sahnun related to us: Ibn Wahb related to us: Yahya ibn Ayyub informed

كتب إلي النمري: نا عبد الرحمن بن يحيى بن محمد العطار، نا علي بن محمد بن مسرور، حدثنا أحمد، نا سحنون، نا ابن وهب، أخبرني يحيى بن أيوب، عن عيسى بن أبي عيسى، عن الشعبي أنه سمعه يقول: إياكم والمقايسة، فوالذي نفسي بيده لئن أخذتم بالمقايسة لتحلن الحرام، ولتحرمن الحلال ولكن ما بلغكم عن أصحاب رسول الله صلى الله عليه وسلم فاحفظوه حدثنا يونس بن عبد الله القاضي نا يحيى بن مالك بن عائذ، نا أبو عبد

[243] **Translator's note (L3361):** The transcription has "Muhammed yn Sirin"; "yn" is an apparent typographical corruption of "ibn." The Arabic says "three things" but follows it with the dual pronoun lahuma, literally "the two of them." "What if …?" renders ara'ayta as the formula introducing hypothetical legal questions. The same Arabic expression opens the quoted verse, where it is rendered "Have you considered …?"

[244] **Qur'an references (L3361):** Qur'an 25:43 (Al-Furqan).

me, from Isa ibn Abi Isa, from al-Shabi, whom he heard say: "Beware of analogical comparison! By Him in whose hand is my soul, if you adopt analogical comparison, you will assuredly declare the forbidden lawful and declare the lawful forbidden. Rather, preserve whatever reaches you from the Companions of the Messenger of Allah ﷺ."

Yunus ibn Abd Allah, the judge, related to us: Yahya ibn Malik ibn Aidh related to us: Abu Abd Allah Ibn Abi Hanifah related to us: Abu Jafar Ahmad ibn Muhammed al-Tahawi related to us: Yusuf ibn Yazid al-Qaratisi related to us: Said ibn Mansur related to us: Jarir ibn Abd al-Hamid related to us, from al-Mughirah ibn Miqsam, from al-Shabi, who said: "The Sunnah was not established through analogies."

Ahmad ibn Muhammed ibn Abd Allah al-Talamanki also related to us: Muhammed ibn Ahmad ibn Yahya related to us: Ibn Mufarrij related to us: Ibrahim ibn Ahmad ibn Firas al-Abqasi related to us: Muhammed ibn Ali ibn Zayd al-Saigh related to us: Said ibn Mansur related to us: Jarir—he is Abd al-Hamid—related to us, from al-Mughirah, from al-Shabi, who said: "The Sunnah was not established through analogies."

Yunus ibn Abd Allah, the judge, related to us: Ahmad ibn Abd Allah ibn Abd al-Rahim ibn al-Annan, a trustworthy transmitter, related to us: Ahmad ibn Khalid related to us: Ahmad ibn Abd al-Salam al-Khushani related to us: Muhammed ibn Bashshar: Yahya ibn Said al-Qattan related to us: Salih ibn Muslim related to us, saying: Amir al-Shabi said to me one day, while holding my hand: "You perished only when you abandoned the transmitted reports and adopted analogies. This mosque has indeed been made hateful to me: it is more hateful to me than the sweepings of my house—these riffraff!"

Al-Namari wrote to me: Muhammed ibn Khalifah, a very distinguished shaykh with extensive transmission, related to us: Muhammed ibn al-Husayn al-Ajurri related to us: Ahmad ibn Sahl al-Ushnani related to us: al-Husayn ibn Ali ibn al-Aswad related to us: Yahya ibn Adam related to us: al-Mubarak related to us, from Abd al-Malik ibn Abi Sulayman, from Ata ibn Abi Rabah, concerning the words of Allah Most High: "O you who believe, obey Allah, and obey the Messenger and those vested with authority among you. If you

الله ابن أبي حنيفة، نا أبو جعفر أحمد بن محمد الطحاوي، نا يوسف بن يزيد القراطيسي، نا سعيد بن منصور، نا جرير بن عبد الحميد، عن المغيرة بن مقسم، عن الشعبي قال: السنة لم توضع بالمقاييس. وحدثنا أيضا أحمد بن محمد بن عبد الله الطلمنكي، نا محمد بن أحمد بن يحيى، نا ابن مفرج، نا إبراهيم بن أحمد بن فراس العبقسي، نا محمد بن علي بن زيد الصائغ، ثنا سعيد بن منصور، نا جرير هو عبد الحميد عن المغيرة، عن الشعبي قال: السنة لم توضع بالمقاييس. حدثنا يونس بن عبد الله القاضي، نا أحمد بن عبد الله بن عبد الرحيم بن العنان ثقة نا أحمد بن خالد، نا أحمد بن عبد السلام الخشني محمد بن بشار، نا يحيى بن سعيد القطان نا صالح بن مسلم قال: قال لي عامر الشعبي يوما وهو آخذ بيدي: إنما هلكتم حين تركتم الآثار، وأخذتم بالمقاييس، لقد بغض إلي هذا المسجد فلهو أبغض إلي من كناسة داري، هؤلاء الصفافقة. كتب إلي النمري: نا محمد بن خليفة شيخ فاضل جدا واسع الرواية ثنا محمد بن الحسين الآجري، ثنا أحمد بن سهل الأشناني، نا الحسين بن علي بن الأسود، نا يحيى بن آدم، نا المبارك، عن عبد الملك بن أبي سليمان، عن عطاء بن أبي رباح في قول الله تعالى {يا أيها لذين آمنوا أطيعوا لله وأطيعوا لرسول وأولي لأمر منكم فإن تنازعتم في شيء فردوه إلى لله ولرسول إن كنتم تؤمنون بلله وليوم لآخر ذلك خير وأحسن تأويلا} قال كتاب الله تعالى وإلى سنة رسول الله صلى الله عليه وسلم كتب إلي النمري أخبرنا عبد الوارث بن سفيان، نا قاسم بن أصبغ، ثنا ابن وضاح، ثنا موسى بن معاوية، ثنا وكيع، ثنا جعفر بن برقان، عن ميمون بن مهران في قول الله تعالى {يا أيها لذين آمنوا أطيعوا لله وأطيعوا لرسول وأولي لأمر منكم فإن تنازعتم في شيء فردوه إلى لله ولرسول إن كنتم تؤمنون بلله وليوم لآخر ذلك خير وأحسن تأويلا} قال إلى الله إلى كتاب الله تعالى، وإلى الرسول ما دام حيا، فإذا قبض قال: سنته. حدثنا يونس بن عبد الله بن مغيث،

dispute about anything, refer it to Allah and the Messenger, if you believe in Allah and the Last Day. That is better and finer in outcome." He said: "The Book of Allah Most High, and to the Sunnah of the Messenger of Allah ﷺ."

Al-Namari wrote to me: Abd al-Warith ibn Sufyan informed us: related to us: Qasim ibn Asbagh: related to us: Ibn Waddah: Musa ibn Muawiyah related to us: Waki related to us: Jafar ibn Burqan related to us, from Maymun ibn Mihran, Concerning the saying of Allah Most High, {O you who believe, obey Allah and obey the Messenger and those vested with authority among you. If you dispute over anything, refer it to Allah and the Messenger, if you believe in Allah and the Last Day. That is better and more excellent in outcome}, he said: "'To Allah' means to the Book of Allah Most High; and 'to the Messenger' means while he remains alive. Once he has been taken in death," he said, "it means his Sunnah." Yunus ibn Abd Allah ibn Mughith related to us: Muhammed ibn al-Hasan al-Zubaydi related to us: Ahmad—that is, Ibn Said ibn Hazm al-Sadafi—related to us: Ahmad—that is, Ibn Khalid—related to us: Marwan—that is, Ibn Abd al-Malik al-Najjar—related to us: al-Abbas ibn al-Faraj al-Riyashi related to us, from al-Asmai, that he was told, "Al-Khalil ibn Ahmad rejects analogy." Al-Asmai said: "He took this from Iyas ibn Muawiyah." Abu al-Abbas al-Udhri related to me: al-Hasan ibn Ahmad ibn Ibrahim ibn Firas related to us: Umar ibn Muhammed ibn Ahmad ibn Abd al-Rahman ibn Umar ibn Abi Sufyan ibn Abd al-Rahman ibn Safwan ibn Umayyah ibn Khalaf al-Jumahi informed us: Ali ibn Abd al-Aziz related to us: Abu al-Walid al-Quradi related to us: Muhammed ibn Abd Allah ibn Bakkar al-Qurashi related to us: Sulayman ibn Jafar related to us: Muhammed ibn Yahya al-Rabai related to us, from Ibn Shubrumah, that Jafar ibn Muhammed ibn Ali ibn al-Hasan said to Abu Hanifah: "Fear Allah and do not reason by analogy. For tomorrow we and those who oppose us will stand before Allah Most High, and we shall say, 'The Messenger of Allah ﷺ said,' and 'Allah, Blessed and Most High, said,' whereas you and your companions will say, 'We heard and we considered.' Then Allah will do with us and with you whatever He wills." Muhammed ibn Said ibn Nabat related to us: Ahmad ibn Abd al-Basir related to us: Qasim ibn Asbagh related to us: Ibn Abd al-Salam al-Khushani related to us: Muhammed ibn al-Muthanna related to

نا محمد بن الحسن الزبيدي، نا أحمد هو ابن سعيد بن حزم الصدفي نا أحمد هو ابن خالد نا مروان هو ابن عبد الملك النجار نا العباس بن الفرج الرياشي، عن الأصمعي: أنه قيل له: إن الخليل بن أحمد يبطل القياس، فقال الأصمعي: أخذ هذا عن إياس بن معاوية. حدثني أبو العباس العذري، نا الحسن بن أحمد بن إبراهيم بن فراس، أنا عمر بن محمد بن أحمد بن عبد الرحمن بن عمر بن أبي سفيان بن عبد الرحمن بن صفوان بن أمية بن خلف الجمحي، نا علي بن عبد العزيز، نا أبو الوليد القرضي، نا محمد بن عبد الله بن بكار القرشي، نا سليمان بن جعفر، نا محمد بن يحيى الربعي، عن ابن شبرمة، أن جعفر بن محمد بن علي بن الحسن قال لأبي حنيفة: اتق الله ولا تقس، فإنا نقف غدا نحن ومن خالفنا بين يدي الله تعالى فنقول قال رسول الله صلى الله عليه وسلم قال الله تبارك وتعالى وتقول أنت وأصحابك: سمعنا ورأينا، فيفعل الله بنا وبكم ما يشاء. حدثنا محمد بن سعيد بن نبات، نا أحمد بن عبد البصير، نا قاسم بن أصبغ، ثنا ابن عبد السلام الخشني، نا محمد بن المثنى، نا عبد الرحمن بن مهدي، نا سفيان الثوري، عن هارون بن إبراهيم البربري قال: سمعت عبد الله بن عبيد بن عمير قال: قال أبي: الله لا يدع شيئا أن يبينه أن يكون نسبه، فما قال الله عز وجل فهو كما قال الله وما قال رسول الله صلى الله عليه وسلم فهو كما قال رسول الله صلى الله عليه وسلم وما لم يقل الله ورسوله فبعفو الله ورحمته فلا تبحثوا عنه.

us: Abd al-Rahman ibn Mahdi related to us: Sufyan al-Thawri related to us, from Harun ibn Ibrahim al-Barbari, who said: I heard Abd Allah ibn Ubayd ibn Umayr say: My father said: "Allah does not leave anything unexplained through having forgotten it. Whatever Allah, Mighty and Majestic, has said is as Allah has said; whatever the Messenger of Allah ﷺ has said is as the Messenger of Allah ﷺ has said. Whatever Allah and His Messenger have not spoken of falls under Allah's pardon and mercy, so do not investigate it."[245][246][247]

L3368–3369 Ahmad ibn Umar ibn Anas related to us: Ali ibn al-Hasan ibn Fihr related to us: Muhammed ibn Ali related to us: Muhammed ibn Abd Allah al-Huffaz related to us by authorization to transmit: Abu al-Abbas Muhammed ibn Yaqub related to us: Muhammed ibn Abd Allah ibn Abd al-Hakam related to us: Wahb informed us: I heard Malik ibn Anas say: "Adhere to what the Messenger of Allah ﷺ said during the Farewell Pilgrimage: 'Two things I have left among you; you will not go astray so long as you hold fast to them: the Book of Allah Most High and the Sunnah of His Prophet ﷺ.'"[248]

حدثنا أحمد بن عمر بن أنس، نا علي بن الحسن بن فهر، ثنا محمد بن علي، نا محمد بن عبد الله الحفاظ إجازة، نا أبو العباس محمد بن يعقوب، نا محمد بن عبد الله بن عبد الحكم، أنا وهب، سمعت مالك بن أنس يقول ألزم ما قاله رسول الله صلى الله عليه وسلم في حجة الوداع أمران تركتهما فيكم لن تضلوا ما تمسكتم بهما كتاب الله تعالى وسنة نبيه صلى الله عليه وسلم

[245] **Translator's note (L3364):** "Jarir—he is Abd al-Hamid" follows the supplied wording, which apparently omits "ibn" before "Abd al-Hamid." The transmission chain places "Muhammed ibn Bashshar" immediately after "Ahmad ibn Abd al-Salam al-Khushani" without a transmission formula linking them; none has been supplied. The abrupt phrase "these riffraff" follows the Arabic's loose syntax. Al-safafiqah is a disparaging term for petty dealers or people without capital, used here as an insult. The Quran quotation contains repeated defective spellings, chiefly omitted alifs in articles and in the spelling of Allah. These do not produce a distinct translatable wording. Ata's gloss is elliptical in the supplied Arabic: "The Book of Allah Most High, and to the Sunnah …"

[246] **Translator's note (L3367):** The opening speaker is Maymun ibn Mihran, identified in the preceding context. The Quran quotation, corresponding to 4:59, repeatedly omits written alifs in words and definite articles; the translation follows the identifiable wording. The wording 'an yakuna nasabahu' in the final report is corrupt or unclear. 'Through having forgotten it' is a tentative interpretation of the context, not a secure translation of the transmitted reading.

[247] **Qur'an references (L3363):** Qur'an 4:59 (An-Nisa).

[248] **Translator's note (L3369):** The opening 'Fihr' completes the name at the end of the preceding unit. The source reads 'al-Huffaz,' a plural meaning 'the memorizers,' after Muhammed ibn Abd Allah; this awkward designation has been retained in transliteration. The source names the next transmitter simply as Wahb; no 'Ibn' has been supplied.

L3370–3373

Ahmad ibn Umar related to us: Ali ibn al-Hasan ibn Fihr related to us: al-Hasan ibn Ali ibn Shaban and Abu Hafs Umar ibn Muhammed ibn Irak informed us: Abu Bakr Ahmad ibn Marwan al-Maliki related to us: Ali ibn Abd al-Aziz related to us: al-Zubayr ibn Bakkar related to us, saying: I heard Sufyan ibn Uyaynah say: I asked Malik ibn Anas about a man who entered the state of pilgrimage consecration from Medina or from a point beyond the prescribed boundary. Malik said: "This is a man who opposes Allah Most High and His Messenger ﷺ. I fear for him a trial in this world and a painful punishment in the Hereafter. Have you not heard His saying, Most High, {Do not make the Messenger's calling among you like your calling one another. Allah indeed knows those among you who slip away, taking cover behind others. Let those who oppose his command beware lest a trial befall them or a painful punishment befall them}?" Then he mentioned the report concerning the prescribed boundaries. Abd al-Rahman ibn Salamah related to us: Ahmad ibn Khalil related to us: Khalid ibn Sad related to us: Ahmad ibn Khalid related to us: Yahya ibn Umar related to us: al-Harith ibn Miskin related to us: Ibn Wahb informed us, saying: Malik said to me: "The Messenger of Allah ﷺ was the leader of the messengers and the master of the messengers. He would be asked about something and would not answer until revelation came to him from heaven." Abu Muhammed said: If the Messenger of Allah ﷺ answered only through revelation, and otherwise did not answer, then it is an act of tremendous audacity for anyone to answer concerning religion on the basis of opinion, analogy, juristic preference, precaution, or uncritical adherence, instead of revelation alone. Through Allah Most High comes success. Ahmad ibn Umar ibn Anas related to us: Ahmad ibn Isa Ghundar related to us: Khalaf al-Qasim related to us: Abu al-Maymun Abd al-Rahman ibn Abd Allah ibn Umar ibn Rashid al-Bajali related to us: Abu Zurah Abd al-Rahman ibn Umar related to us: Yazid ibn Abd Rabbih related to us, saying: I heard Waki ibn al-Jarrah say to Yahya ibn Salih al-Wuhazi: "Abu Zakariyya, beware of opinion, for I heard Abu Hanifah say: 'Urinating in the mosque is better than some of their analogies.'" Judge Hammam ibn Ahmad related to us: Abd Allah ibn Ali al-Baji al-Lakhmi related to us: Ahmad ibn Khalid related to us: Ubayd ibn Muhammed al-Kushuri related to us: Muhammed ibn Yusuf al-Hudhafi related to us: Abd

حدثنا أحمد بن عمر نا علي بن الحسن بن فهر أنا الحسن بن علي بن شعبان، وأبو حفص عمر بن محمد بن عراك نا أبو بكر أحمد بن مروان المالكي، نا علي بن عبد العزيز: نا الزبير بن بكار قال: سمعت سفيان بن عيينة يقول: سألت مالك بن أنس عن رجل أحرم من المدينة، أو من وراء الميقات؟ فقال مالك هذا رجل مخالف لله تعالى ولرسوله صلى الله عليه وسلم أخشى عليه الفتنة في الدنيا والعذاب الأليم في الآخرة أما سمعت قوله تعالى {لا تجعلوا دعآء لرسول بينكم كدعآء بعضكم بعضا قد يعلم لله لذين يتسللون منكم لواذا فليحذر لذين يخالفون عن أمره أن تصيبهم فتنة أو يصيبهم عذاب أليم} ثم ذكر حديث المواقيت. حدثنا عبد الرحمن بن سلمة، نا أحمد بن خليل، نا خالد بن سعد، نا أحمد بن خالد، نا يحيى بن عمر، نا الحارث بن مسكين، أنا ابن وهب قال قال لي مالك كان رسول الله صلى الله عليه وسلم إمام المرسلين وسيد المرسلين يسأل عن الشيء فلا يجيب حتى يأتيه الوحي من السماء قال أبو محمد فإذا كان رسول الله صلى الله عليه وسلم لا يجيب إلا بالوحي وإلا لم يجب فمن الجرأة العظيمة إجابة من أجاب في الدين برأي أو قياس، أو استحسان أو احتياط أو تقليد، إلا بالوحي وحده، وبالله تعالى التوفيق. حدثنا أحمد بن عمر بن أنس، نا أحمد بن عيسى غندر، نا خلف القاسم، نا أبو الميمون عبد الرحمن بن عبد الله بن عمر بن راشد البجلي، حدثنا أبو زرعة عبد الرحمن بن عمر، نا يزيد بن عبد ربه قال: سمعت وكيع بن الجراح يقول ليحيى بن صالح الوحاظي: يا أبا زكريا احذر الرأي فإني سمعت أبا حنيفة يقول: البول في المسجد أحسن من بعض قياسهم. حدثنا القاضي حمام بن أحمد، نا عبد الله بن علي الباجي اللخمي، حدثنا أحمد بن خالد، حدثنا عبيد بن محمد الكشوري، ثنا محمد بن يوسف الحذافي، ثنا عبد الرزاق قال: قال لي حماد بن أبي حنيفة قال: أخبرني أبي: من لم يدع القياس في مجلس القضاء لم يفقه. قال أبو محمد: فهذا أبو حنيفة يقول: إنه لا يفقه من

لم يترك القياس في مواضع الحاجة إلى تصريف الفقه، وهو مجلس القضاء، فتبا لكل شيء لا يفقه المرء إلا بتركه، وقد ذكرنا أيضا قول مالك آنفا في إبطال القياس؛ فإن وجد لهذين الرجلين بعد هذا القول منهما قياس، فهو اختلاف من قولهما، وواجب عرض القولين على القرآن والسنة، فلأيهما شهد النص أخذ به، والنص شاهد لقول من أبطل القياس على ما قدمنا، لا سيما وهذان الرجلان لم يعرفا قط القياس الذي ينصره أصحاب القياس، ومن استخراج العلل، ولكن قياسهما كان بمعنى الرأي الذي لم يقطعا على صحته، وكذا صدر الطحاوي في اختلاف العلماء بأن أبا حنيفة قال: علمنا هذا رأي، فمن أتانا بخير منه أخذناه، أو نحو هذا القول. والمتحققون بالقياس لا يقرون بهذا ولا يرضوه، ولا يقولون به، وهكذا جميع أهل عصرها، وبالله تعالى التوفيق.

al-Razzaq related to us, saying: Hammad ibn Abi Hanifah said to me: My father informed me: "Whoever does not abandon analogy in the judicial session has no understanding of jurisprudence." Abu Muhammed said: Here, then, is Abu Hanifah saying that whoever does not abandon analogy where there is a need to apply jurisprudence, namely the judicial session, has no understanding of jurisprudence. Ruin, then, to everything that a person can gain understanding of jurisprudence only by abandoning! We have also just mentioned Malik's statement rejecting analogy. If, after this statement, any analogy is found attributable to these two men on their part, then there is inconsistency in their statements, and the two positions must be submitted to the Quran and the Sunnah. Whichever of them the revealed text supports must be adopted. The revealed text supports the position of those who reject analogy, as we have previously set out, especially since these two men never knew the analogy championed by the proponents of analogy, involving the derivation of effective causes. Rather, their analogy was in the sense of opinion whose correctness they did not affirm with certainty. Likewise, al-Tahawi opened his Differences among the Scholars with the statement that Abu Hanifah said: "This knowledge of ours is opinion; whoever brings us something better than it, we adopt it," or words to that effect. Those thoroughly committed to analogy do not acknowledge this, accept it, or profess it. Such, too, was the case with all the people of its era. Through Allah Most High comes success.[249][250][251][252]

[249] **Translator's note (L3370):** 'Beyond the prescribed boundary' refers here to entering pilgrimage consecration before reaching the appointed entry boundary. The Quran quotation corresponds to 24:63 and contains the same recurrent omissions of written alifs seen elsewhere in the transcription. The source reads 'Khalaf al-Qasim,' without 'ibn' between the names; this has been preserved.

[250] **Translator's note (L3371):** The opening completes the name Waki ibn al-Jarrah, begun in the preceding unit.

[251] **Translator's note (L3373):** The wording 'wa-min istikhraj al-ilal' ('and from deriving effective causes') is syntactically awkward; the translation gives its apparent connection with the preceding description of analogy. The source reads 'its era' with a feminine singular suffix, although 'their era,' referring to the two men, appears to be intended. The transmitted pronoun has been preserved.

[252] **Qur'an references (L3370):** Qur'an 24:63 (An-Nur).

L3374–3378 No significance attaches to the widespread advocacy of analogy and its predominance among most people; indeed, this is a demonstration of its invalidity and unsoundness. The Messenger of Allah ﷺ warned that falsehood would prevail and become manifest, and that truth would become hidden and fade away, as Abd Allah ibn Yusuf related to us: Ahmad ibn Fath related to us: Abd al-Wahhab ibn Isa related to us: Ahmad ibn Muhammed, the jurist al-Ashqar, related to us: Ahmad ibn Ali related to us: Muslim ibn al-Hajjaj related to us: Muhammed ibn Ayyad and Ibn Abi Umar both related to us, from Marwan al-Fazari, from Yazid—meaning Ibn Kaysan—from Abu Hazim, from Abu Hurayrah, who said: The Messenger of Allah ﷺ said: "Islam began as something strange and will return to being strange as it began, so blessed are the strangers." Muslim also said: Muhammed ibn Rafi and al-Fadl ibn Suhayl al-Araj related to us; he said: Shababah ibn Sawwar related to us: Asim—that is, Ibn Muhammed al-Umari—related to us, from his father, from Ibn Umar, from the Prophet ﷺ, who said: "Islam began as something strange and will return to being strange as it began, and it retreats between the two mosques as a snake retreats into its hole." Ahmad ibn Muhammed ibn al-Jasur related to us: Ibn Abi Dulaym and Wahb ibn Masarrah related to us: Ibn Waddah related to us: Abu Bakr ibn Abi Shaybah related to us: Hafs related to us, from Ghiyath, from al-Amash, from Abu Ishaq al-Sabii, from Abu al-Ahwas, from Abd Allah ibn Masud: The Messenger of Allah ﷺ said: "Islam began as something strange and will return to being strange as it began, so blessed are the strangers." It was asked: "Who are the strangers?" He said: "Those who have separated from their tribes." Abu Muhammed said: As for consensus, we have demonstrated it in favor of abandoning analogy from many perspectives. These are the consensus of the entire community on the obligation to adhere to the Quran and to what is authentically transmitted from the Messenger of Allah, may blessings from Allah and peace be upon him, and to those provisions of religious law whose obligatory or prohibited character the entire community has unanimously agreed upon. They have also unanimously agreed that no one may institute a religious law on the basis of without a text or consensus. And it unanimously agreed to affirm the truth of Allah's statement, exalted is He: "There is no creature on the earth, nor any bird flying with its two wings,

ولا معنى لفشو القول بالقياس وغلبته على أكثر الناس، فهذا برهان بطلانه وفساده وقد أنذر رسول الله صلى الله عليه وسلم بغلبة الباطل وظهوره وخفاء الحق ودثوره. كما حدثنا عبد الله بن يوسف، ثنا أحمد بن فتح، ثنا عبد الوهاب بن عيسى، حدثنا أحمد بن محمد الفقيه الأشقر، ثنا أحمد بن علي، ثنا مسلم بن الحجاج، ثنا محمد بن عياد، وابن أبي عمر جميعا، عن مروان الفزاري، عن يزيد يعني بن كيسان عن أبي حازم عن أبي هريرة قال قال رسول الله صلى الله عليه وسلم بدأ الإسلام غريبا وسيعود غريبا كما بدأ، فطوبى للغرباء. وقال مسلم: ثنا محمد بن رافع، والفضل بن سهيل الأعرج قال: ثنا شبابة بن سوار، ثنا عاصم هو ابن محمد العمري عن أبيه عن ابن عمر عن النبي صلى الله عليه وسلم قال إن الإسلام بدأ غريبا وسيعود غريبا كما بدأ، وهو يأزر بين المسجدين تأرز الحية إلى جحرها. حدثنا أحمد بن محمد بن الجسور، ثنا ابن أبي دليم، ووهب بن مسرة، حدثنا ابن وضاح، ثنا أبو بكر بن أبي شيبة، ثنا حفص عن غياث، عن الأعمش، عن أبي إسحاق السبيعي، عن أبي الأحوص عن عبد الله بن مسعود قال رسول الله صلى الله عليه وسلم إن الإسلام بدأ غريبا وسيعود غريبا كما بدأ، فطوبى للغرباء، قيل: ومن الغرباء؟ قال: نزاع القبائل. قال أبو محمد: وأما الإجماع فقد بيناه على ترك القياس من وجوه كثيرة، وهي إجماع الأمة كلها على وجوب الأخذ بالقرآن وبما صح عن رسول الله صلى الله عليه وسلم وبما أجمعت الأمة كلها على وجوبه أو تحريمه من الشرائع، وأجمعت على أنه ليس لأحد أن يحدث شريعة من غير نص أو إجماع، وأجمعت على تصديق قول الله تعالى {وما من دآبة في لأرض ولا طائر يطير بجناحيه إلا أمم أمثالكم ما فرطنا في لكتاب من شيء ثم إلى ربهم يحشرون} وعلى قوله تعالى {حرمت عليكم لميتة ولدم ولحم لخنزير ومآ أهل لغير لله به ولمنخنقة ولموقوذة ولمتردية ولنطيحة ومآ أكل لسبع إلا ما ذكيتم وما ذبح على لنصب

but they are communities like you. We have neglected nothing in the Book. Then to their Lord they will be gathered"; and His statement, exalted is He: "Forbidden to you are carrion, blood, the flesh of swine, that over which a name other than Allah's has been invoked, the strangled, the beaten to death, that which has fallen to its death, the gored, and that which a beast of prey has eaten—except what you slaughter—and that which has been slaughtered upon sacrificial stones; and that you seek a division by divining arrows. That is wickedness. Today those who disbelieve have despaired of your religion, so do not fear them, but fear Me. Today I have perfected your religion for you, completed My favor upon you, and approved Islam as a religion for you. But whoever is compelled by severe hunger, without inclining toward sin—then Allah is forgiving, merciful." This is a consensus on abandoning analogy and on there being no ground for anyone to resort to it, until those who fell short did so through the heedlessness inherent in humanity when dealing with particulars, and through error, from which no one after the prophets—may Allah bless them and grant them peace—has been protected. Analogy is found in those who employ it only by way of error and heedlessness of what is incumbent upon them. These are scholars' lapses, like those of someone who advocates uncritical adherence to authority and similar things.

Moreover, we have said and explained that advocacy of analogy has never been authentically established from any of the Companions—that is, under that name. And with certainty, any of them ever spoke, without doubt, or any of the Successors, without doubt, of extracting an effective cause upon which analogy would be based, or of analogy being valid only on the basis of a common factor linking the two rulings. This is a matter on which there is consensus, with absolutely no doubt about it, except for someone who wishes to blot out the very disk of the sun. This matter appeared only in the fourth century, together with the emergence of uncritical adherence to authority. Analogy appeared among the Successors only by way of personal opinion, precaution, and conjecture, not by way of imposing a ruling through it or regarding it as a truth established with certainty. Nor did they permit it to be written down on their authority.

وأن تستقسموا بالأزلام ذلكم فسق ليوم يئس لذين كفروا من دينكم فلا تخشوهم وخشون ليوم أكملت لكم دينكم وأتممت عليكم نعمتي ورضيت لكم لأسلام دينا فمن ضطر في مخمصة غير متجانف لإثم فإن لله غفور رحيم} وهذا إجماع على ترك القياس، وأن لا حجة لأحد إليه حتى نقص من نقص بالغفلة المركبة في البشرية في التفصيل، والخطأ لم يعصم منه أحد بعد النبيين صلى الله عليهم وسلم، فإنما يوجد القياس ممن وجد منه على سبيل الخطأ والغفلة عن الواجب عليه؛ هي زلات علماء، كمن قال بالتقليد وما أشبه ذلك. وأيضا فقد قلنا وبينا أنه لم يصح قط عن أحد من الصحابة القول بالقياس، يعني باسمه وباليقين، فإنه يتكلم قط أحد منهم بلا شك ولا من التابعين بلا شك باستخراج علة يكون القياس عليها، ولا بأن القياس لا يصح إلا على جامعة بين الحكمين، فهذا أمر مجمع عليه، ولا شك فيه البتة، إلا عند من أراد أن يطمس عين الشمس، وهذا أمر إنما ظهر في القرن الرابع فقط مع ظهور التقليد، وإنما ظهر القياس في التابعين على سبيل الرأي والاحتياط والظن، لا على إيجاب حكم به، ولا أنه حق مقطوع به، ولا كانوا يبيحون كتابه عنهم. وأيضا فقد وجدنا مسائل كثيرة جدا اتفقوا هم فيها، ونحن وجميع المسلمين على خلاف جميع وجوه القياس، وعلى ترك القياس كله فيها، ومسائل كثيرة جاء النص بخلاف القياس كله فيها، ولم نجد قط مسألة جاء النص بالأمر بالقياس فيها، ولا مسألة اتفق الناس على الحكم فيها قياسا، فلو كان القياس حقا لما جاز الإجماع على تركه في شيء من المسائل، ولا جاء النص بخلافه البتة، فالإجماع لا يجوز على ترك الحق، ولا يأتي النص بخلاف الحق، وهذا إجماع صحيح على ترك القياس، وسنبين طرفا من المسائل التي ذكرنا.

Moreover, we have found very many questions in which they, we, and all Muslims have agreed upon something contrary to every form of analogy, and upon abandoning analogy altogether in those questions; and many questions in which the text has come with something contrary to analogy in all its forms. Yet we have never found a single question in which the text has come commanding analogy, nor a single question in which people have agreed upon a ruling by analogy. If analogy were true, consensus on abandoning it in any question would not have been permissible, nor would a text ever have come contrary to it. For consensus cannot permissibly be reached on abandoning the truth, nor does a text come contrary to the truth. This is a sound consensus on abandoning analogy. We shall explain a selection of the questions we have mentioned.[253][254][255][256][257]

L3379–3381 Perhaps the analogy of scrupulousness will counter this statement by saying, "Consensus has indeed been reached on abandoning some texts." Let people know that whoever says this is a liar and a fabricator. No authentic text has ever come contrary to a text whose transmission chain is authentic and connected; that is the truth according to us, to the exclusion of anything else. Nor has any authentic text ever come contrary to consensus. If a sophist says, "But a text has come contrary to another text," we say: Yes, abrogating it; and it is a text in any event. We have not mentioned to you an analogy

ولعل قياس الورع يعارض هذا القول بأن يقول: قد جاء الإجماع على ترك بعض النصوص. فليعلم الناس أن من قال ذلك كاذب آفك، وما جاء قط نص صحيح بخلاف نص صحيح السند متصل، وهو الحق عندنا لا ما عداه، وما جاء قط نص صحيح بخلاف الإجماع، فإن قال سوفسطائي: فقد جاء نص بخلاف نص قلنا، نعم؛ ينسخ له وهو نص على كل حال، ولم نذكر لكم قياسا خلاف قياسا، وإنما قلنا بأنه قد وجد إجماع على ترك جميع وجوه القياس، وورود نص مخالف لجميع وجوه القياس، وهكذا هي جميع الشرائع، ككون الظهر أربعا والصبح ركعتين، والمغرب ثلاثا، وكصوم رمضان دون شعبان، وكالحدث من أسفل، فيغسل له الأنواع، وكأنواع الزكاة وسائر الشرائع كلها، وليس أحد من القائلين بالقياس إلا وقد تركه في أكثر مسائله وسنبين من هذا إن شاء الله تعالى في آخر هذا الباب طرفا يدل على المراد. وأما من براهين العقول فإنه يقال لهم: أخبرونا، أو شيء هو القياس الذي تحكمون به في دين الله تعالى؟. فإن قالوا: لا ندري، أو تلجلجوا، فلم يأتوا فيه بحد حاصر: أقروا بأنهم قائلون بما لا يدرون، ومن قال بما لا يدري فهو قائل بالباطل وعاص لله عز وجل إذ يقول {قل إنما حرم ربي لفواحش ما ظهر منها وما بطن

[253] **Translator's note (L3374):** The final transmission chain reads 'Hafs, from Ghiyath.' This has been preserved rather than silently changed to the personal name Hafs ibn Ghiyath. In the second report, the source uses a singular 'he said' after naming two transmitters; the translation preserves this.

[254] **Translator's note (L3375):** 'Those who have separated from their tribes' renders nuzza al-qabail, an expression for individuals who have left or become detached from their respective tribes. The final salutation continues in the following unit; only its opening fragment is translated here.

[255] **Translator's note (L3376):** The opening completes the salutation begun in the preceding unit. The final phrase continues into the following unit.

[256] **Translator's note (L3377):** The clause beginning "And with certainty" is grammatically defective: the supplied wording lacks the negative apparently required by the surrounding argument. The translation preserves its affirmative wording rather than silently inserting "never." The Quranic quotations contain numerous defective spellings and missing letters, particularly in definite articles; these do not materially obscure the wording translated here.

[257] **Qur'an references (L3374):** Qur'an 6:38 (Al-An'am); Qur'an 5:3 (Al-Ma'idah).

contrary to another analogy. We have only said that consensus has been found on abandoning every form of analogy, and that a text has occurred which contradicts every form of analogy. Such are all the prescriptions of the revealed law: the noon prayer being four prayer cycles, the dawn prayer two cycles, and the sunset prayer three; fasting Ramadan rather than Shaʿban; a state of ritual impurity arising from below, on account of which the varieties are washed; the categories of obligatory alms; and all the other prescriptions of the revealed law. There is not a single advocate of analogy who has not abandoned it in most of his questions. At the end of this chapter, Allah willing, we shall explain a selection of this that indicates what is meant.

As for rational demonstrations, they are to be asked: Tell us, what sort of thing is this analogy by which you pass judgment in the religion of Allah, exalted is He? If they say, "We do not know," or stammer and fail to provide a comprehensive definition of it, they have admitted that they assert what they do not know. Whoever asserts what he does not know asserts falsehood and disobeys Allah, mighty and majestic, since He says: "Say: My Lord has forbidden only indecencies, those manifest and those concealed, sin, wrongful aggression, that you associate with Allah that for which He has sent down no authority, and that you say of Allah what you do not know." He is also content for himself to possess this base characteristic, which is found only among fools. If they say, "A ruling linking two things through an effective cause which he extracts," or say, "Through a great degree of resemblance," they assert something for whose validity there is no evidence, and something no Companion or Successor ever asserted. If they say, "Through what occurs to the mind," they are legislating through conjecture, with all that this entails.

All of them, without disagreement among them, have acknowledged that it is possible for the whole revealed law, from beginning to end, to be found in texts. All of them, without disagreement from any of them, have acknowledged that it is absolutely impossible for the whole revealed law to be found through analogy. And among the necessary demonstrations recognized by everyone possessed of sense perception and reason is that what necessarily applies to the whole necessarily applies to the part. Thus, since it is abso-

ولإثم ولبغي بغير لحق وأن تشركوا بالله ما لم ينزل به سلطانا وأن تقولوا على الله ما لا تعلمون} مع الرضا لنفسه بهذه الصفة الخسيسة التي لا تكون إلا في النوكي، وإن قالوا: حكم جامع بين شيئين بعلة يستخرجه، أو قالوا بكثرة التشابه، كانوا قائلين بما لا دليل على صحته، وبما لم يقل به قط صاحب ولا تابع، وإن قالوا: بما يقع في النفس كانوا شارعين بالظن، وفي هذا ما فيه. وقد أقروا كلهم، بلا خلاف منهم، أنه جائز أن توجد الشريعة كلها أولها عن آخرها نصا، وأقروا كلهم، بلا خلاف من أحد منهم، أنه لا يجوز أن توجد الشريعة كلها قياسا البتة، ومن البراهين الضرورية عند كل ذي حس وعقل أن ما لزم الكل لزم البعض، فالشرائع كلها لا يمكن البتة، ولا يجوز أن توجد قياسا من أحد، فبعضها لا يجوز أن يوجد قياسا، وليس هذا قياسا، ولكنه برهان ضروري كقول القائل: إن كان الناس كلهم أحياء ناطقين فكل واحد منهم حي ناطق، ولا يموه مموه فيقول: بعض الناس أعور وليس كلهم أعور، فليس هذا مما ألزمناهم في صفة لكن كل الناس ممكن أن يوجدوا عورا وليس ذلك بممتنع في البقية.

lutely impossible and inadmissible for all the prescriptions of the revealed law to be established through analogy by anyone, it is inadmissible for some of them to be established through analogy. This is not analogy, but a necessary demonstration, like someone saying: If all human beings are living and rational, then each one of them is living and rational. Let no obfuscator attempt deception by saying, "Some people are blind in one eye, but not all of them are blind in one eye." This is not an instance of what we have compelled them to accept concerning an attribute. Rather, it is possible for all people to be blind in one eye, and this is not impossible for the remainder.[258][259][260]

L3382–3387 As for deriving all the prescriptions of the revealed law through analogy, that is absolutely impossible, since, according to them, there must be a text upon which analogy is based. Nor is this like someone saying, "It is inadmissible for all people to lie, while it is possible for some of them to lie." Rather, lying is possible for each individual considered separately, whereas it is not possible for each prescription of the revealed law considered separately to be established through analogy. This explanation makes clear everything with which they seek to obfuscate at this point.

Another demonstration is that the advocates of analogy are to be asked: When you say, "Because Allah, exalted is He, prohibited amputation for less than three dirhams or ten dirhams, it is forbidden for the marriage payment to be less than three dirhams"; and, "Because expiation became obligatory for deliberate intercourse during the daytime in Ramadan, it became obligatory for deliberate eating during the daytime in Ramadan"; and, "Because

[258] **Translator's note (L3379):** "The analogy of scrupulousness" translates the supplied wording literally. The expression is awkward in context and may be corrupt, possibly referring to a supposedly scrupulous advocate of analogy.

[259] **Translator's note (L3380):** "The varieties are washed" preserves the supplied al-anwaʿ. The wording is obscure and may be a corruption of a word referring to bodily members; it has not been silently repaired. The supplied question contains the malformed expression aw shay'; "what sort of thing" renders its apparent interrogative function. The definition of analogy shifts grammatical person in "which he extracts"; that irregularity is retained. "Abrogating it" renders the awkward supplied phrase yansakhu lahu according to its apparent sense.

[260] **Qur'an references (L3379):** Qur'an 6:151 (Al-An'am); Qur'an 7:33 (Al-A'raf).

وأما أخذ الشرائع كلها قياسا فممتنع في البتة إذ لا بد عندهم من نص يقاس عليه، ولا هذا أيضا من قول القائل: لا يجوز أن يكذب الناس كلهم، وجائز أن يكذب بعضهم، بل كل أحد على حدته، فالكذب عليه ممكن، وليس كل شريعة على حدتها جائز أن توجد قياسا، وهذا بيان يوضح كل ما أرادوا أن يموهوا به في هذا المكان، وبرهان آخر وهو أنه يقال لأصحاب القياس: إذا قلتم لما حرم الله تعالى القطع في أقل من ثلاثة دراهم أو عشرة دراهم حرم أن يكون الصداق أقل من ثلاثة دراهم. ولما وجبت الكفارة على الوطء عمدا في نهار رمضان، وجبت على الأكل عمدا في نهار رمضان، ولما حرم حلق الشعر في الرأس بغير ضرورة في الإحرام، حرم حلق العانة في الإحرام كما حرم مد بر بمدي بر نقدا، حرم مد شعير بمد سلت نقدا، وقال آخرون منكم: لا، ولكن حرم رطل حديد برطل حديد نقدا. وقال آخرون: لا، ولكن حرم أصل كرنب بأصل كرنب نقدا، ولما أبيح اتخاذ كلب الصيد والغنم بعد تحريمه أبيح ثمنه بعد تحريمه. ولما أبيح الثلث في الوصية للموصي أبيح بيع الثمر قبل صلاحه إذا كان أقل من ثلث كرام الدار وسائر ما أوجبتموه قياسا، وحرمتموه قياسا، وأبحتموه من هذا الموجب لهذا كله؟ ومن هو المحرم لهذا كله؟ إذ لا بد لكل فعل من فاعل، ولكل تحريم من محرم، ولكل إيجاب من موجب، ولكل إباحة من مبيح. فإن قالوا: الله تعالى ورسوله أباحا ذلك وحرماه وأوجباه كذبوا على الله تعالى وعلى رسوله صلى

shaving the hair of the head without necessity was forbidden while in the state of pilgrimage consecration, shaving the pubic hair was forbidden while in that state"; and, "Just as exchanging one mudd-measure of wheat for two mudd-measures of wheat in an immediate exchange was forbidden, exchanging one mudd-measure of barley for one mudd-measure of huskless barley in an immediate exchange was forbidden"—while others among you said, "No, rather, exchanging one ratl-weight of iron for one ratl-weight of iron in an immediate exchange was forbidden," and still others said, "No, rather, exchanging one cabbage plant for one cabbage plant in an immediate exchange was forbidden"—and, "Because keeping a hunting dog or a sheepdog was permitted after having been forbidden, its price was permitted after having been forbidden"; and, "Because a testator was permitted to bequeath one third, the sale of fruit before it ripens was permitted if it amounted to less than one third of the grapevines of the house"; and all the other things you have made obligatory by analogy, forbidden by analogy, and permitted: who is it that makes all this obligatory, and who is it that forbids all this? For every act must have an agent, every prohibition someone who prohibits, every imposition of an obligation someone who imposes it, and every permission someone who grants it. If they say, "Allah, exalted is He, and His Messenger permitted it, forbade it, and made it obligatory," they have lied against Allah, exalted is He, and against His Messenger ﷺ, and openly uttered fabrications against them both. They do not venture to attribute what they have ruled through their analogy to Allah, exalted is He, and His Messenger ﷺ. Moreover, if someone among them of little religious commitment ventures to do so, all the rest will declare him a liar, because we have asked them only about questions on which they disagree with one another. Their violence would then fall upon one another, and they would spare us the trouble of dealing with them. Necessarily, then, nothing remains but for them to attribute the prohibition, the imposition of obligation, and the permission to themselves, or to someone other than Allah, exalted is He, and other than His Messenger ﷺ. This, as you see, without any difficulty or strained interpretation, is an admission of inventing a religion and a revealed law which the Messenger ﷺ did not bring and which Allah, exalted is He, did not authorize. If they ask us a similar question concerning what we have made obligatory, forbid-

الله عليه وسلم وجاهروا بالفرية عليهما وهم لا يقدمون على أن ينسبوا ما حكموا فيه بقياسهم إلى الله تعالى ورسوله صلى الله عليه وسلم مع أنه إن أقدم منهم قليل الدين على أكذبه سائرهم، لأنه إنما سألناهم عن مسائل يخالف فيها بعضهم بعضا، ووقع حينئذ بأسهم بينهم، وكفونا مؤنتهم، فلم يبق بالضرورة إلا أن يحيلوا في التحريم والإيجاب والإباحة على أنفسهم أو على أحد دون الله تعالى ودون رسوله صلى الله عليه وسلم وهذا كما تراه بلا مؤنة ولا تكلف تأويل إقرار بإحداث دين وشريعة لم يأت بها الرسول صلى الله عليه وسلم ولا أذن بها الله تعالى فإن سألونا عن مثل هذا فيما أوجبناه أو حرمناه أو أبحناه بخبر الواحد العدل المسند؟ فلسنا نقنع بأن نقول لهم: إن هذا السؤال لازم لكم كلزومه لنا لأننا لا نتكثر بهم، ولا نبالي وافقونا في ذلك، أو خالفونا لكن نقول وبالله تعالى التوفيق: إن الله تعالى حرم وأوجب وأباح كل ما صح به الخبر عن رسول الله صلى الله عليه وسلم لا شك في ذلك كما نقول فيما أمر الله تعالى به من قبول شهادة العدول في الأحكام وبالله تعالى التوفيق. ويقال لهم أيضا: أخبرونا أكل قياس قاسه قائس من أصحاب القياس حق وصواب؟ أم من القياس خطأ وصواب؟ ولا بد من أحد الوجهين، فإن قالوا: كل قياس في الأرض فهو صواب، تركوا مذهبهم وأوجبوا المحال، وكون الشيء حراما حلالا فرضا مباحا على إنسان واحد في وقت واحد، وإن قالوا: من القياس خطأ ومنه صواب، قلنا لهم: بأي شيء تعرفون الحق من الباطل في القياس؟ فإن تلجلجوا وقالوا: لا نأتي بذلك إلا في كل مسألة. قلنا: هذا لو إذ عما لزمكم مما لا سبيل لكم إلى وجوده، كمن قاس أن يقبل امرأتان حيث تجوز عنده شهادة النساء مفردات على قبول رجلين، حيث يقبل الرجال، وكمن قاس وجود أربع في ذلك على تعويش امرأتين بدل رجل، حيث يقبل النساء مع الرجل، وقلما تخلو لهم مسألة من مثل هذا. فإذا بطل وجود برهان يصحح

den, or permitted on the basis of a report transmitted by a single upright transmitter with a chain reaching its source, we are not content to tell them, "This question binds you just as it binds us." For we do not seek strength in their numbers, nor do we care whether they agree with us on this or disagree. Rather, we say—and through Allah, exalted is He, comes success—Allah Most High has forbidden, made obligatory, and permitted everything concerning which a report from the Messenger of Allah, may Allah bless him and grant him peace ﷺ, is established as authentic. There is no doubt about this, just as we affirm what Allah Most High commanded concerning accepting the testimony of upright witnesses in legal judgments. Through Allah Most High comes success. They should also be asked: Tell us, is every analogy drawn by a practitioner of analogy true and correct, or does analogy include both error and correctness? One of these two alternatives is unavoidable. If they say, "Every analogy on earth is correct," they abandon their own position and entail an impossibility: that something is forbidden, lawful, obligatory, and permissible for the same person at the same time. If they say, "Some analogy is erroneous and some is correct," we say to them: By what means do you distinguish truth from falsehood in analogy? If they falter and say, "We can provide that only in each individual case," we say: This is evasion of what your position entails, something you have no means of producing. An example is someone who reasons by analogy that two women should be accepted wherever he permits women to testify alone, on the analogy of accepting two men wherever men are accepted; or someone who reasons by analogy that four women must be present in that situation, on the analogy of substituting two women for one man wherever women are accepted alongside a man. Hardly any of their cases is free of something like this. Since no demonstration can be found that establishes the sound analogies as sound and invalidates the false ones, it is established that whatever affords no means of distinguishing its false instances from those that some people claim are true is false in its entirety. If they say to us, "Are all reports true according to you, or do they include both falsehood and truth?" we say: Rather, everything transmitted through an uninterrupted chain of trustworthy transmitters to the Prophet, may Allah bless him and grant him peace

الصحيح من القياس ويبطل الباطل منه فقد صح أن ما لا سبيل إلى الفرق بين باطله وبين ما يدعي قوم أنه منه حق، فهو باطل كله. فإن قالوا لنا: فكل الأخبار عندكم حق أو فيها باطل وحق. قلنا بل كل ما اتصل برواية الثقات إلى النبي صلى الله عليه وسلم حق لا يحل تركه إلا بيقين نسخ أو بيقين تخصيص ولا نسخ في القياس أصلا فصل في وضوح الطريقة على فساد القياس قال أبو محمد ونحن نرتب إن شاء الله تعالى ولا حول ولا قوة إلا به، طريقة لا يتعدى بها على أحد من أهل الحق إفساد كل قياس يعارض به أحد من أصحاب القياس، أو يحتج منهم، وذلك أنه إذا احتج محتج ممن يقول بالقياس بأن هذه المسألة تشبه مسألة كذا، فواجب أن نحكم لها بمثل حكمها، فليطلب من يعارضه من أصحابنا صفة في المسألة التي شبهها خصمه بالمسألة الأخرى، مما يشبه فيه مسألة ثالثة، ثم يلزمه أن يحكم لها أيضا بمثل ذلك الحكم، وهذا أمر موجود في جميع مسائلهم أولها عن آخرها، وهذا وجه يفسد مسائلهم في القياس، وسنذكر من هذا طرفا كافيا في الباب الذي بعد هذا إن شاء الله تعالى، ونذكر ههنا مسألة واحدة تدل على المراد إن شاء الله تعالى، وبالله تعالى التوفيق:

ﷺ is true. It is unlawful to abandon it except with certainty of abrogation or certainty of specification. There is no abrogation in analogy at all.

Section on the clarity of the method for establishing the invalidity of analogy

Abu Muhammed said: We shall set out, if Allah Most High wills—and there is neither power nor strength except through Him—a method by which no adherent of the truth will fail to invalidate any analogy that a practitioner of analogy advances in opposition or adduces as an argument. When someone who advocates analogy argues, "This case resembles such-and-such a case, so we must give it the same ruling," the person among our companions who opposes him should seek an attribute in the case that his adversary has likened to the other case, in respect of which it resembles a third case. He should then require him to give it that ruling as well. This is something found in all their cases, from their first to their last. This is a way of invalidating their cases based on analogy. We shall mention a sufficient selection of this in the chapter after this one, if Allah Most High wills. Here we shall mention one case that illustrates what is intended, if Allah Most High wills. Through Allah Most High comes success.[261][262][263]

L3388 They say: "Nothing can constitute a marriage dower except an amount for which the hand is amputated, because this involves a bodily member rendered licit, like another bodily member rendered licit." They should be asked: Why,

قالوا: لا يكون صداق إلا ما تقطع فيه اليد، لأنه عضو يستباح كعضو يستباح فيقال لهم: وهلا قسمتموه على استباحة الظهر في جرعة خمر لا تساوي فلسا؟ فهو أيضا عضو يستباح، فما الذي جعل قياس الفرج على اليد أولى من قياسه على الظهر؟ وهو إلى الظهر أقرب منه إلى اليد، وليس يقطع الفرج كما لا يقطع الظهر؟. وأما تعليلهم في الربا، فكل طائفة منهم قد كفتنا الأخرى، إذ كل واحد منهم يبطل علة صاحبه التي قاس عليها، وهكذا في كل ما قاسوا فيه وبالله تعالى التوفيق. وقال بعضهم: إنما نقيس في النصين المتعارضين فننظر أشبههما بما اتفق عليه في النصوص فنأخذ به. قال أبو محمد: وهذا أمر قد تقدم إفسادنا له في باب الكلام في الأخبار وأحكمناه وبالله تعالى التوفيق. ولكننا نذكر ههنا من بعض قولهم ما لا غنى بهذا المكان عنه: وهو أنا نقول، هذا عمل فاسد، ولا مدخل للقياس ههنا، لأن كل حديثين تعارضا، أو

[261] **Translator's note (L3382):** The iron and cabbage examples specify equal quantities in the supplied text. The translation retains these potentially problematic examples without changing either quantity. "The grapevines of the house" translates the supplied kuram al-dar; the precise property arrangement and the intended basis for calculating the one-third threshold are not explained in this passage. A mudd is a measure of capacity; a ratl is a unit of weight. The Arabic units are retained because their values vary.

[262] **Translator's note (L3383):** The supplied phrase corresponding to "ventures to do so" is incomplete after the preposition "to"; the translation supplies the reference to the immediately preceding act of attribution.

[263] **Translator's note (L3386):** The wording "لو إذ" is corrupt or incorrectly divided; the translation understands it as "لواذ," meaning evasion or taking refuge. "تعويش" is obscure in this context. The translation provisionally understands it as substitution, apparently intended as "تعويض." The phrase "لا يتعدى بها على أحد من أهل الحق إفساد" is syntactically awkward. The translation gives its apparent contextual sense: a method enabling any adherent of the truth to invalidate the analogies in question.

then, did you not measure it against rendering the back licit for punishment for a mouthful of wine worth less than a fals? That, too, is a bodily member rendered licit. What makes drawing an analogy between the sexual organ and the hand preferable to drawing one between it and the back? It is closer to the back than to the hand, and the sexual organ is not amputated, just as the back is not amputated. As for their identification of effective causes in usury, each faction among them has spared us the task of refuting the other, since each invalidates his fellow's effective cause upon which he based his analogy. The same applies to everything concerning which they have reasoned by analogy. Through Allah Most High comes success.

Some of them say: "We reason by analogy only concerning two conflicting texts: we examine which of them most resembles what is agreed upon among the texts, and adopt it." Abu Muhammed said: We have already invalidated this matter in the chapter discussing reports and have dealt with it conclusively. Through Allah Most High comes success. Here, however, we shall mention something from their position that cannot be dispensed with in this place. We say: This is an invalid procedure, and analogy has no place here. Whenever two hadiths conflict, two verses conflict, or a hadith conflicts with a verse, neither of these two texts has a greater claim to obedience than the other. Nor does the text to which they refer the ruling of these two texts have a greater claim to obedience than either of them. All are from Allah Most High. People's consensus concerning a text does not strengthen it, nor does their disagreement concerning it weaken it. There has been consensus concerning some reports, whereas there has been disagreement concerning many verses. When a text is established as authentic, adopting it is obligatory, and those who oppose it do it no harm. Thus their intended procedure of referring two conflicting texts to a third text falls away. It is obligatory to apply all of them for as long as that is possible. If it is not possible, the text containing the additional provision is adopted, because it is a clarification known with certainty that supersedes what preceded it, while we have no certainty that anything else has superseded it. Moreover, they have not done what they described. Rather, there has come the report, "There is no amputation except for a quarter of a dinar or more," and there has come the

آيتين تعارضتا، أو كل حديث عارض آية، فليس أحد هذين النصين أولى بالطاعة من الآخر، ولا الذي يردون إليه حكم هذين النصين أولى بالطاعة له من كل واحد من هذين، وكل من عند الله تعالى، ولا يقوي النص إجماع الناس عليه، ولا يضعفه، اختلاف الناس فيه فقد أجمع على بعض الأخبار واختلف في آيات كثيرة. والنص إذا صح فالأخذ به واجب ولا يضره من خالفه، فسقط ما أرادوا في ذلك من رد النصين المتعارضين إلى نص ثالث، ووجب استعمال كل ذلك ما دام يمكن، فإن لم يمكن أخذ بالزائد لأنه شرح متيقن رافع لما قبله، ولم نتيقن أنه رفعه غيره. مع أنهم لم يفعلوا ما ذكروا بل جاء: لا قطع إلا في ربع دينار فصاعدا وجاء: لعن السارق يسرق البيضة فتقطع يده، ويسرق الجمل فتقطع يده

report, “Cursed be the thief: he steals an egg and his hand is amputated, and he steals a camel and his hand is amputated.”[264]

L3389–3394

Yet they did not refer the two of them to the verse whose coming from Allah Most High is agreed upon, namely: { As for the male thief and the female thief, cut off their hands as recompense for what they have earned, as a deterrent punishment from Allah; and Allah is Mighty, Wise.} Instead, they gave precedence to “There is no amputation except for a quarter of a dinar”—a text concerning whose adoption there is disagreement —over the verse and the other hadith. Then they contradicted themselves concerning the hadith, “Neither one act of suckling nor two acts of suckling establishes a prohibition of marriage”: they abandoned it and adopted the apparent meaning of the verse. This is contrary to what they did concerning the verse on amputation. Both hadiths are authentic, and both are disputed despite their authenticity. If they impugn one on the grounds that the transmitters differed concerning it, the other is likewise, without any difference. As for the Hanafis’ hadith concerning the amount for which the hand is amputated, it is utterly unsound.

Some of them have said, when we ask them about countering their analogy with another analogy and their assignment of an effective cause with another assignment of an effective cause, “What makes one of the two analogies preferable to the other, or one of the two assignments of an effective cause preferable to the other?”—and there is no way to find an analogy of theirs or an assignment of an effective cause of theirs that cannot be countered with another analogy or another assignment of an effective cause, as we have described—this speaker has said: “The procedure in this situation is like the procedure concerning two conflicting hadiths.” Abu Muhammed said: We replied: This is false, because two conflicting texts or hadiths must be reconciled and applied together, since both are true and obedience to

[264]**Translator’s note (L3388):** The source reads “قسمتموه,” ordinarily “you divided/apportioned it,” where the argument appears to require “قستموه,” “you compared it by analogy.” “Measure it against” conveys the apparent intended argument; the transmitted wording is irregular. The final quotation reads “الجمل,” “the camel.” The familiar wording of this report has “الحبل,” “the rope.” The translation retains “camel” as supplied.

فلم يردوهما إلى الآية المتفق على ورودها من الله تعالى وهي { ولسارق ولسارقة فقطعوا أيديهما جزآء بما كسبا نكالا من لله ولله عزيز حكيم} بل غلبوا لا قطع إلا في ربع دينار وهو نص مختلف في الأخذ به، على الآية وعلى الحديث الآخر، ثم تناقضوا في حديث: لا تحرم الرضعة ولا الرضعتان، فتركوه وأخذوا بظاهر الآية، وهذا خلاف ما فعلوا في آية القطع وكلا الحديثين صحيح وكلاهما مختلف فيه مع صحته، فإن عللوا أحدهما بأنه اختلف فيه الرواة فالآخر كذلك ولا فرق وأما حديث الحنفيين فيما تقطع فيه اليد فساقط جدا. وقد قال بعضهم: إذا سألناهم عن معارضة قياسهم بقياس آخر، وتعليلهم بتعليل آخر، فما الذي جعل أحد القياسين أولى من الآخر؟ أو أحد التعليلين أولى من الآخر؟ ولا سبيل إلى وجود قياس لهم أو تعليل لهم نتعذر معارضتهما بقياس آخر أو تعليل آخر كما وصفنا فقال هذا القائل: العمل حينئذ في هذا كالعمل في الحديثين المتعارضين. قال أبو محمد: فقلنا هذا باطل لأن النصين أو الحديثين المتعارضين لا بد من جمعهما واستعمالهما معا، لأن كليهما حق وواجب الطاعة إذا صحا من طريق السند، ولا يمكن هذا في القياسين المتعارضين، ولا في التعليلين المتعارضين بوجه من الوجوه، فإن تعذر هذا في الحديثين أو الآيتين أو الآية والحديث فالواجب الأخذ بالناسخ أو بالزائد إن لم يأت تاريخ يبين الناسخ منهما، لأن الوارد بالزيادة شريعة من الله تعالى، لا يحل تركها، وليس يمكن هذا في القياسين المتعارضين، ولا في التعليلين المتعارضين بوجه من الوجوه، لأنه ليس فيهما نسخ أصلا. ولا يوجد في القياسين زيادة من أحدهما على الآخر في أكثر الأمر، لأن التعارض فيهما إنما هو يتعلق أحد القياسين بصفة، ويتعلق آخر إلا بأخرى، فبطل تمويه هذا القائل، وبقي الإلزام يحسبه لا مخلص منه البتة. وبالله تعالى التوفيق. وقد زاد بعض مقدميهم، ممن لم يتق الله عز وجل، ولا أبالي الفضيحة في كلامه، فقال: إن القياس أقوى من خبر

them is obligatory when their chains of transmission are established as authentic. This is in no way possible with two conflicting analogies or two conflicting assignments of effective causes. If this proves impossible with two hadiths, two verses, or a verse and a hadith, it is obligatory to adopt the abrogating text, or the text containing the additional provision if no chronology has been transmitted that identifies which of them abrogates the other. For the additional provision that has been transmitted is legislation from Allah Most High that it is unlawful to abandon. This is in no way possible with two conflicting analogies or two conflicting assignments of effective causes, because there is no abrogation in them at all. Nor, in most instances, does one of two analogies contain an additional provision beyond the other, because their conflict consists only in one of the two analogies being attached to one attribute, while another is attached only to another. Thus this speaker's obfuscation is invalidated, and the binding objection remains, with absolutely no escape from it. Through Allah Most High comes success. Some of their leading figures have gone further—among those who did not fear Allah, Mighty and Majestic, and "I do not care about the disgrace in his words"—and said: "Analogy is stronger than a report transmitted by a single transmitter." I have seen this position expressed by Abu al-Faraj the Maliki and by the man known as al-Abhari. The two of them argued for it on the grounds that a report transmitted by a single transmitter is susceptible to inadvertence and deliberate lying, whereas analogy is susceptible only to the risk of error in identifying resemblance. They both said: "What is susceptible to one defect is preferable to what is susceptible to two defects." Abu Muhammed said: No doctrinal innovation more abominable than this statement is known. Yet, for all its abominableness, it is also feeble, foolish, and self-contradictory. This presumptuous ignoramus should be asked: Tell us about yourself: do you reason by analogy on the basis of a report transmitted by a single transmitter, or not? If he says, "No," he has lied and spoken plainly. We have shown them their disgrace in their analogizing the marriage dower to amputation at ten dirhams, although that report is feeble and worthless. Others among them based their analogy on a report concerning this which, even if its chain of transmission is sound, is nevertheless a solitary report. We have shown them their position on valuing destroyed

الواحد ورأيت هذا لأبي الفرج المالكي، والمعروف بالأبهري واحتجا في ذلك بأن الخبر الواحد يدخله السهو وتعمد الكذب، وأما القياس فلا يدخله إلا خوف الخطأ في التشبيه فقط قالا: فما يدخله عيب واحد أولى مما يدخله عيبان. قال أبو محمد: وما يعلم في البدع أشنع من هذا القول ثم هو مع شناعته بارد سخيف متناقض. ويقال لهذا الجاهل المقدم: أخبرنا عنك أتقيس على خبر الواحد أم لا؟ فإن قال: لا، كذب وأفصح، وأريناهم خزيهم في قياسهم صداق النكاح على القطع في عشرة دراهم وهو خبر واهي ساقط، والآخرون منهم قاسوا على خبر في ذلك، وإن كان صحيح السند فهو خبر واحد، وأريناهم قولهم في تقويم الملتفات بالقيمة لا بالمثل على الخبر في عتق الشقص، ومدة الخيار في البيع على حديث المصراة، والاستطهار في المستحاضة على حديث المصراة، وهذا أكثر قياساتهم. وإن قال: أقيس على خبر الواحد فضح نفسه وأبان عن جهله، وقلة ورعه في إقراره بأنه يقيس على ما هو أضعف من القياس وفي هذا غاية الجنون والتناقض، وهم يقولون إن الأصل أقوى من الفرع، والمقيس عندهم فرع، والمقيس عليه أصل، هذا ما لا يختلفون فيه، فإذا كان خبر الواحد هو المقيس عليه عندهم فهو الأصل، والقياس هو الفرع؛ فعلى قول هذين المذكورين إذا كان القياس أقوى من خبر الواحد فالفرع أقوى من الأصل وقد قالوا: إن الأصل أقوى من الفرع، وهذا تناقض فاحش وبناء وهدم

property [reading uncertain] by its monetary value rather than by an equivalent, on the basis of the report concerning the emancipation of a share in a slave; on the duration of the option to rescind a sale, on the basis of the hadith concerning an animal whose milk has been withheld in its udder; and on the additional precautionary period for a woman with irregular uterine bleeding, on the basis of that same hadith concerning an animal whose milk has been withheld in its udder. This accounts for most of their analogies. If he says, "I base analogy on a solitary report," he exposes himself and reveals his ignorance and lack of scrupulousness by acknowledging that he bases analogy on something weaker than analogy. This is the utmost madness and contradiction. They say that the original case is stronger than the derivative case. In their view, the case being analogized is a derivative case, and the case to which it is analogized is an original case. On this they do not disagree. Thus, if the solitary report is what they take as the basis of analogy, it is the original case, and the analogy is the derivative case. According to the position of these two aforementioned men, then, if analogy is stronger than a solitary report, the derivative case is stronger than the original case.

Yet they have said that the original case is stronger than the derivative case. This is a flagrant contradiction: building up and tearing down.[265][266][267][268]

L3395–3399 We seek refuge in Allah from abandonment. Furthermore, in most of their positions they abandon the apparent meaning of the Quran on the strength of a solitary report, and then abandon the solitary report for analogy. The result of their words and their practice is that they have given analogy precedence over hadith, and hadith precedence over the Quran. On this basis, analogy has become stronger than the Quran, although there can be no analogy whatsoever except on the basis of the Quran or a hadith. All this is confusion, cause for dismay, ignorant stupidity, rashness, and treating as lawful what is unlawful. It cannot escape anyone with discernment. Through Allah Most High comes success. Furthermore, when statements attributed only to certain Companions reach them and accord with the positions in which they have followed Malik and Abu Hanifah without independent examination, they frequently say, "Something like this cannot be said on the basis of analogy." They then give it precedence over what analogy requires accord-

ونعوذ بالله من الخذلان وأيضا فإنهم يتركون في أكثر أقوالهم ظاهر القرآن بخبر الواحد، ثم يتركون خبر الواحد للقياس، فقد حصل من كلامهم وعملهم أنهم غلبوا القياس على الحديث، وغلبوا الحديث على القرآن فقد صار القياس على هذا أقوى من القرآن ولا قياس البتة إلا على قرآن أو حديث وهذا كله تخليط، وسخنة عين وغباوة جهل وإقدام واستحلال لما لا يحل ولا يخفى على ذي بصر، وبالله تعالى التوفيق. وأيضا: فهم كثيرا ما يقولون، فيما يرد عليهم من أقوال موقوفة على بعض الصحابة مما يوافق ما قلدوا فيه مالكا وأبا حنيفة، مثل هذا لا يقال بالقياس فيغلبونه على ما يوجبه القياس عندهم كقولهم فيمن باع شيئا إلى أجل، ثم ابتاعه بأقل إلى أقل من ذلك الأجل، وفي البناء في الصلاة على الرعاف والحدث، وفي مواضع كثيرة جمة، وهذا ترك منهم للقياس وتغليب للظن أنه خبر واحد على القياس، لأنهم لا يقطعون على أن هذه الأقوال توقيف، وإنما يظنون ذلك ظنا، فقد صار الظن أنه خبر واحد عندهم أقوى من القياس الذي هو عندهم أقوى من يقين أنه خبر واحد، فقد صار الظن أقوى من اليقين وفي هذا عجب عجيب ونعوذ بالله من الخذلان. وأما الحقيقة فإن الظن باطل بنص حكم النبي صلى الله عليه وسلم بأنه أكذب الحديث وبنص قول الله تعالى {وما لهم به من علم إن يتبعون إلا لظن وإن لظن لا يغني من لحق شيئا} فالظن بنص القرآن ليس حقا فإذ ليس حقا فهو باطل، فإذا كان الظن الذي هو الباطل أقوى من القياس، فالقياس بحكمهم أبطل من كل باطل. وبالله تعالى التوفيق. وجملة القول: أن قولهم: إن خبر الواحد يدخله السهو والغلط، والكذب، إنما هو من اعتراضات من لا يقول بخبر الواحد من المعتزلة. والخوارج وقد مضى الكلام في إيجاب خبر الواحد العدل، وقد وجب قبوله بالبرهان، فاعترض المعترض بأنه قد يدخله السهو، وتعمد الكذب اعتراض بالظن، وبعض الظن إثم والظن أكذب الحديث. وقولهم:

[265] **Translator's note (L3390):** The Quranic quotation has defective or irregular spelling, including "ولسارق," "ولسارقة," "فقطعوا," and "لله" for the divine name in context. The translation follows the apparent wording of the verse; these spelling defects do not establish a distinct intelligible reading.

[266] **Translator's note (L3392):** "ويتعلق آخر إلا بأخرى" is awkward: literally, "and another is attached only to another." The translation retains the restrictive "only," although the syntax appears defective. "يحسبه" is unclear in "وبقي الإلزام يحسبه." The translation conveys the clear surrounding assertion that the binding objection remains, but this word cannot be securely construed. The source reads "ولا أبالي," "and I do not care," interrupting a third-person description. The translation marks this anomalous first-person wording in quotation marks. The context suggests an intended third-person expression such as "ولا يبالي," "and does not care," but that is not what the supplied text reads.

[267] **Translator's note (L3394):** The opening continues the preceding segment's "If he says." The wording وأفصح means "and spoke plainly"; its role here is awkward, but it has been retained. The source reads الملتفات, literally "the turned things," where the context strongly suggests المتلفات, "destroyed property." The contextual rendering is marked as uncertain. The additional precautionary period translates الاستظهار, referring here to additional days treated as menstruation in a case of irregular uterine bleeding.

[268] **Qur'an references (L3389):** Qur'an 5:38 (Al-Ma'idah).

ing to them. Examples include their position concerning someone who sells something on deferred payment and then buys it back for a smaller amount payable at a shorter term than that original term; their position concerning resuming the prayer from where one left off after a nosebleed or a state of ritual impurity; and very many other instances. This is their abandonment of analogy and their giving precedence over analogy to the supposition that something is a solitary report. For they are not certain that these statements derive from instruction received from the Prophet; they merely suppose this. Thus, in their view, the supposition that something is a solitary report has become stronger than analogy, which is in their view stronger than certainty that something is a solitary report. Thus supposition has become stronger than certainty. This is an extraordinary marvel! We seek refuge in Allah from abandonment. As for the truth, supposition is invalid by the explicit judgment of the Prophet ﷺ that it is "the most untruthful speech," and by the explicit wording of the saying of Allah Most High: "They have no knowledge of it. They follow nothing but supposition, and supposition avails nothing against the truth." Thus, by the explicit wording of the Quran, supposition is not truth. Since it is not truth, it is falsehood. If supposition, which is falsehood, is stronger than analogy, then analogy, by their own judgment, is more false than every falsehood. Through Allah Most High comes success. The sum of the matter is that their statement that a solitary report is susceptible to inadvertence, error, and lying is merely one of the objections made by those among the Mu'tazilah and the Kharijites who do not accept solitary reports. The discussion of the binding force of a solitary report transmitted by an upright person has already appeared, and its acceptance has been established as obligatory by demonstration. An objector's objection that it may be susceptible to inadvertence and deliberate lying is an objection based on supposition. Some supposition is sin, and supposition is the most untruthful speech. Their statement that analogy is susceptible to the risk of error in drawing a resemblance is an acknowledgment on their part that they do not trust it in its entirety. This is judging by supposition, which is forbidden by the explicit wording of the Quran. They are to be asked about a person notorious for falsehood and known for advancing false claims, who has done this frequently and whose conduct has become widely known, and who then

إن القياس يدخله خوف خطأ التشبيه إقرار منهم بأنهم لا يثقون بجملته، وهذا هو الحكم بالظن؛ وهو محرم بنص القرآن ويسألون عن إنسان مشهور بالباطل، معروف بادعائه قد كثر ذلك منه وفشا فتقدم إلى قاضي يخاصم عنده؟. فإن الأمة كلها مجمعة عن ألا يقاس أمره الآن على ما عهد منه، فإذا خرم أن يقاس حكم المرء اليوم على حكمه بنفس أمس، فهو أبعد من أن تقاس على غيره وهذا هدم من القياس للقياس، وتفاسد منه بعضه لبعض، وما كان هكذا فهو فاسد كله، وبالله تعالى التوفيق. وقال قائل منهم: هل يجوز أن يتعبدنا الله تعالى بالقياس؟. قال أبو محمد: فالجواب إن كان جائزا قبل نزول قول الله تعالى: {قال هذا فراق بيني وبينك سأنبئك بتأويل ما لم تستطع عليه صبرا} وقوله تعالى {لا يكلف الله نفسا إلا وسعها لها ما كسبت وعليها ما كتسبت ربنا لا تؤاخذنا إن نسينآ أو أخطأنا ربنا ولا تحمل علينآ إصرا كما حملته على لذين من قبلنا ربنا ولا تحملنا ما لا طاقة لنا به وعف عنا وغفر لنا ورحمنآ أنت مولانا فنصرنا على لقوم لكافرين} وكان يكون ذلك لو كان حمل إصر كما حمله على الذين من قبلنا، وتحميلا لما لا طاقة لنا به وكما قال تعالى {في لدنيا ولآخرة ويسألونك عن ليتامى قل إصلاح لهم خير وإن تخالطوهم فإخوانكم والله يعلم لمفسد من لمصلح ولو شآء لله لأعنتكم إن لله عزيز حكيم} وأما بعد نزول الآيتين اللتين ذكرنا، وبعد أن أمننا الله تعالى من أن يكلفنا الحكم بالتكهن وبالظنون، وبعد أن نهانا عن أن نقول عليه تعالى ما لم نعلم، فلا يجوز البتة أن يتعبدنا بالقياس، لأن وعد الله تعالى حق لا يخلف البتة، وقوله الحق. وبالله تعالى التوفيق.

comes before a judge to litigate. The entire community unanimously agrees that his present case is not to be analogized to what has previously been known of him. If it is forbidden [reading uncertain] to analogize a person's legal treatment today to his own legal treatment yesterday, then it is still further from permissible to analogize it to that of someone else. This is analogy demolishing analogy, with its parts invalidating one another. Whatever is like this is entirely invalid. Through Allah Most High comes success. One of them said, "Is it possible for Allah Most High to impose analogy upon us as a religious obligation?" Abu Muhammed said: The answer is that it was possible before the revelation of the saying of Allah Most High, "He said: This is the parting between me and you. I shall inform you of the interpretation of that with which you could not bear patiently," and His saying, Most High: "Allah does not burden any soul beyond its capacity. To its credit is what it has earned, and against it is what it has acquired. Our Lord, do not take us to task if we forget or err. Our Lord, do not lay upon us a burden as You laid it upon those before us. Our Lord, do not burden us with what we have no strength to bear. Pardon us, forgive us, and have mercy upon us. You are our Protector, so grant us victory over the disbelieving people." Had that occurred, it would have been the laying of a burden, as He laid it upon those before us, and the imposition upon us of what we have no strength to bear. And as He said, Most High: "In this world and the Hereafter. They ask you about orphans. Say: Putting their affairs right is better. If you mingle with them, they are your brothers. Allah knows the one who causes corruption from the one who puts things right. Had Allah willed, He would have subjected you to hardship. Indeed, Allah is Mighty, Wise." But after the revelation of the two verses we have mentioned, after Allah Most High has assured us that He will not require us to judge by divination and suppositions, and after He has forbidden us to say concerning Him Most High what we do not know, it is absolutely impossible for Him to impose analogy upon us as a religious obligation. For the promise of Allah Most High is true and

is never broken, and His word is the truth. Through Allah Most High comes success.[269][270][271][272][273]

L3400–3401 Section mentioning a few instances of the contradictions of the advocates of analogy in their use of analogy, which demonstrate the invalidity of their doctrine concerning it, if Allah Most High wills.

Abu Muhammed Ali ibn Ahmad, may Allah be pleased with him, said: Most of them did not analogize water poured onto an impurity to water into which an impurity falls, and they distinguished between the two without evidence. Some of them did not analogize the obligation to pour away what a dog has lapped from to the obligation to wash the vessel because of the dog's lapping from what it lapped from. In this matter, they did not analogize water to anything other than water. Most of them distinguished between water into which an impurity falls and other liquids into which impurities fall. They specified a quantity which, when water reaches it, prevents it from

فصل في ذكر طرق يسير من تناقض أصحاب القياس في القياس، يدل على فساد مذهبهم في ذلك إن شاء الله تعالى قال أبو محمد علي بن أحمد رضي الله عنه: أكثرهم لم يقس الماء الوارد على النجاسة على الماء الذي ترد عليه النجاسة، وفرقوا بينهما بغير دليل. وبعضهم لم يقس وجوب إراقة ما ولغ فيه الكلب على وجوب غسل الإناء من ولوغ الكلب فيما ولغ فيه، ولم يقيسوا الماء في ذلك على غير الماء. وأكثرهم فرق بين الماء الذي تقع فيه النجاسة، وبين المائعات التي تقع فيها النجاسات، فيجدوا مقدارا إذا بلغه الماء لم ينجس، ولم يجدوا في سائر المائعات شيئا البتة وإن كثرا. وبعضهم قاس سائر المائعات في ذلك على الماء في حد المقدار وهو أبو ثور. وبعضهم فرق بين حكم الماء في البئر، وبين الماء في غير البئر، ولم يقس أحدهما على الآخر اتباعا، زعم، لقول بعض العلماء في ذلك وهو قد عصى قول رسول الله صلى الله عليه وسلم وجماعة من الفقهاء في المصراة والمسح على العمامة، وفي أزيد من ألف قضية، نعم وحكم القرآن، وفرق أيضا بين أحكام الجيف الواقعة في التيار، وبين أحكامها وأحكام سائر النجاسات ولم يقس بعضها على بعض. وبعضهم قاس الخنزير على الكلب في حكم الغسل مما ولغ فيه كلاهما في الواحد أو السبع، وبعضهم لم يقس أحدهما على الآخر، وبعضهم قاس الماء بحكم الوالغ فيه مما يحرم أكله أو يحل أو يكره، وبعضهم لم يقس ذلك، وبعضهم قاسم ما لا دم له من الميتات على ماله دم. فرأى كل ذلك ينجس ما مات فيه، وبعضهم لم ير ذلك وبعضهم قاس العقارب والخنافس والدود المتولد في القول على الذباب، ولم يقسها على الوزغ وشحمة الأرض والعظماء وصغار الفيران. وبعضهم قاس عذر ما يؤكل لحمه من الدواب وأبوالها على لحومها، ولم يقسها على دمائها، ولم يقسها على لحومها.

[269] **Translator's note (L3395):** "Cause for dismay" renders the idiom سخنة عين, literally a heating of the eye, expressing distress or vexation. توقيف denotes instruction received from an authoritative revealed source, here understood as instruction from the Prophet underlying a Companion's statement.

[270] **Translator's note (L3397):** The Quranic quotation, corresponding to 53:28, is transcribed with missing initial alifs in لظن and لحق. The intended words remain identifiable; the omissions are recorded rather than treated as different wording.

[271] **Translator's note (L3398):** The source reads خرم, which does not yield the expected sense here. "It is forbidden" provisionally reflects the likely intended حرم; the uncertainty is marked. The source has further grammatical irregularities in مجمعة عن ألا and أن تقاس على غيره. The argument is rendered according to its discernible syntax without supplying a new argument. The first Quranic quotation is 18:78. Its relevance to the argument is unclear, but the supplied quotation has been retained. The quotation of 2:286 contains numerous omitted initial alifs, including in لله, كتسبت, لذين, عف, غفر, رحمنآ, فنصرنا, لقوم, and لكافرين. The identifiable words have been translated, with the transcription defects recorded here.

[272] **Translator's note (L3399):** The quotation of 2:220 contains repeated omissions of initial alifs in otherwise identifiable words, including لدنيا, لآخرة, ليتامى, لله, لمفسد, and لمصلح. These transcription defects are recorded here. "The two verses" reproduces the author's reference as supplied.

[273] **Qur'an references (L3395):** Qur'an 53:28 (An-Najm); Qur'an 18:78 (Al-Kahf); Qur'an 2:286 (Al-Baqarah); Qur'an 2:220 (Al-Baqarah).

becoming impure, but they specified absolutely no such quantity for other liquids, however abundant they may be. Some of them analogized all other liquids to water in this respect, regarding the quantitative threshold; Abu Thawr was one of these. Some of them distinguished between the ruling on water in a well and water elsewhere, and did not analogize one to the other, following, as he claimed, the statement of a certain scholar on this matter. Yet he has disobeyed the statement of the Messenger of Allah ﷺ and a group of jurists concerning an animal whose milk has been withheld in its udder, wiping over the turban, and more than a thousand cases—indeed, the ruling of the Quran as well. He also distinguished between the rulings concerning carcasses falling into a flowing current and the rulings concerning them and all other impurities, and did not analogize some to others. Some of them analogized the pig to the dog concerning the ruling on washing what either has lapped from, whether once or seven times, while some did not analogize one to the other. Some of them assigned a ruling to water by analogy with the ruling on the animal lapping from it, according to whether eating that animal is forbidden, lawful, or disapproved, while some did not make that analogy. Some of them analogized dead creatures without blood to those with blood, holding that all of them render impure whatever they die in, while some did not hold this. Some of them analogized scorpions, beetles, and worms generated in "speech" to flies and did not analogize them to geckos, skinks, the creatures called al-ʿaẓmāʾ, and small mice. Some of them analogized the dung and urine of animals whose flesh may be eaten to their

flesh, and did not analogize them to their blood, and did not analogize them to their flesh.[274][275]

L3402 Some of them drew an analogy between a dog's tail and leg and its tongue, while some did not draw that analogy. Most of them drew an analogy between the permissibility of wiping over splints and wiping over leather socks, but did not draw an analogy between the permissibility of wiping over a turban and wiping over the head or wiping over leather socks; some of them did draw that analogy. All of them, so far as we know, failed to draw an analogy between removing leather socks after wiping over them and shaving the hair and clipping the nails after wiping and washing. Some of them did not draw an analogy between the permissibility of performing an obligatory prayer with dry ablution undertaken for a voluntary prayer and the permissibility of performing a voluntary prayer with dry ablution undertaken for an obligatory prayer; some drew that analogy. The former contradicted themselves: they drew an analogy between the validity of the prayer of those who have performed ablution behind someone who has performed dry ablution and the validity of the prayer of those who have performed dry ablution behind someone who has performed ablution, although disagreement over treating these two cases alike is well known. Among the curiosities of some of their analogies is requiring a menstruating woman to wait three additional days to establish her purity, by analogy with Thamud's waiting three days for the cry of punishment, and with the animal whose milk has been retained in

وبعضهم قاس ذنب الكلب ورجله على لسانه، وبعضهم لم يقس ذلك. وأكثرهم قاس إباحة المسح على الجبائر على المسح على الخفين، ولم يقيسوا إباحة مسح العمامة على الرأس، وعلى المسح على الخفين، وبعضهم قاس ذلك، وكلهم فيما نعلم لم يقس نزع الخفين بعد المسح على حلق الشعر وقطع الأظفار بعد المسح والغسل وبعضهم لم يقس إباحة الصلاة الفريضة بتيمم النافلة على إباحة الصلاة النافلة بتيمم الفريضة، وبعضهم قاس ذلك، وتناقض الأولون فقاسوا جواز صلاة المتوضئين خلف المتيمم على جواز صلاة المتيممين خلف المتوضىء، على أن الخلاف في تسوية كلا الأمرين مشهور. ومن طرائف قياس بعضهم إيجابه أن تستطهر الحائض بثلاث قياسا على انتظار ثمود صيحة العذاب ثلاثا، على المصراة، أفلا يراجع بصيرته من يقيس هذا القياس السخيف. فيمنع به خمس عشرة صلاة فريضة، ويوجب به إفطار ثلاثة أيام من رمضان، من أن يقيس مسح العمامة على مسح الخفين. وبعضهم قاس بول ما يأكل لحمه بعضه على بعض، وبعضهم قاس البول المذكور على ما يتولد منه، فإن تولد من ماء نجس فهو نجس، وإن تولد من ماء طاهر فهو طاهر، وكذلك فعل بنحوه، ولم يقس اللحم المتولد فيه على ما تولد منه، بل رأى ذلك حلالا أكله وإن تولد من ميتة ولحم خنزير وعذرة. وبعضهم لم يقس نبيذ التين على نبيذ التمر في جواز الوضوء به عند عدم الماء في السفر، وبعضهم قاس الحظر عليه في الإباحة، وهو الحسن بن حي،

[274] **Translator's note (L3400):** The section heading contains awkward agreement in طرق يسير and يدل; it is rendered according to its discernible meaning. The source's wording about carcasses in a flowing current repeats "the rulings concerning them" without clearly specifying the contrasting circumstances. That obscurity is retained. The source reads قاسم, "divided" or "shared," where the repeated construction strongly suggests قاس, "analogized." The contextual reading is used and recorded here. The source reads القول, "speech," in the phrase about worms. This appears corrupt, possibly for الفول, "broad beans"; "speech" is retained in quotation marks.

[275] **Translator's note (L3401):** شحمة الأرض is an animal name commonly applied to a skink. العظماء is uncertain here and may be a corruption of a name for lizards; it is retained as al-ʿaẓmāʾ rather than silently replaced. The final clause contradicts the preceding assertion that they analogized the dung and urine to the animals' flesh. The repetition and contradiction are present in the supplied Arabic and have been retained.

its udder. Will someone who draws this absurd analogy, thereby prohibiting fifteen obligatory prayers and requiring the breaking of the fast on three days of Ramadan, not reconsider his judgment about drawing an analogy between wiping over a turban and wiping over leather socks? Some of them drew analogies between the urine of the different animals whose flesh is eaten. Some drew an analogy between the urine in question and that from which it is generated: if it is generated from impure water, it is impure, and if it is generated from pure water, it is pure. He did similarly with things of its kind, but did not draw an analogy between the flesh generated in it and that from which it was generated. Rather, he considered it lawful to eat, even if it was generated from carrion, pork, and excrement. Some of them did not draw an analogy between an infusion of figs and an infusion of dates regarding the permissibility of performing ablution with it when water is unavailable during travel. Some drew an analogy between prohibition and it regarding permissibility; this was al-Hasan ibn Hayy.[276]

L3403 The drawing of an analogy between an infusion of figs and an infusion of dates has also been transmitted from Abu Hanifah. Most of them prohibited speaking during the call to prayer by analogy with prayer, but did not draw an analogy between it and prayer when they permitted it without ablution. Some of them permitted reversing the prescribed order of ablution but did not permit reversing the order of the call to prayer or reversing the direction of circumambulation, and did not draw an analogy between any one of these and the other two. Some of them drew analogies among all these matters, either prohibiting all of them or permitting all of them. Some distinguished between obligatory and voluntary prayer, permitting someone who may lead an obligatory prayer to lead a voluntary prayer, yet did not permit a woman to lead women in either. Some of them drew analogies among all these cases.

وقد روى أيضا قياس نبيذ التين على نبيذ التمر عن أبي حنيفة. ومنع أكثرهم من الكلام في الأذان، قياسا على الصلاة، ولم يقيسوه عليها إذ أجازوه بلا وضوء، وأجاز بعضهم تنكيس الوضوء، ولم يجز تنكيس الأذان ولا تنكيس الطواف، ولم يقس أحدهما على الآخرين، وقاس ذلك كله، بعضهم في المنع في الكل، أو في الإباحة في الكل. وفرق بعضهم بين صلاة الفريضة والنافلة، فأجاز أن يؤم النافلة من يجوز أن يؤم في الفريضة، ثم لم يجز أن تؤم المرأة النساء في شيء منهما، وبعضهم قاس كل ذلك بعضه على بعض.

[276] **Translator's note (L3402):** The wording connecting Thamud's three-day wait with the animal whose milk has been retained in its udder is syntactically awkward. Both references have been retained; the latter appears to invoke the three-day option associated with the sale of such an animal. The pronouns in 'did similarly with things of its kind' and 'the flesh generated in it' have uncertain antecedents in the supplied text. The final clause reads 'al-hazr' ('prohibition'), producing an incoherent analogy concerning permissibility. This reading has been retained rather than replaced with a conjectured substance or drink.

L3404–3405 Some of them did not draw an analogy between the validity of performing a voluntary prayer behind someone performing an obligatory prayer and the validity of the prayer of someone performing an obligatory prayer behind someone performing a voluntary prayer. Some of them drew analogies among all these cases. All of them, so far as I know, failed to draw an analogy between prohibiting a traveler from performing the full prayer behind a resident and prohibiting a resident from shortening the prayer with a traveler. More curious still, some of them did not draw an analogy between the people of Mecca performing the full prayer at Mina and the people of Mina performing the full prayer at Mecca. This is as astonishing as you please! They did not draw an analogy between the validity of the pilgrimage for a slave who attends it and the validity of Friday prayer on his behalf if he attends it. Some of them did not draw an analogy between the validity of obligatory prayer behind a morally dissolute ruler and the validity of Friday prayer behind him. Some drew analogies among all these cases and treated them alike. Some of them did not draw an analogy between the ruling on beginning the declaration 'Allah is greatest' when rising from the two prayer cycles and the ruling on beginning that declaration when bowing, prostrating, and rising from prostration. Some treated all these alike and drew analogies among them. Some of them did not draw an analogy between requiring someone whose ritual purity has been broken to resume the prayer from where he left off and requiring someone with a nosebleed to resume it from where he left off. Some treated the two alike.[277]

وبعضهم لم يقس جواز صلاة النفل خلف من يصلي الفرض على جواز صلاة من يصلي الفرض خلف المتنفل، وبعضهم قاس كل ذلك بعضه على بعض، وكلهم، فيما أعلم، لم يقس المنع من إتمام المسافر خلف المقيم على المنع من قصر المقيم على المسافر. وأطرف من هذا أن بعضهم لم يقس إتمام أهل مكة بمنى على إتمام أهل منى بمكة وهذا عجيب ما شئت ولم يقيسوا جواز الحج على العبد إذا حضره على جواز الجمعة عنه إذا حضرها. وبعضهم لم يقس جواز صلاة الفرض خلف الفاسق من الأمراء على جواز صلاة الجمعة خلفه، وبعضهم قاس كل ذلك وجعله سواء. وبعضهم لم يقس حكم ابتداء التكبير للقائم من الركعتين على حكم ابتداء التكبير في الركوع والسجود والرفع من السجود، وبعضهم ساوى بين ذلك كله وقاس بعضه على بعض. وبعضهم لم يقس إيجاب البناء على المحدث على إيجاب البناء على الراعف، وبعضهم ساوى بينهما.

L3406–3410 Some of them did not draw an analogy between the obligation to resume the prayer from where one left off before completing the two prostrations and the obligation to resume it after completing the two prostrations. Some drew an analogy treating the two cases alike. Some did not draw an analogy between the forehead and feet coming into contact with impurity during prayer and the hands and knees coming into contact with impurity during prayer. Some drew analogies among all these cases. Those who drew

وبعضهم لم يقس وجوب البناء قبل تمام السجدتين على وجوب البناء بعد تمام السجدتين، وبعضهم قاس كلا الأمرين على السواء. وبعضهم لم يقس وقوع الجبهة والرجلين على نجاسة الصلاة على وقوع اليدين والركبتين على نجاسة في الصلاة، وبعضهم قاس كل ذلك بعضه على بعض، وهؤلاء الذين قاسوا بعض ذلك على بعض تناقضوا، فلم يقيسوا جواز وقوع الرجلين والركبتين على غير الأرض، أو ما تنبت على جواز وقوع الجبهة واليدين على ذلك، وفرقوا بين الأمرين. وبعضهم لم يقس الثبات على يقين الحدث لمن شك في الوضوء على الثبات على يقين الوضوء لمن شك في الحدث،

[277] **Translator's note (L3405):** The wording concerning a resident shortening the prayer reads literally 'with/upon the traveler' rather than 'behind the traveler'; the intended relationship appears to be prayer behind a traveling imam. 'Rising from the two prayer cycles' refers to rising after the first two cycles; the supplied wording does not explicitly say 'first.'

analogies among these cases contradicted themselves: they did not draw an analogy between the permissibility of placing the feet and knees on something other than the earth or what it grows and the permissibility of placing the forehead and hands on that, but distinguished between the two cases. Some of them did not draw an analogy between adhering to certainty of a state of ritual impurity when one doubts whether one has performed ablution and adhering to certainty of ablution when one doubts whether one's ritual purity has been broken. Some treated the two cases alike. Some did not draw an analogy between frequent inadvertent lapses and infrequent ones, holding that infrequent lapses require only prostration, whereas frequent lapses require repeating the prayer. Some held that inadvertently pronouncing the salutation ending the prayer requires only prostration, whereas inadvertently speaking requires repeating the prayer. Some held that if someone speaks inadvertently during his prayer, it has become invalid; but if his ritual purity is broken involuntarily, his prayer does not become invalid; and if he eats inadvertently while fasting, his fast does not become invalid. Another of them reversed the matter, holding that if someone speaks inadvertently during his prayer, it does not become invalid; but if his ritual purity is broken involuntarily, it becomes invalid; and if he eats forgetfully while fasting, his fast becomes invalid. They distinguished between someone who has forgotten the prayers of a day and a night and someone who has forgotten more, and did not draw an analogy between the one and the other. Some of them drew analogies treating all these cases alike. Some drew an analogy between combining gold and silver for the obligatory alms and combining goats and sheep for the obligatory alms, but did not draw an analogy between that and treating dates and raisins separately for the obligatory alms. Some drew an analogy with the aforementioned separate treatment rather than with combining them. More astonishing still, the person we have mentioned held that gold may be paid in place of silver and silver in place of gold, but did not hold that a she-goat may be paid in place of a ewe, or a ewe in place of a she-goat, or wheat in place of barley, or barley in place of wheat. He did not draw an analogy between some of these and others; or some of them permitted all of this on the basis of equivalent value, by analogy. Some distinguished between the yield of something purchased for trade and the profit gener-

وبعضهم ساوى بين الأمرين. وبعضهم لم يقس كثير السهو على قليله، فرأى من قليله السجود فقط، ومن كثيره الإعادة ومنهم من رأى من السلام ساهيا السجود فقط ورأى من الكلام ساهيا الإعادة، ورأى بعضهم على من تكلم في صلاته ساهيا أنها قد بطلت، فإن أحدث بغلبة لم تبطل صلاته، فإن أكل ساهيا وهو صائم لم يبطل صيامه وقلب غيره منهم الأمر، فرأى إن تكلم ساهيا في صلاته لم تبطل، فإن أحدث بغلبة بطلت، وإن أكل ناسيا وهو صائم بطل صومه، وفرقوا بين من نسي صلاة يوم وليل، وبين من نسي أكثر ولم يقيسوا أحدهما على الآخر، وبعضهم قاس كل ذلك على السواء. وقاس بعضهم الجمع بين الذهب والفضة في الزكاة، على الجمع بين المعز والضأن في الزكاة، ولم يقسه على التفريق بين التمر والزبيب في الزكاة، وبعضهم قاسه على التفريق المذكور لا على الجمع، وأعجب من ذلك أن من ذكرنا رأى إخراج ذهب عن فضة، وفضة عن ذهب، ولم ير إخراج عنز عن ضانية، ولا ضانية عن عنز، ولا برا عن شعير، ولا شعيرا عن بر، ولم يقس بعض ذلك على بعض أو بعضهم أجاز كل ذلك بالقيمة قياسا. وفرق بعضهم بين غلة ما ابتيع للتجارة وبين الربح المتولد في ذلك، فرأى في الغلة الاستئناف، ورأى في الربح ضمه إلى أصل الحول في رأس المال، ولم يقس أحدهما على الآخر، وقاس غيره منهم بعض ذلك ببعض في الاستئناف أو في الضم، وأوجبوا ديون الناس من رأس المال، ولم يوجبوا ديون الله تعالى إلا من الثلث، ولم يقيسوا أحدهما على الآخر، وساوى بعضهم بين الأمرين. ولم يقس بعضهم الحلي، وإن كان لكراء أو لباس، على العوامل المعلوفة من الإبل والبقر والغنم، فبعضهم أوجب الزكاة في الحلي وأسقطها عن العوامل، وبعضهم أوجب الزكاة في العوامل، وأسقطها عن الحلي، وبعضهم قاس أحدهما على الآخر في إسقاط الزكاة عن كل ذلك، والعجب أن الذي أسقط الزكاة عن الحلي الكراء لم يقس عليه الحلي المبتاع للتجارة ورأى فيه الزكاة. وبعضهم فرق بين عبيد العبيد فلم يرهم كسادتهم،

ولا كسادات ساداتهم في وجوب زكاة الفطر المأخوذة، ورأى على عبيد أهل الذمة أن يؤخذ منهم ما يؤخذ من ساداتهم إذا اتجروا إلى غير أفقهم. وبعضهم رأى الزكاة في زيت الفجلة، ولم يرها في الترمس، ولم يقس أحدهما على الآخر، وبعضهم الزكاة في جب الآس، ولم يرها في البلوط ولم يقس أحدهما على الآخر. وبعضهم لم يقس الدين على الرهن في الكفن، فرأى الكفن فيه أولى من الدين، ولم يره أولى من الرهن إذا كان رهنا، وبعضهم ساوى بين الأمرين. وبعضهم لم يقس المدبر على المحتكر، وبعضهم قاسه عليه. وبعضهم لم يقس الخليطين في الثمار والزرع والعين، على الخليطين في المواشي،

ated from it: they held that a new annual period must begin for the yield, whereas the profit is joined to the original annual period of the capital. They did not draw an analogy between the one and the other. Others among them drew analogies between these cases, either beginning a new annual period or joining them to the existing one. They required debts owed to people to be paid from the principal of the estate, but required debts owed to Allah Most High to be paid only from the third, and did not draw an analogy between the two. Some treated the two cases alike. Some did not draw an analogy between jewelry, even when intended for hire or wear, and working animals among camels, cattle, and sheep and goats that are provided with fodder. Some required obligatory alms on jewelry and waived them on working animals; some required obligatory alms on working animals and waived them on jewelry; and some drew an analogy between the two, waiving obligatory alms on all of them. The astonishing thing is that the person who waived obligatory alms on jewelry intended for hire did not draw an analogy between it and jewelry purchased for trade, but held that obligatory alms were due on the latter. Some distinguished in the case of slaves owned by slaves: they did not regard them as being like their masters, or like their masters' masters, with respect to the obligation of the alms at the end of the fast that are collected. Yet they held that the same levy collected from the masters of slaves belonging to protected non-Muslims should be collected from those slaves when they trade outside their own region. Some held that obligatory alms were due on radish oil but not on lupins, and did not draw an analogy between the two. Some held obligatory alms to be due on the 'cavity of myrtle' but not on acorns, and did not draw an analogy between the two. Some did not draw an analogy between a debt and a pledged asset concerning the burial shroud: they held that the shroud took precedence over a debt, but did not hold that it took precedence over a pledged asset when the asset was pledged. Some treated the two cases alike. Some of them did not draw an analogy between a slave whose emancipation is stipulated to occur upon his master's death and a merchant who holds goods awaiting a favorable market. Some drew that analogy. Some did not draw an analogy between two

owners whose holdings are combined in fruit, crops, and monetary wealth and two owners whose holdings are combined in livestock.[278][279][280]

L3411 Some of them treated all of these alike by analogy.

L3412–3414 Some of them distinguished between someone who gave another person money so that the latter could consume its profit while the principal belonged to the owner of the money, and someone who gave him sheep and goats so that he could consume their offspring and milk while the original stock belonged to the owner of the property. He held that obligatory alms were due on the sheep and goats, but held that no obligatory alms were due on the profit, although it was trading wealth—neither from the trader nor from the person who owned the principal. He did not draw an analogy between the two, whereas another did draw an analogy between them. Some of them did not draw an analogy between newly acquired monetary wealth and newly acquired livestock: they held that obligatory alms were due on newly acquired livestock if the person already possessed the minimum assessable amount of that kind, but held that no obligatory alms were due on newly acquired monetary wealth, even if he already possessed the minimum assessable amount of it. Others among them drew analogies between these

[278] **Translator's note (L3406):** The phrase translated 'impurity during prayer' first appears as 'najasat al-salah,' literally 'the impurity of prayer,' apparently lacking a preposition. Its parallel in the same sentence explicitly reads 'impurity during prayer.'

[279] **Translator's note (L3409):** The opening 'or some of them' follows the supplied 'aw ba'duhum'; the connection is awkward but has been retained. 'The third' means the third of the estate available for testamentary dispositions; 'debts owed to Allah' denotes outstanding religious financial obligations. The wording 'distinguished in the case of slaves owned by slaves' is syntactically incomplete: it does not expressly identify both sides of the distinction. The supplied 'jubb al-as' means literally 'the cavity/pit of myrtle' and is apparently corrupt, possibly for 'habb al-as,' 'myrtle berries.' The conjecture has not been silently substituted. The clause concerning myrtle also lacks an explicit verb equivalent to the preceding 'held'; that verb is supplied in English from the parallel construction.

[280] **Translator's note (L3410):** The supplied 'al-mudabbar' ordinarily denotes a slave whose emancipation is stipulated to occur upon his master's death. Its comparison with 'al-muhtakir,' a merchant holding goods awaiting a favorable market, is incongruous here. A possible intended reading is 'al-mudir,' a merchant who continually turns over his stock, but the supplied reading has been retained.

وبعضهم ساوى بين كل ذلك قياسا.

وفرق بعضهم بين من أعطى آخر مالا ليأكل ربحه والأصل لصاحب المال، وأعطاه غنما ليأكل نسلها ورسلها والأصل لصاحب المال، فرأى في الغنم الزكاة، ولم ير في ربحه زكاة، وهو مال تجارة، لا على التاجر ولا على الذي له أصل، ولم يقس أحدهما بالآخر، وقاس غيره أحدهما على الآخر. ولم يقس بعضهم فائدة العين على فائدة الماشية، فرأى في فائدة الماشية الزكاة إذا كان عنده نصاب منها، ولم ير في فائدة العين الزكاة وإن كان عنده نصاب منه، وقاس غيره منهم بعض على بعض في إيجاب الزكاة في الكل، وفي إسقاطها عن الكل. ولم يقس بعضهم فائدة الكسب على فائدة الولادة في إيجاب الزكاة في كل ذلك، وقاس كل ذلك بعضهم، فرأى في الكل الزكاة ولم يقس بعضهم فائدة المعدل على سائر الفوائد، وقاسه بعضهم عليها. وقال بعضهم: لا يجزىء في زكاة الغنم إلا الجذع من الضأن فصاعدا. والثني فصاعدا من الماعز قياسا على ما يجيز منها الأضحية، وأجازوا في البقر والإبل الجذع ودون الجذع، ولم يقيسوا ذلك على ما يجوز منهما في الأضحية، ولا قاسوا حكم الغنم في ذلك على الإبل والبقر، ولا حكم الإبل والبقر على حكم الغنم. وقال بعضهم من بادل ذهبا بفضة زكى الآخر بحول الأول، ولم يقس ذلك على ما بادل بقرا بإبل، وقاسه على ما بادل غنما بماعز. وقال بعضهم: تؤخذ الزكاة من الزيتون قياسا على التمر والعنب، ولم يقسه عليها في الخرص في الزكاة. وقال بعضهم: يخرج الأرز والذرة في زكاة الفطر قياسا على الشعير والبر، ولم يجز أن يخرج فيها الزيتون قياسا على التمر والزبيب، ولم يجز أن يخرج فيها الدقيق قياسا على البر، وقد قاسه على البر في تحريم بيع بعضه ببعض متفاضلا، وأجاز بيعه بالبر متماثلا. وأسقط بعضهم زكاة التجارة على الماشية المشتراة للتجارة لزكاة الأصل، ولم يقس على ذلك سقوط زكاة التجارة عن الدقيق المشترى

للتجارة من أجل زكاة الفطر فيهم. وأوجب بعضهم الزكاة في العسل وفي الحبوب وفي الثمار إذا كانت في أرض غير خراجية وأسقط الزكاة عن كل ذلك في الأرض الخراجية، ولم يسقط الزكاة عن الماشية وإن رعت في أرض خراجية، فلم يقس رعي النحل على رعي الماشية، ولا رعي الماشية على رعي النحل.

acquisitions, either requiring obligatory alms on all of them or waiving them on all of them. Some of them did not draw an analogy between acquisition through earnings and acquisition through birth in requiring obligatory alms on all of these, whereas others drew analogies between all of them and held that obligatory alms were due on them all. Some of them did not draw an analogy between the yield of the maʿdil and other acquisitions, whereas others did draw such an analogy. Some of them said that, for obligatory alms on sheep and goats, nothing suffices except a young sheep at the jadhaʿ stage or older, or a goat at the two-toothed stage or older, by analogy with what they permit as a sacrificial offering from these animals. Yet, among cattle and camels, they permitted an animal at the jadhaʿ stage or younger. They did not draw an analogy with what is permissible as a sacrificial offering from these two kinds, nor did they extend the ruling on sheep and goats in this matter by analogy to camels and cattle, or the ruling on camels and cattle to sheep and goats. Some of them said that someone who exchanges gold for silver pays obligatory alms on the latter according to the annual period of the former. He did not draw an analogy between this and someone who exchanges cattle for camels, but did draw an analogy between it and someone who exchanges sheep for goats. Some of them said that obligatory alms are collected from olives by analogy with dates and grapes, but did not draw an analogy with them regarding estimation of the crop for obligatory alms. Some of them said that rice and sorghum may be given as the alms of fast-breaking, by analogy with barley and wheat, but did not permit olives to be given as those alms by analogy with dates and raisins. Nor did he permit flour to be given as those alms by analogy with wheat, although he had drawn an analogy between it and wheat in prohibiting the exchange of one quantity of it for another in unequal amounts, and permitted its exchange for wheat in equal amounts. Some of them waived the obligatory alms on trading wealth for livestock purchased for trade because obligatory alms were due on the underlying stock, but did not extend this by analogy to waiving the obligatory alms on trading wealth for flour purchased for trade on account of the alms of fast-breaking in their case. Some of them required obligatory alms on honey, grain, and fruit when they were on land not subject to land tax, but waived obligatory alms on all of these on land subject to land tax. Yet

they did not waive obligatory alms on livestock even if it grazed on land subject to land tax. Thus he did not draw an analogy between the foraging of bees and the grazing of livestock, or between the grazing of livestock and the foraging of bees.[281][282]

L3415–3417 Some of them waived obligatory alms on monetary wealth and livestock for a minor and an insane person, by analogy with their exemption from prayer. Yet they did not waive obligatory alms on their fruit and crops by analogy with their exemption from prayer. Others among them said concerning this: "The claim to obligatory alms attaches to the crops and fruit." Abu Muhammed said: This is a lie, because the person who says this holds that no alms are due on less than five load-measures, and thus does not hold that obligatory alms attach to this fruit. They did not draw an analogy between the obligation incumbent on these two to pay obligatory alms on that property and their obligation to pay the alms of fast-breaking; yet an analogy between one kind of alms and another is more appropriate than an analogy between alms and prayer. Nor did they draw an analogy between the obligation to pay obligatory alms, which is a claim against property, and the obligation incumbent on minors and insane persons to discharge other claims against their property, such as maintenance payments and compensation for injuries. An analogy between one financial obligation and another is more appropriate than an analogy between alms and prayer. He did not infer by analogy that the poor are exempt from prayer because they are exempt from obligatory alms. Some of them distinguished between the ruling concerning someone who alone sees the crescent of Shawwal and the ruling

وسقط بعضهم الزكاة في العين والماشية عن الصغير والمجنون، قياسا على سقوط الصلاة عنهما ولم يسقط الزكاة عن ثمارهما وزرعهما قياسا على سقوط الصلاة عنهما. وقال آخرون منهم في هذا: إن حق الزكاة ثابت مع الزرع والثمر. قال أبو محمد: وهذا كذب، لأن قائل هذا لا يرى فيما دون خمسة أوسق صدقة فلم ير الزكاة ثابتة مع هذه الثمرة، ولم يقيسوا وجوب الزكاة في ذلك عليهما على وجوب زكاة الفطر عليهما، وقياس زكاة على زكاة، أولى من قياس زكاة على صلاة، ولا قاسوا وجوب الزكاة، وهي حق المال، على وجوب سائر الحقوق في الأموال على الصغار والمجانين، من النفقات والأروش وقياس مال على مال، أولى من قياس زكاة على صلاة ولم يقس سقوط الصلاة عن الفقراء على سقوط الزكاة عنهم. وفرق بعضهم بين حكم من رأى هلال شوال وحده، وبين حكم من رأى هلال رمضان وحده، ولم يقس أحدهما على الآخر، وبعضهم قاس كل واحد منهما على الآخر، ولم يقس بعضهم حكم الحائض تطهر، والكافر يسلم، والمسافر يقدم في نهار رمضان على حكم من بلغه بعد الفجر إن هلال رمضان رئي البارحة، فأوجبوا على هذا ألا يأكل باقي النهار، ولم يوجبوا ذلك على الآخرين، ثم قاسوا بعضهم على بعض في وجوب القضاء عليهم، حاشا الكافر يسلم، فلم يقيسوه عليهم في وجوب القضاء. وقاسه بعضهم عليهم، فأوجبوا عليه القضاء. وأطرف من هذا قياس بعضهم من غلبته ذبابة فدخلت حلقه، على الأكل عمدا في إيجاب القضاء فقط عليه، ولم يقس على ذلك من أخرج بلسانه من بين أسنانه الجريدة ولعلها من مقدار الذبابة فيبلغها عمدا في نهار رمضان. فقالوا: صومه تام ولا قضاء عليه. وقاس بعضهم: المجنون على الحائض في إيجاب قضاء رمضان عليهما، ولم يقيسوه عليها في وجوب الحدود عليها. وقاس بعضهم من لمس عمدا فأمنى على المجامع عمدا في

[281] **Translator's note (L3412):** The supplied المعدل, rendered provisionally as "maʿdil," is unclear in this context. It may be a transcription error for المعدن, "mine," which would give "the yield of a mine"; the translation does not silently adopt that correction. Jadhaʿ and the two-toothed stage (thanī) are technical livestock age or dentition categories whose precise age requirements vary by species and legal interpretation. The source explicitly distinguishes them.

[282] **Translator's note (L3414):** The pronoun in فيهم, "in their case," has an unclear antecedent and is grammatically awkward in relation to flour. In context, the argument concerns whether liability for the alms of fast-breaking should exempt flour held for trade from obligatory alms on trading wealth.

concerning someone who alone sees the crescent of Ramadan, and did not draw an analogy between the two, whereas some of them drew an analogy between each one and the other. Some of them did not draw an analogy between the ruling concerning a menstruating woman who becomes ritually pure, an unbeliever who embraces Islam, and a traveler who arrives during the daytime in Ramadan, and the ruling concerning someone who learns after dawn that the crescent of Ramadan was seen the previous night. They required this last person to refrain from eating for the remainder of the day, but did not require that of the others. Then they drew analogies between them regarding their obligation to make up the fast, except for the unbeliever who embraces Islam: they did not draw an analogy between him and the others regarding the obligation to make it up. Others did draw an analogy between him and them, and required him to make it up. More extraordinary than this is the analogy some of them drew between someone whom a fly overcomes and enters his throat, and someone who eats deliberately, in requiring him only to make up the fast. Yet he did not extend this by analogy to someone who uses his tongue to dislodge from between his teeth a strip of palm frond, perhaps the size of the fly, and deliberately swallows it during the daytime in Ramadan. They said: "His fast is complete, and he need not make it up." Some of them drew an analogy between an insane person and a menstruating woman in requiring both to make up the Ramadan fast, but did not draw an analogy between him and her regarding her liability to the prescribed penalties. Some of them drew an analogy between someone who deliberately touches another and ejaculates and someone who deliberately has intercourse, regarding making up the fast and expiation. Yet he did not draw an analogy between someone who deliberately administers medicine through his nose and finds its taste in his throat and someone who eats deliberately: he did not require expiation for it. Some of them drew an analogy between someone unconscious during Ramadan and a sick person in requiring him to make up the fast, but did not draw an analogy between

القضاء والكفارة، ولم يقس من استعط عمدا فوجد طعم ذلك في حلقه على الأكل عمدا لم يوجب فيه كفارة. وقاس بعضهم المغمى عليه في رمضان على المريض في إيجاب القضاء عليه، ولم يقسه عليه في إيجاب قضاء ما ترك من الصلوات عليه وقاسه بعضهم في إيجاب الصلوات.

him and the sick person in requiring him to make up the prayers he had omitted. Others did draw an analogy in requiring the prayers.[283][284]

L3418–3423 Some of them required someone who compels his wife to have intercourse during the daytime in Ramadan to perform expiation on her behalf, and thus to fast on her behalf. Yet he did not extend this by analogy to requiring fasting on behalf of someone who died owing a fast. Some of them drew an analogy between someone who eats deliberately during the daytime in Ramadan and someone who deliberately has intercourse during the daytime in Ramadan, and required expiation from both. They did not draw an analogy between him and someone who deliberately induces vomiting during the daytime in Ramadan so as to exempt him from expiation. An analogy between eating and vomiting is more appropriate than an analogy between eating and intercourse. Some of them drew an analogy between him and someone who induces vomiting in the matter we have mentioned. They distinguished between someone who has intercourse and someone who eats by saying: "Intercourse entails rulings that eating does not entail. Intercourse entails the full ritual bath, the prescribed penalty, and the bridal due, whereas neither eating nor drinking entails any of these. Eating entails financial compensation, whereas intercourse does not. Eating from a friend's property is permissible, whereas intercourse with someone he owns is not permissible." Thus they based their analogical ruling that no expiation is due for eating on these differences. Some of them said: "Analogy is based only on similarity, not on the absence of similarity." Abu Muhammed said: All of this is arbitrary judgment, as you see, and there is no proof. Some of them did not draw an analogy, regarding the obligation of expiation, between someone who deliberately breaks a fast undertaken to make up Ramadan—which is

وأوجب بعضهم على من أكره امرأته على الجماع في نهار رمضان أن يكفر عنها فيصوم عنها ولم يقس على ذلك إيجاب الصوم على من مات وعليه صوم. وقاس بعضهم الأكل عمدا في نهار رمضان على الواطىء عمدا في نهار رمضان وأوجب عليهما الكفارة، ولم يقيسوه على المتقيىء عمدا في نهار رمضان في إسقاط الكفارة عنه، وقياس الأكل على القيء أولى من قياسه على الوطء، وقاسه بعضهم على المتقيء فيما ذكرنا. وفرقوا بين الواطىء والآكل بأن قالوا: الوطء يوجب أحكام لا يوجبها الأكل، فالوطء يوجب الغسل والحد والصداق، ولا يوجب شيئا من ذلك الأكل ولا الشرب، والأكل يوجب الغرامة، ولا يوجبها الوطء، والأكل من مال الصديق مباح، ولا يجوز وطء ملكه، فقاسوا ترك الكفارة في الأكل على هذه الفروق. وقال بعضهم: إنما القياس على التشابه لا على عدم التشابه قال أبو محمد وكل هذا تحكم كما ترى ولا دليل ولم يقس بعضهم من أفطر عمدا في قضاء رمضان وهو فرض في وجوب الكفارة عليه على إفطاره عمدا في رمضان، وكلاهما فرض، وقد أوجب ذلك عليهما بعض السلف. وأوجب الكفارة على المظاهر من زوجته، وعلى المرأة الموطوءة في رمضان طائعة وقد سمع النبي صلى الله عليه وسلم أمرها فلم يوجب عليها شيئا ولم يقيسوا المرأة المظاهرة من زوجها في إيجاب الكفارة عليها على المظاهر، ولا على المرأة الموطوءة، وقد أوجب الكفارة على المرأة المظاهرة من زوجها جمهور من السلف ومن بعدهم، وقاسوا الأكل عمدا في رمضان، في إيجاب الكفارة عليه، على الواطىء في رمضان عمدا، ولم يقيسوا على ذلك مفسد صلاته عمدا، والصلاة أعظم حرمة من الصوم. ومن طرائف بعضهم إيجابه قياس من أفطر ناسيا في رمضان على من أفطر عمدا، في إيجاب القضاء عليهما، ولم يقسه عليه في إيجاب الكفارة عليهما، نعم، ولم يقس الأكل ناسيا على المتقيىء ناسيا أو مغلوبا، فأسقط على هذا ولم يسقطه

[283] **Translator's note (L3415):** The opening وسقط is syntactically irregular as supplied; its context indicates the sense "waived," matching the subsequent ولم يسقط. The source uses awsuq, plural of wasq, a technical measure of capacity, rendered here as "load-measures."

[284] **Translator's note (L3416):** The supplied الجريدة ordinarily means a palm frond or a stripped palm stalk. This is awkward as something lodged between the teeth and then swallowed; the literal sense is retained without substituting a presumed food particle. The supplied فيبلغها, rendered contextually as "swallows it," appears irregular; the expected verb for swallowing would be فيبلعها.

obligatory—and his deliberately breaking a fast during Ramadan, although both are obligatory. Some of the early authorities did require it in both cases. He required expiation from a man who pronounces the formula of prohibited kinship against his wife, and from a woman who willingly has intercourse during Ramadan, although the Prophet, may Allah bless him and grant him peace ﷺ, had heard about her case and imposed nothing upon her. Yet they did not draw an analogy, regarding the obligation of expiation, between a woman who pronounces the formula of prohibited kinship against her husband and either a man who pronounces that formula or a woman who has intercourse. The majority of the early authorities and those after them did require expiation from a woman who pronounces the formula of prohibited kinship against her husband. They drew an analogy, regarding the obligation of expiation, between someone who eats deliberately during Ramadan and someone who deliberately has intercourse during Ramadan, but did not extend this by analogy to someone who deliberately invalidates his prayer, although prayer has greater sanctity than fasting. Among the peculiarities of some of them is their insistence on drawing an analogy between someone who breaks his fast forgetfully during Ramadan and someone who breaks his fast deliberately, in requiring both to make it up, while he did not draw an analogy between them in requiring expiation from both. Indeed, he did not draw an analogy between someone who eats forgetfully and someone who vomits forgetfully or involuntarily: he waived the obligation to make up the fast for the latter but did not waive it for the former. Some of them distinguished between the rulings concerning intentions and did not draw analogies between them. Some of them permitted acts of ritual purification without an intention, but did not permit prayer except with an intention. Others did not permit acts of ritual purification except with an intention, but permitted fasting in obligatory fasts without a fresh intention for each day of them. Some required an intention in all of that but did not require it in the rites of pilgrimage. As for their contradictions concerning the rites of pilgrimage, they are too numerous to collect in a volume: this concerns the cases in which they required a compensatory offering and those in which they waived it, without drawing analogies between them. Furthermore, some said that someone who removes ticks from himself need not provide food,

عن الآخر. وفرق بعضهم بين أحكام النيات ولم يقس بعضها على بعض فأجاز بعضهم الطهارات بلا نية، ولم يجز الصلاة إلا بالنية، وبعضهم لم يجز الطهارات إلا بنية وأجاز الصوم في الواجبات بلا نية محدثة لكل يوم منه، وبعضهم أوجب النية في كل ذلك، ولم يوجبها في أعمال الحج. وأما تناقضهم في أعمال الحج فأكثر من أن يجمع في سفر وذلك فيما أوجبوا فيه الفدية، وما أسقطوها فيه، ولم يقيسوا بعض ذلك على بعض. وأيضا فإن بعضهم قال: من طرح القراد عن نفسه لم يطعم، فإن طرحه عن بعيره أطعم، ولم يقس أحدهما على الآخر. ولم يقس بعضهم إباحة قتل الفأرة وإن لم تؤذه، على نهيه عن قتل الغراب والحدأة إن لم تؤذياه. ورأى بعضهم الجزاء على قاتل السنور ولم يره على قاتل الفهد، ولم يقس أحدهما على الآخر، ورأى قتل الفهد قياسا على قتل السبع، ولم ير قتل الصقر البري قياسا على الغراب والحدأة، بل رأى في الصقر البري الجزاء. ولم يقس بعضهم استظلال المحرم في المحمل على استظلاله في الخباء في الأرض، ورأى على المستظل في المحمل الفدية، وكذلك في السفينة، ولم يقس على ذلك من مشى في ظل المحمل، فلم ير عليه الفدية. ولم يقس بعضهم على دهن باطن يديه وباطن قدميه بسمن أو زيت، فلم ير عليه فدية، على من دهن بذلك ظاهرهما، فرأى عليه الفدية. ولم يقس بعضهم تحريمه ما ذبح المحرم من الصيد على ما ذبحه السارق أو الغاصب فأباحه، وقاس بعضهم بعض ذلك على بعض فأباح الكل. ولم يقس بعضم من دل من الحرمين حلالا على صيد أو أعطاه سيفا يقتله به فلم يوجب عليه الفدية: على محرم آكل من صيد صيد من أجله فأوجب عليه الجزاء، وقاس بعضهم عليه فأوجب الجزاء في كل ذلك. ولم يقس بعضهم حكمه بأن جناية العبد في رقبته على قوله، أن أقتله الصيد ليس في رقبته. وقاس بعضهم بيض الصيد على جنين المرأة، ولم يقسه بعضهم عليه، ولم يقس بعضهم تحريمه على المحرم ذبح صيد صاده حلال على إباحته ذبح الصيد في الحرام إذا دخل من الحل.

whereas if he removes them from his camel, he must provide food; they did not draw an analogy between the two. Some did not draw an analogy between their permission to kill a mouse, even if it has not harmed him, and their prohibition against his killing a crow or a kite if neither has harmed him. Some held that compensation was due from someone who killed a cat but did not consider it due from someone who killed a cheetah, without drawing an analogy between the two. They held that killing a cheetah was permissible by analogy with killing a predatory beast, but did not hold that killing a wild falcon was permissible by analogy with a crow or a kite; rather, they held that compensation was due for a wild falcon. Some did not draw an analogy between a person in ritual consecration taking shade in a camel litter and his taking shade in a tent on the ground. They held that someone taking shade in a camel litter owed a compensatory offering, and likewise in a ship, but did not extend this by analogy to someone walking in the shade of a camel litter, holding that he owed no compensatory offering. Some did not draw an analogy between someone anointing the palms of his hands and the soles of his feet with clarified butter or olive oil, for which they held that he owed no compensatory offering, and someone anointing their outer surfaces with these substances, for which they held that he owed a compensatory offering. Some did not draw an analogy between their prohibition of game slaughtered by a person in ritual consecration and that slaughtered by a thief or a usurper, which they permitted. Some drew analogies between these cases and permitted them all. Some did not draw an analogy between someone from the two sanctuaries who directed a person not in ritual consecration to game, or gave him a sword with which to kill it, upon whom they imposed no compensatory offering, and a person in ritual consecration who ate game hunted for his sake, upon whom they imposed compensation. Some extended the latter ruling by analogy and required compensation in all these cases. Some did not draw an analogy between their ruling that liability for a slave's offense attaches to his person and their statement that liability for his killing game does not attach to his person. Some analogized the eggs of game to a woman's fetus, while others did not analogize them to it. Some did not draw an analogy between their prohibition against a person in ritual consecration slaughtering game caught by someone not in ritual consecra-

tion and their permission to slaughter game within the sanctuary if it had entered from outside the sanctuary[285][286][287]

L3424–3426

Some analogized someone who killed a lion to someone who killed a wolf and therefore held that no compensation was due for it. They did not analogize someone who killed a vulture or an eagle to someone who killed a kite or a crow, and therefore held that compensation was due for a vulture or an eagle. Some did not analogize someone who killed a lion or a pig to someone who killed a wolf, and therefore held that compensation was due for a lion or a pig. Some reasoned by analogy that if a pilgrim combining pilgrimage and the lesser pilgrimage in a single consecration killed game, only one compensation was due. They did not analogize him to such a pilgrim who invalidated his pilgrimage, whom they held to owe two sacrificial animals. Some drew analogies between these cases and required two sacrificial animals in all of them, while others required one sacrificial animal in all of them. More curious still, some said that a fugitive slave entering Mecca must enter ritual consecration, whereas this is not required of a non-Arab Muslim or of a slave girl kept secluded for sale. The same jurist makes a similar distinction between the 'woman of the religious Law' and the lowly woman concerning marriage without a guardian. This is more outrageous than the abandonment of analogy that they condemned, for this differentiates between

وقاس بعضهم قاتل الأسد على قاتل الذئب، فلم ير فيه جزاء، ولم يقس قاتل النسر والعقاب على قاتل الحدأة والغراب، فرأى أن في النسر والعقاب الجزاء، ولم يقس بعضهم قاتل الأسد والخنزير على قاتل الذئب، فرأى في الأسد والخنزير الجزاء. وقاس بعضهم: إن أصاب القارن صيدا فجزاء واحد، ولم يقسه على القارن يفسد حجه، فرأى عليه هديين، وقاس بعضهم بعض ذلك على بعض فأوجب في كل ذلك هديين، وبعض أوجب في كل ذلك هديا واحدا. وأظرف من هذا أن بعضهم قال: على العبد الفار إذا دخل مكة أن يحرم وليس ذلك على الأعجمي المسلم، ولا على الجارية المصونة للبيع، وله مثل ذلك في الفرق بين الشريعة والدنية في النكاح بغير الولي وهذا أشنع مما أنكروه من ترك القياس، لأن هذا فرق بين الناس فأين هذا مما استعملوه من التسوية بين الزاني والقتل في جلد مائة وتغريب عام؟ وبين الصداق والقطع في السرقة؟ وبين المستحاضة والمصراة؟ وهل في التخليط أكثر من هذا؟. وفرقوا أو أكثرهم بين صوم المرء عن غيره وحجه عنه، فلم يروا ذلك ولم يقيسوه على الصدقة عنه واحتجوا في ذلك ب {وأن ليس للإنسان إلا ما سعى} وهذا إن منعت من الصيام منعت من الصدقة ولا فرق ثم لم يقيسوا وصيته بالحج على وصيته بالصوم. ولم يقس بعضهم من وقف بعرفة قبل غروب الشمس، ثم دفع منها ولم يعد إليها تلك الليلة فقالوا: بطل حجه على من يقف بمزدلفة حتى طلعت الشمس من يوم النحر. ولم يقس بعضهم من لم يدفع عن عرفة مع الإمام، في إباحة الجمع له بمزدلفة، على من لم يدرك الصلاة بعرفة مع الإمام، في إباحتهم له الجمع بين الصلاتين بعرفة، وقاس بعضهم قصر أهل منى بعرفة، وأهل عرفة بمنى، على قصر أهل مكة بمنى وعرفة، ولم يقيسوا على ذلك في سائر البلاد وقاس بعضهم كل ذلك في سائر البلاد. وقاس بعضهم الهدي على الأضحية فيما يجزي منها، ولم يقسه عليها في الذبح والنحر قبل الإمام، فأي ذلك

[285] **Translator's note (L3418):** The phrase "requiring fasting on behalf of someone who died owing a fast" renders the contextual sense of the source's compressed wording, literally "requiring fasting upon someone who died while owing a fast."

[286] **Translator's note (L3419):** "Pronounces the formula of prohibited kinship" renders ẓihār: declaring one's spouse sexually forbidden by likening the spouse to a relative with whom intercourse is prohibited. In "intercourse with someone he owns," the source has the compressed phrase وطء ملكه, literally "intercourse with his property," referring here to an enslaved person owned by the friend.

[287] **Translator's note (L3423):** The wording "someone from the two sanctuaries" follows the supplied reading al-ḥaramayn. The context suggests a possible corruption of al-muḥrimīn, "those in ritual consecration," but the supplied reading has not been silently replaced. The wording rendered "his killing game" is grammatically corrupt in the supplied text, which reads an aqtulahu al-ṣayd. The translation gives the apparent sense, with the corruption explicitly noted. Liability attaching to a slave's person means that the slave himself is answerable as an asset for the liability, rather than its being an ordinary personal debt.

people. How does this compare with their practice of equating the fornicator and killing with respect to one hundred lashes and a year's banishment, and equating the bridal payment and amputation for theft, and equating a woman with persistent nonmenstrual bleeding and an animal whose milk has been retained in its udder to deceive a buyer. Could there be any greater muddle than this? They, or most of them, distinguished between a person fasting on another's behalf and performing pilgrimage on his behalf. They did not consider that permissible and did not analogize it to giving charity on his behalf. They invoked as proof for this: {And that a human being shall have only what he has striven for}. Yet if this prevents fasting, it prevents charity, without any difference. Then they did not analogize his bequest for pilgrimage to his bequest for fasting. Some did not draw an analogy between someone who stood at Arafat before sunset, then departed from it and did not return that night—whose pilgrimage they declared invalid—and someone who stood at Muzdalifa until the sun rose on the Day of Sacrifice. Some did not draw an analogy between someone who did not depart from Arafat with the imam, regarding permission for him to combine the prayers at Muzdalifa, and someone who did not catch the prayer at Arafat with the imam, for whom they permitted combining the two prayers at Arafat. Some analogized the residents of Mina shortening their prayers at Arafat, and the residents of Arafat shortening theirs at Mina, to the residents of Mecca shortening theirs at Mina and Arafat, but did not extend this analogy to other lands. Some extended all of this by analogy to other lands. Some analogized the pilgrimage sacrificial offering to the Festival sacrifice regarding which animals suffice, but did not analogize it to the latter regarding slaughter by cutting the throat or piercing the base of the neck before the imam: either procedure suffices before the imam for the pilgrimage sacrificial offering, but does not suffice

يجزىء قبل الإمام في الهدي ولا يجزئه في الأضحية، وقاس غيره منهم بعض ذلك على بعض في الإباحة.

for the Festival sacrifice. Others among them drew analogies between these cases regarding permissibility[288][289][290]

L3427–3430 Some did not analogize a blind person, upon whom they held pilgrimage obligatory, to a person unable to walk, from whom the obligation of pilgrimage was waived; others did analogize him to that person. Some placed the residents of Dhu al-Hulayfa, who are approximately two hundred and fifty miles from Mecca, on the same footing as the residents of Yalamlam, which is approximately thirty miles from Mecca, holding that neither group owes a sacrificial offering if they perform the lesser pilgrimage followed by pilgrimage with a release from consecration between them. They did not apply the same comparison to those between them and Mecca, whose position relative to Mecca is like theirs. Nor did they analogize the people of Yalamlam to the people of Dhu al-Hulayfa regarding shortening prayers and breaking the fast Others among them treated all these cases alike by requiring a sacrificial offering from all of them for performing the lesser pilgrimage followed by pilgrimage with a release from consecration between them, but did not treat them alike regarding shortening prayers. Some did not analogize someone who wore sewn clothing while in ritual consecration for a day without necessity to someone who wore it for less than a day without necessity. Some did not draw an analogy between their statement prohibiting a person in ritual consecration from killing a predatory beast that was not harming him, and requiring compensation for that, and their statement permitting him to kill a wolf and one that had not harmed him, for which they imposed no

ولم يقس بعضهم الأعمى في وجوب الحج عليه على المقعد في سقوط الحج عنه، وقاسه بعضهم عليه. وقال بعضهم سكان ذي الحليفة وهم على نحو مائتي ميل وخمسين ميلا من مكة، على سكان يلملم، وهو على نحو ثلاثين ميلا من مكة إنها لا هدي عليهما إن تمتعا، ولم يقسم على ما بينهم وبين مكة كالذي بينهم وبينها، ولم يقس أهل يلملم على أهل ذي الحليفة في قصر الصلاة والإفطار في الصوم، وساوى غيرهم منهم بين كل ذلك في إيجاب الهدي عليهم كلهم التمتع ولم يسو بينهم في قصر الصلاة، ولم يقس بعضهم لابس المخيط في الإحرام يوما من غير ضرورة على لابسه أقل من يوم لغير ضرورة. ولم يقس بعضهم قوله في تحريم قتل المحرم للسبع الذي لا يؤذيه، وإيجاب الجزاء في ذلك، على قوله في إباحة قتله للذئب ومن لم يؤذه ولم يجعل في ذلك جزاء وهم مع ذلك قليلا منهم يقيسون قاتل الصيد خطأ على قاتله عمدا، وعلى قاتل حيوان وغيره خطأ، فأوجبوا الجزاء في ذلك ولم يقيسوا إلا قليلا منهم قاتل النفس عمدا على قاتلها خطأ، فلم يروا في قاتلها عمدا كفارة. وقاس بعضهم سقوط الجزاء على قاتل السبع العادي عليه على سقوط الضمان عنه في البعير العادي فيقتله، ولم يقس بعضهم ذلك فرأى الضمان على قاتل البعير العادي عليه، ولم ير الجزاء على قاتل السبع العادي عليه، وقد قاسوا بعض ذلك على بعض في إيجاب الجزاء في قتل الخطأ. ولم يقس بعضهم الحلال بقتل الصيد في الحرام في حكم الجزاء على المحرم بقتل الصيد في الحل، فرأى الصيام على المحرم، ولم يجزه للحلال إلا بالمثل والإطعام فقط وساوى الأمرين. ولم يقيسوا قاتل الصيد في حرم المدينة في إيجاب الجزاء عليه على قاتله في حرم مكة، وقد أوجب ذلك بعض السلف والخلف. ولم يقس بعضهم من اشترى أحد أربعة أثواب بغير عينه على أن يأخذ أيها شاء بدينار بالخيار ثلاثا، فلم يجز هذا العقد، على إجازته إذا اشترى أحد ثلاثة أثواب بغير عينه على أن يأخذ أيها شاء بدينار بالخيار

[288] **Translator's note (L3424):** The supplied al-sharīʿa means "the religious Law," but here occupies the position of a description of a woman contrasted with a lowly woman. It appears corrupt, possibly for al-sharīfa, "the highborn woman"; the translation marks the anomalous supplied reading. The supplied text reads "the fornicator and killing," an anomalous comparison in connection with lashes and banishment. It has been preserved rather than replaced with a conjectured reading.

[289] **Translator's note (L3425):** The pronoun in "They did not consider that permissible" does not unambiguously specify whether it refers to fasting alone or to both fasting and pilgrimage on another's behalf; the translation preserves that ambiguity. The supplied fa-ayy dhālika, rendered "either procedure," is syntactically awkward. The apparent reference is to the two methods of slaughter just mentioned.

[290] **Qur'an references (L3424):** Qur'an 53:39 (An-Najm).

compensation. Nevertheless, a few of them analogize someone who kills game accidentally to someone who kills it deliberately, and to someone who accidentally kills an animal or something else, and therefore require compensation for that. Yet, except for a few of them, they did not analogize someone who deliberately kills a person to someone who kills one accidentally, and therefore held that no expiation was due from someone who killed deliberately. Some analogized the waiver of compensation from someone who killed a predatory beast attacking him to the waiver of financial liability from him when a camel attacked him and he killed it. Some did not draw this analogy: they held someone who killed a camel attacking him financially liable, but held that someone who killed a predatory beast attacking him owed no compensation. Yet they had drawn analogies between these cases in requiring compensation for accidental killing. Some did not analogize a person not in ritual consecration who killed game within the sanctuary, regarding the rules of compensation, to a person in ritual consecration who killed game outside the sanctuary. They held fasting applicable to the person in ritual consecration, but allowed the person not in ritual consecration to discharge the obligation only through an equivalent animal or feeding, and treated the two cases alike. They did not analogize someone who killed game in the sanctuary of Medina, regarding the obligation of compensation, to someone who killed it in the sanctuary of Mecca, although some of the early and later authorities did impose that obligation. Some did not draw an analogy between someone who purchased one unspecified garment out of four, on the condition that he could take whichever he wished for one dinar, with an option lasting three days—a contract they did not permit—and their permission for someone to purchase one unspecified garment out of three, on the condition that he could take whichever he wished for one dinar, with an option lasting three days. Some made no distinction between all these cases, whether prohibiting or permitting them. Some did not draw an analogy between their statement prohibiting the sale of women's milk expressed

ثلاثا، وسوى بعضهم بين كل ذلك من المنع أو الجواز. ولم يقس بعضهم قوله في تحريم بيع لبن النساء محلوبا في قدح على إباحته بيع سائر الألبان محلوبة في قدح.

into a cup and their permission to sell all other kinds of milk expressed into a cup[291][292]

L3431 Some of them did not apply analogy between their prohibition of a sale before possession has been taken in full, prior to the parties' separation, when specifically designated gold is exchanged for gold not specifically designated, and likewise silver for silver, and their permission for a sale to be completed before possession has been taken in full, prior to the parties' separation, when wheat is exchanged for wheat in the same manner, barley for barley in the same manner, dates for dates in the same manner, and salt for salt in the same manner. Thus, they invalidated the sale of gold for gold and silver for silver in every case, but permitted it with these four commodities when possession had been taken of what was not specifically designated, although possession had not been taken of what was specifically designated. Others applied analogy to all these cases, prohibiting their validity. Some of them did not apply analogy between their ruling prohibiting the sale of belly fat for meat in unequal quantities and their permission for back fat to be sold for meat in unequal quantities, whereas others treated all these cases alike. Some of them did not apply analogy between their ruling that a sheep's fat tail may be sold for meat in unequal quantities and their prohibition of selling the remaining bodily

ولم يقس بعضهم تحريم البيع قبل تمام القبض قبل التفرق في الذهب بعينه بالذهب بغير عينه، وفي الفضة بالفضة كذلك، على إباحة تمام البيع قبل تمام القبض قبل التفرق في البر بالبر كذلك، والشعير بالشعير كذلك، والتمر بالتمر كذلك، والملح بالملح كذلك، فأبطل البيع في الذهب بالذهب، والفضة بالفضة على كل حال، وأجازه في هذه الأربعة إذا قبض الذي بغير عينه ولم يقبض الذي بعينه، وقاس بعضهم كل ذلك في المنع من جوازه. ولم يقس بعضهم قوله في المنع من جواز بيع شحم البطن باللحم متفاضلا على إباحته جواز بيع شحم الظهر باللحم متفاضلا، وسوى بعضهم بين كل ذلك. ولم يقس بعضهم قوله: إن الألية يجوز أن تباع باللحم متفاضلا على منعه من بيع سائر الأعضاء باللحم متفاضلا، وسوى بعضهم بين كل ذلك. وقاس بعضهم جواز بيع الرطب بالتمر، على جواز بيع التمر الحديث بالتمر القديم. وقاس بعضهم جواز بيع الدقيق بالبر متماثلا على المنع من انتباذ الرطب والتمر، وقال: هما صنفان. وقاس بعضهم منعه من بيع الدقيق بالبر البتة على النهي عن بيع الرطب بالتمر وقال هما صنف واحد مجهول تماثله. ولم يقس بعضهم رجوع من أعتق مملوكا اشتراه، ثم اطلع على عيب بأرش العيب على منعه من ابتاع طعاما فأكله ثم اطلع على عيب كان به من الرجوع بأرش العيب. ولم يقس بعضهم من باع مال غيره بغير إذن على من اشترى له شيئا بغير إذنه، وساوى بعضهم بين كلا الأمرين.

[291] **Translator's note (L3427):** The supplied text says "Some said" before an incomplete comparison between the two groups of residents. "Placed ... on the same footing" expresses the apparent comparison without silently substituting an Arabic reading. The clause rendered "They did not apply the same comparison ..." is corrupt or incomplete: the supplied wa-lam yaqsim does not clearly yield the expected verb of analogy, and the following spatial comparison is awkward. The translation gives its apparent sense. The distances are the author's supplied figures and have been retained.

[292] **Translator's note (L3428):** The phrase "a wolf and one that had not harmed him" follows the awkward supplied wording wa-man lam yu'dhihi. It may be corrupt for a concessive expression meaning "even if it had not harmed him," but that reading has not been silently substituted. The first statement about accidental killing reads "a few of them" in an awkward accusative construction. It may lack an exception marker and thus have intended "except for a few of them"; the translation retains the supplied minority sense. The supplied phrase linking the sacrificial offering to the combined performance of the two pilgrimages lacks an expected preposition; the apparent causal connection is expressed in the translation. "And treated the two cases alike" is present in the supplied text despite appearing to conflict with the immediately preceding distinction. It has been retained.

parts for meat in unequal quantities, whereas others treated all these cases alike. Some of them established by analogy the permissibility of selling fresh dates for dried dates from the permissibility of selling newly dried dates for old dried dates. Some of them applied analogy between permitting the sale of flour for wheat in equal quantities and prohibiting the steeping of fresh dates together with dried dates, saying, "They are two distinct categories." Others established by analogy their absolute prohibition of selling flour for wheat from the prohibition of selling fresh dates for dried dates, saying, "They are one category whose equality in quantity is unknown." Some of them did not apply analogy between allowing someone who emancipated an enslaved person whom he had purchased, and subsequently discovered a defect, to recover compensation for the defect, and their prohibition of someone who purchased food, ate it, and subsequently discovered a defect that it had had, from recovering compensation for the defect. Some of them did not apply analogy between someone who sold another person's property without permission and someone who purchased something for him without his permission, whereas others treated both matters alike.

ولم يقس بعضهم بيع من طرأ عليه الخرس على بيع من ولد أخرس فأجازه ههنا وأبطله هنالك. ولم يقس بعضهم بيع السكران على طلاقة، فأجاز طلاقه وأبطل بيعه وقاسه بعضهم فأبطل كل ذلك، وقد أجاز كل ذلك بعضهم. ولم يقس بعضهم جواز السلم في الشحم على جوازه في اللحم، وقاس ذلك بعضهم فأجاز كل ذلك.

L3432 Some of them did not apply analogy between a sale made by someone who became mute and a sale made by someone born mute: they permitted it here and invalidated it there. Some of them did not apply analogy between an intoxicated person's sale and his divorce: they allowed his divorce to take effect but invalidated his sale. Others applied analogy and invalidated both, while still others permitted both. Some of them did not apply analogy between the permissibility of an advance-payment sale with deferred delivery (salam) of fat and its permissibility for meat. Others applied analogy and permitted all of this.[293]

ولم يقس بعضهم جواز السلم في السمك المالح على قوله في المنع من السلم في السمك الطري، وقاس بعضهم بعض ذلك على بعض في المنع من الكل أو جواز الكل. ولم يقس بعضهم على جواز سلم الذهب والفضة في سائر الموزونات، جواز سلم الموزونات بعضها على بعض، وقاس ذلك بعضهم فأجازه فيما عدا ما يؤكل. ولم يقس بعضهم جواز السلم في قوله بتأخير النقد لرأس المال اليوم واليومين بشرط وبغير شرط، على

L3433–3436 Some of them did not apply analogy between the permissibility of an advance-payment sale of salted fish and their ruling prohibiting an advance-payment sale of fresh fish. Others applied analogy between these cases, either prohibiting them all or permitting them all. Some of them did not infer by

[293] **Translator's note (L3432):** The source reads طلاقة, literally "his fluency" or "his freedom," where the ensuing reference to his divorce indicates that طلاقه, "his divorce," is intended.

analogy, from the permissibility of giving gold and silver as advance payment for other commodities sold by weight, the permissibility of giving commodities sold by weight as advance payment for one another. Others applied this analogy and permitted it for everything except what is eaten. Some of them did not apply analogy between the permissibility of an advance-payment sale, according to their ruling allowing payment of its capital to be delayed for one or two days, with or without an express stipulation, and their prohibition of this for many days, with or without an express stipulation. Others applied analogy between these cases, prohibiting them all. Some of them did not apply analogy between the permissibility of an advance-payment sale of wheat, fruit, kannāsh, and milk, on the basis that the purchaser would receive a specified quantity of it each day, with both parties stipulating that payment of the price be postponed until a distant due date, and the rest of their rulings prohibiting delayed payment in an advance-payment sale, and their prohibition of exchanging a debt for a debt. Some of them did not apply analogy between their ruling permitting wheat flour to be exchanged for wheat in equal quantities and prohibiting this in unequal quantities, and their ruling that, when someone has paid in advance for wheat of a specified description and the due date arrives, it is permissible, in their view, for him to take, in place of the wheat, barley or hull-less barley equal to the volume of his wheat, but not take wheat flour or emmer equal to the measured volume of his wheat, although all of this constitutes one category in their view. They did not apply analogy between selling wheat for barley, dates, and salt in unmeasured bulk and selling gold and silver in unmeasured bulk. More curious still, they did not apply analogy between the permissibility of selling fashioned gold and silver in unmeasured bulk and their ruling prohibiting the sale of fashioned gold and silver in unmeasured bulk, and their ruling prohibiting the sale of coined gold and silver in unmeasured bulk. Some of them did not apply analogy between someone who paid in advance for food to be delivered at a specified date, to whom the person owing it brought it before the due date—concerning whom they said, "He does not permit him to accept it before its due date"—and their ruling concerning someone who lent another person food until a specified date, who brought it to him before the due date, concerning whom they said, "He permits him to take possession of

منعه من ذلك في الأيام الكثيرة بشرط وبغير شرط، وقاس غيره بعض ذلك على بعض في المنع من الكل. ولم يقس بعضهم جواز السلم في القمح والفاكهة والكتاش واللبن، على أن يأخذ منه كل يوم مقدارا معلوما، واشترطا تأخير نقد الثمن إلى الأجل البعيد على سائر قوله في المنع من تأخير النقد في السلم، ومن منعه الدين بالدين. ولم يقس بعضهم قوله في إباحة دقيق البر بالبر متماثلا، والمنع منه متفاضلا، على قوله: إن من سلم في قمح موصوف لحل الأجل فجائز عنده أن يأخذ مكان القمح شعيرا أو سلتا مثل كيل قمحه، ولا يأخذ دقيق قمح ولا علسا مثل مكيلة قمحه وكل ذلك عنده صنف واحد ولم يقس بيع البر بالشعير والتمر والملح جزافا، على بيع الذهب والفضة جزافا، وأطرف من ذلك أنه لم يقس جواز بيع المصوغ من الذهب والفضة جزافا على قوله في المنع من بيع المصوغ من الذهب والفضة جزافا على قوله في المنع من بيع المسكوك منهما جزافا.. ولم يقس بعضهم من سلم في طعام إلى أجل مسمى، فأتاه به الذي هو عليه قبل الأجل، فقال: لا يجيز على قبوله قبل أجله، على قوله فيمن أقرض آخر طعاما إلى أجل فأتاه به قبل الأجل، قال: يجيز على قبضه، وقاس غيره منهم أحدهما على الآخر: أن يجيز على القبض قبل الأجل. ولم يقس بعضهم تعين الدنانير والدراهم في المغصوب والبيوع على تعين سائر العروض، وقاس غيره منهم بعض ذلك على بعض في تعيين كل ذلك. ولم يقس بعضهم قوله فيمن ابتاع طعاما فعاب عليه فأباح الإقامة فيه من جميعه ولم يبح من بعضه، على قوله فيه إذا لم يعب عليه فأجاز الإقالة من كله ومن بعضه. ولم يقس بعضهم قوله في بطلان الصرف التفرق قبل تمام القبض، من قوله في جواز الإقالة مع التفرق قبل القبض التفرق اليسير، ولا قاس إباحة ذلك في الإقالة بالتفرق اليسير على التفرق الكثير. ولم يقس بعضهم منعه من التفاضل في الدقيق بالبر على إباحة التفاضل في السويق بالبر، وكلاهما بر مطحون، لم يسق الدقيق السويق، ولا السويق الدقيق، وأطرف من هذا أنه لم يقس جواز بيع البلح الصغار بالتمر عنده متفاضلا على المنع البلح الكبار بالتمر.

it." Others among them applied analogy between the two, allowing possession to be taken before the due date. Some of them did not apply analogy between dinars and dirhams being treated as individually designated property in cases of usurpation and sales, and other goods being treated as individually designated property. Others among them applied analogy between these cases, treating all of this as individually designated property. Some of them did not apply analogy between their ruling concerning someone who purchased food that proved defective for him—allowing him to maintain the transaction in respect of all of it but not part of it—and their ruling concerning it when it did not prove defective for him, allowing mutual rescission in respect of all of it or part of it. Some of them did not apply analogy between their ruling that a currency exchange is invalidated by the parties' separation before possession has been taken in full and their ruling permitting mutual rescission when the parties separate briefly before possession has been taken. Nor did they apply analogy between permitting this in mutual rescission when the separation is brief and a lengthy separation. Some of them did not apply analogy between their prohibition of unequal quantities when flour is exchanged for wheat and their permission for unequal quantities when roasted grain meal is exchanged for wheat, although both are ground wheat: the flour has not driven the roasted grain meal, nor the roasted grain meal the flour. More curious still, they did not apply analogy between the permissibility, in

their view, of selling small unripe dates for dried dates in unequal quantities and the prohibition of large unripe dates for dried dates.[294][295][296]

L3437–3439 Some of them did not apply analogy between dried zufayrif, cow's-eye plums, peaches, and pears, in their ruling permitting exchanges within a single genus in unequal quantities, and their prohibition of selling raisins, wheat, figs, and acorns in exchanges within a single genus in unequal quantities. Then they applied analogy between the former categories and the latter categories in prohibiting the sale of any of these before possession has been taken. Others among them applied analogy between all these things, extending it even to scammony and myrobalan. Some of them applied analogy between one edible thing and another with respect to usury, but did not apply analogy between minerals with respect to usury. Thus, they permitted one ratl of iron for two ratls of iron, and iron for copper, although gold, silver, lead, tin, and mercury are all mineral substances. Some of them did not apply analogy between their ruling that pulses all constitute one genus for the obligatory alms and their being separate categories in sales. Some of them did not apply analogy between their ruling absolutely prohibiting the sale of butter for milk, cheese for milk, clarified butter for milk, or oil for olives, and their ruling permitting the sale of wheat for wheat flour in equal quantities, or their ruling permitting the sale of roasted grain meal made from wheat for wheat in unequal quantities. Some of them did not apply analogy between their ruling

ولم يقس بعضهم ما يبس من الزفيرف وعيون البقر والخوخ والكمثرى، في حكم جواز بعضه ببعض من جنس واحد متفاضلا، على منعه من بيع الزبيب والبر والتين والبلوط بعضه ببعض من جنس واحد متفاضلا، ثم قاس الأصناف الأول على الأصناف الأخر في المنع من بيع كل ذلك قبل أن يقبض، وقاس غيره منهم كل ذلك بعضه ببعض، حتى السقمونيا والهليلج. وقاس بعضهم المأكول على المأكول في الربا، ولم يقس المعادن بالمعادن في الربا، فأباحوا رطل حديد برطلي حديد، والحديد بالنحاس والذهب والفضة والرصاص والقصدير والزئبق معدنيات كلها. ولم يقس بعضهم قوله: إن القطنية كلها جنس واحد في الزكاة، على أنها أصناف متفرقة في البيوع. ولم يقس بعضهم قوله في المنع من بيع الزبد باللبن، أو الجبن باللبن، أو السمن باللبن جملة، ولا الزيت بالزيتون جملة، على قوله في جواز بيع البر بالدقيق من البر متماثلا، ولا على قوله في جواز بيع السويق في البر بالبر متفاضلا. ولم يقس بعضهم قوله: إن سمن البقر وسمن الغنم صنف وقولهم إن لحم الخروف من الضأن ولحم الحمار الوحشي صنف واحد، وكذلك لحم الأرنب على قوله: إن زيت الزيتون وزيت الجلجلان وزيت الفجل أصناف متفرقة، يجوز بعضها ببعض متفاضلا يدا بيد، ولا يجوز ذلك في نبيذ التمر بنبيذ الزبيب ولا يجوز ذلك في لحم الجمل بلحم الأرنب، ولا في لحم حمار الوحش بلحم الخروف، ولا فرق بين تعليله بأن كل ذلك ذو أربع وبين تعليل غيره أن كل ذلك من الطير ومن غيره لحم، ومن تعليل غيره بالتأنس في الطير وذي الأربع، والتوحش أيضا فيهما، لأن الله تعالى جزى الصيد بالأنعام. ولم يقس بعضهم قوله في المنع من بيع العنب بالعصير البتة على قوله في إجازة بيع العنب بخل العنب متفاضلا، وقد يخرج الخل من العنب دون توسط كونه عصيرا.

[294] **Translator's note (L3433):** الكنّاش, rendered provisionally as "kannāsh," is unclear in this list of commodities. Its familiar sense of a notebook or compilation does not fit the context; the reading may be corrupt.

[295] **Translator's note (L3434):** The clause about fashioned gold and silver repeats a prohibition of selling the same goods in unmeasured bulk immediately after stating its permissibility. The repetition and apparent contradiction are retained. The source repeatedly uses forms of يجيز, "permits," in the early-delivery discussion, but their syntax is awkward. Forms of يجبر, "compels," may have been intended; the translation retains the supplied reading. الإقامة literally denotes remaining or maintaining something. In this discussion it may be a corruption of الإقالة, "mutual rescission," which appears explicitly in the next segment. The translation retains the supplied reading.

[296] **Translator's note (L3436):** لم يسق الدقيق السويق ولا السويق الدقيق literally reads "the flour has not driven the roasted grain meal, nor the roasted grain meal the flour." Its intended sense is unclear, and the wording appears corrupt. The literal wording has been retained.

that clarified butter from cattle and clarified butter from sheep constitute one category, and their statement that the meat of a lamb of the sheep species and the meat of a wild ass constitute one category, as does rabbit meat, and their ruling that olive oil, sesame oil, and radish oil are separate categories that may be exchanged for one another in unequal quantities, hand to hand. Yet this is not permissible with date infusion for raisin infusion, nor is it permissible with camel meat for rabbit meat, or wild-ass meat for lamb meat. There is no difference between their assigning as the operative cause that all these are four-legged animals and another's assigning as the operative cause that all of this, whether from birds or other animals, is meat, or another's assigning domestication as the operative cause in birds and four-legged animals, and likewise wildness in both, because Allah Most High prescribed livestock as recompense for game. Some of them did not apply analogy between their ruling absolutely prohibiting the sale of grapes for juice and their ruling permitting the sale of grapes for grape vinegar in unequal quantities, although vinegar may be produced from grapes without an intervening stage of being juice.[297]

ولم يقس بعضهم قوله: لا يباع اللبن بالسمن أصلا، لأنهما صنف واحد مجهول نماثله، ولا الشاة اللبون باللبن أصلا، على إجازته مع الشاة اللبون بالسمن، ولا اللبن بالقمح إلى أجل على إجازته الشاة اللبون بالقمح إلى أجل. ولم يقيسوا قولهم في المنع من بيع القمح بالقمح بالتحري دون كيل ولا وزن على جواز ذلك عندهم في اللحم باللحم من صنفه، نعم ولم يجيزوا الذهب بالفضة بالتحري وأجازوه في القمح بالتمر بالتحري. ولم يقس بعضهم جواز القمح بالقمح عنده وزنا على منعه من سحالة الذهب بالذهب كيلا. وأطرف من هذا أن بعضهم لم يقس منعه من اللحم المشوي باللحم النيء جملة على قول في إباحة اللحم المطبوخ باللحم النيء متماثلا ومتفاضلا، وكلاهما يدخله ملح وصنعة وأغرب حكم من ذكرنا بأن اللحم والشحم صنف واحد، وأن لحم النعامة والكركي ولحم الزرزور صنف واحد وأن لحم النعامة المطبوخ ولحمها النيء صنفان يجوز فيهما التفاضل. ولم يقس بعضهم جواز دجاجة بدجاجتين على قوله في لحم دجاجة بلحم

L3440 Some of them did not apply analogy between their statement that milk may never be sold for clarified butter, because the two constitute a single kind whose equality in quantity is unknown, and that a milk-producing ewe may never be sold for milk, and their permitting a milk-producing ewe to be sold for clarified butter; nor between their prohibition of selling milk for wheat with deferred payment and their permitting a milk-producing ewe to be sold for wheat with deferred payment. They did not apply analogy between their prohibition of selling wheat for wheat by estimation, without measuring by volume or weighing, and their allowing this in the exchange of meat for meat of the same kind. Indeed, they did not permit gold to be exchanged for silver by estimation, yet permitted wheat to be exchanged for dates by esti-

[297] **Translator's note (L3437):** الزفيرف is an uncertain fruit name, provisionally transliterated as "zufayrif"; it may refer to a jujube variety or reflect a corrupt spelling. عيون البقر, literally "cows' eyes," is used as a fruit name and is rendered here as "cow's-eye plums." في جواز بيع السويق في البر بالبر contains an awkward في, literally "in," before "wheat." The translation understands this as roasted grain meal made from wheat, but the wording may be corrupt.

mation. Some of them did not apply analogy between their allowing wheat to be exchanged for wheat by weight and their prohibition of exchanging gold filings for gold by volume. More remarkable still, some of them did not apply analogy between their absolute prohibition of exchanging roasted meat for raw meat and a ruling permitting cooked meat to be exchanged for raw meat in equal or unequal quantities, although both involve salt and processing. Stranger still is the ruling of those we have mentioned that meat and fat constitute a single kind, that ostrich meat, crane meat, and starling meat constitute a single kind, but that cooked ostrich meat and its raw meat constitute two kinds that may be exchanged in unequal quantities. Some of them did not apply analogy between their permitting one hen to be exchanged for two hens and their ruling concerning the meat of one hen being exchanged for the meat of two hens. Some of them did not apply analogy between their prohibition of purchasing a ewe with its hide excepted from the sale while resident and their ruling permitting this while traveling.[298]

L3441–3442 Stranger than this, some of them did not apply analogy between their ruling permitting the purchase of a ewe with a small number of ratls of its meat, or its head, excepted from the sale and their ruling prohibiting the exception of its foreleg, hind leg, or thigh. Some of them did not apply analogy between their prohibition of purchasing the meat of this living ewe and their permitting its purchase with the seller excepting its hide. What is astonishing is that what such a person prohibited is precisely what he permitted; it is not something different, because in both cases the purchaser bought only its skinned carcass, and nothing more. Some of them did not apply analogy between their ruling permitting small fish to be sold in bulk without measurement and their prohibition of selling large fish in bulk without measurement, although the effort of counting the large ones, because they are numerous, may be greater than that of counting the small ones, because they are few. Some of them did not apply analogy between their ruling prohibiting the purchase

[298] **Translator's note (L3440):** The reading نماثله appears corrupt; the translation understands it as تماثله, referring to equality in quantity. The phrase إجازته مع الشاة اللبون بالسمن is syntactically awkward, particularly مع. The translation follows the apparent comparison with permitting the sale of a milk-producing ewe for clarified butter.

دجاجتين. ولم يقس بعضهم منعه من ابتياع شاة واستثناء جلدها في الحضر على قوله في إباحة ذلك في السفر.

وأغرب من هذا أن بعضهم لم يقس قوله في إباحة ابتياع شاة واستثناء أرطال خفيفة منها، أو استثناء رأسها، على قوله في التحريم أن يستثني يدها أو رجلها أو فخذها، ولم يقس بعضهم منه من ابتياع لحم هذه الشاة الحية على إباحته ابتياعها، واستثناء البائع جلده، والعجب أن هذا الذي منع هو الذي أباح بعينه ليس هو شيئا آخر، لأنه في كلتا المسألتين إنما اشترى مسلوخها فقط ولا مزيد. ولم يقس بعضهم قوله في جواز بيع صغار الحيتان جزافا على منعه من بيع كباره جزافا وقد يكون تكلف عد الكبار لكثرتها أصعب من عد الصغار لقلتها. ولم يقس بعضهم قوله في المنع من ابتياع رطل لحم من هذه الشاة وإن شرع في ذبحها على قوله في إباحه ابتياع رطل من لبنها إذا شرع في حلبه. ولم يقس بعضهم قوله في المنع من بيع لبن هذه الشاة شهرا على إباحة بيع لبنها كيلا، وعلى إباحة بيع لبن هذه الغنم شهرا.

of a ratl of meat from this ewe, even once its slaughter has begun, and their ruling permitting the purchase of a ratl of its milk once its milking has begun. Some of them did not apply analogy between their ruling prohibiting the sale of this ewe's milk for a month and their permitting the sale of its milk by volume, and their permitting the sale of the milk of this flock of sheep for a month.[299]

L3443 Some of them did not apply analogy between their ruling prohibiting the division of crops and wheat by estimation and their ruling permitting the division of meat by estimation. Some of them did not apply analogy between the sale, crop after crop, of the entire yield of trees bearing two crops a year and their ruling permitting the sale of the produce of cucumber plots, crop after crop, and green fodder likewise. Some of them established by analogy the permissibility of advance-payment sales involving things counted, cultivated, and so forth, on the basis of the permissibility of advance-payment sales involving things measured by volume and weighed. Yet they did not establish by analogy the permissibility of an advance-payment sale with immediate delivery on the basis of its permissibility with deferred delivery. Some of them applied analogy to all these cases and ruled them permissible.[300]

L3444–3460 Some of them did not apply analogy between their permitting an orphan girl aged ten to be given in marriage because of poverty and their prohibition of permitting sexual access on grounds of necessity. Some of them assimilated by analogy a person who performs the act of the people of Lot to one who commits unlawful sexual intercourse, but did not assimilate by

ولم يقس بعضهم قوله في منع اقتسام الزرع والقمح بالتحري على قوله في إجازة قسمة اللحم بالتحري. ولم يقس بعضهم بيع بطن بعد بطن جملة، شجر تحمل بطنين في السنة، على قوله في إجازة بيع المقاثي بطنا بعد بطن، والفصيل كذلك. وقاس بعضهم جواز السلم في المعدود والمزروع وغير ذلك على جواز السلم في المكيل والموزون، ولم يقيسوا جواز السلم حالا على جوازه إلى أجل وقاس بعضهم كل ذلك بالجواز.

ولم يقس بعضهم جواز إنكاح اليتيمة بنت عشر سنين للفاقة على منعه في إباحة الفروج للضرورة. وقاس بعضهم فاعل فعل قوم لوط على الزاني، ولم يقس واطىء البهيمة على الزاني، وكلاهما واطىء في مكان محرم. ولم يقيسوا الغاصب على السارق ولا على المحارب، وكلاهما أخذ مالا بغير حق، والغاصب بالمحارب مستويان في الإخافة وأخذ المال، ولا سيما بعضهم يقول بقياس الشارب على القاذف، فقد بان تناقضهم. فإن قالوا: إن الصحابة قاسوا الشارب على القاذف، فقد تقدم تكذيب هذه الدعوى لا سيما وقد كفانا بعضهم المؤنة في هذا، فنسوا أنفسهم وقالوا: الحدود لا تؤخذ قياسا،

[299] **Translator's note (L3441):** The reading ولم يقس بعضهم منه من ابتياع منه appears corrupt. The translation understands the intended sense as منعه من ابتياع, 'his prohibition of purchasing,' as required by the comparison that follows. A ratl is a unit of weight whose value varies by locality and period.

[300] **Translator's note (L3443):** The supplied المزروع means 'cultivated.' In this standard classification of saleable goods, المذروع, 'measured by length,' may have been intended; the translation retains the supplied reading. الفصيل is rendered 'green fodder,' a possible agricultural sense of the word suited to the discussion of successive crops; it can also denote a weaned young animal. The clause concerning trees does not expressly state the prohibition that the surrounding comparisons appear to presuppose.

[310] **Translator's note (L3458):** The supplied phrase «وتركهم في القياس وتركهم له» is repetitive and syntactically awkward; its repetition is retained. The supplied amount is 'a thousand dirhams.' In context, this appears incongruous with the preceding ceilings, but it has not been changed.

[311] **Translator's note (L3459):** The wording «ولا قدرته» is awkward in this construction; 'nor do we know its force' follows the supplied wording without emendation.

analogy a person who has intercourse with an animal to one who commits unlawful sexual intercourse, although each has intercourse in a forbidden place. They did not assimilate by analogy a wrongful appropriator of property to a thief or to a brigand, although both take property without right, and the wrongful appropriator and the brigand are alike in causing fear and taking property. This is especially so since some of them advocate assimilating a wine-drinker by analogy to someone who makes an accusation of unlawful sexual intercourse. Their inconsistency has thus become plain. If they say that the Companions assimilated the wine-drinker by analogy to someone who makes an accusation of unlawful sexual intercourse, this claim has already been refuted. All the more so since some of them have spared us the trouble in this matter: they forgot themselves and said, 'Prescribed punishments are not derived through analogy.' We know that everything permissible for the Companions is permissible for those who come after them, and no new religion arose after the death of the Prophet, may Allah bless him and grant him peace ﷺ. Where, then, is their emulation of the Companions—may Allah be pleased with them—when they go so far as to abandon the texts for the statement of one of them if it accords with their uncritical adherence to authority? They must consequently impose a prescribed punishment upon someone who drinks blood and someone who eats carrion and swine flesh. Some jurists have indeed assimilated these people by analogy to the wine-drinker and held that each of the two should receive eighty lashes: this was al-Awza'i. Yet assimilating the drinking of blood by analogy to the drinking of wine, were analogy permissible, would be more appropriate than assimilating the drinking of wine by analogy to accusing a chaste woman of unlawful sexual intercourse. We have found that some of them assimilated by analogy a person who steals, drinks wine, or commits unlawful sexual intercourse, then repents and presents himself, to the brigand with respect to the prescribed punishment being waived for him. Yahya ibn 'Abd al-Rahman related to us: Ahmad ibn Duhaym related to us: Ibrahim ibn Hammad related to us: Isma'il ibn Ishaq related to us: Nasr ibn 'Ali related to us: Muhammed ibn Bakr—that is, al-Bursani—related to us, from Ibn Jurayj, from Hisham ibn 'Urwah, from his father, who said: 'If a thief steals and then comes repentant, he is not subject to amputation.'

وقد علمنا أن كل ما جاز للصحابة فهو جائز لمن بعدهم وما حدث دين جديد بعد موت النبي صلى الله عليه وسلم وأين الائتساء بالصحابة رضوان الله عليهم حتى يتركوا النصوص لقول بعضهم إذا وافق تقليدهم؟ فيلزمهم أن يوجبوا حدا على شارب الدم وأكل الميتة ولحم الخنزير. وقد قاس بعض الفقهاء هؤلاء على شارب الخمر، فرأى على كل واحد منهما ثمانين جلدة، وهو الأوزاعي، مع أن قياس شرب الدم على شرب الخمر، لو جاز القياس، أولى من قياس شرب الخمر على قذف محصنة. ووجدنا بعضهم قد قاس من سرق أو شرب أو زنى ثم تاب واعترض على المحارب في سقوط الحد عنه. حدثنا يحيى بن عبد الرحمن، حدثنا أحمد بن دحيم، حدثنا إبراهيم بن حماد، حدثنا إسماعيل بن إسحاق، ثنا نصر بن علي، ثنا محمد بن بكر هو البرساني عن ابن جريج، عن هشام بن عروة، عن أبيه قال: إذا سرق اللص ثم جاء تائبا فلا قطع عليه. وبعضهم لم يقس هؤلاء على المحارب، وقاسهم على القاتل، والقاتل أبعد شبها من الحدود الواجبة من المحارب. وقد قاس بعضهم القاتل إذا عفي عنه على الزاني غير المحصن، ولم يقس المرتد إذا راجع الإسلام، ولا المحارب إذا تاب قبل القدرة عليه، أو إذا عفا الإمام عن قتله، أو اقتصر على ما دون ذلك، وكل هذا تناقض. وقد ساوى الله تعالى بين الخمر والميسر، والأنصاب والأزلام، فهلا قاسوا وأوجبوا على لاعب القمار والميسر، وعلى المستقسم بالأزلام حدا كحد الخمر ثانيا. وبعضهم لم يقس قوله في جواز بيع جزء مشاع على قوله في المنع من جواز رهنه وهبته والصداق به. وأكثرهم قاس البيع حين النداء للجمعة، على النكاح حينئذ والإجازة في جواز ذلك أو في إبطال كل ذلك. وقد قاس بعضهم دخول حمل الجارية من غير سيدها، وابن الشاة، وحمل الشجر في الرهن على كون الحوامل لكل ذلك في الرهن، ولم يقس سقوط ما قابل الحوامل إذا تلفت من الشيء المرتهن فيه على قوله: إنه لا يسقط من الحق شيء يتلف الولد والحمل واللبن. وبعضهم لم يقس قوله في بيع القاضي دنانير الغرم في ديونه التي هي دراهم

أو دراهمه في ديونه التي هي دنانير، على قوله في المنع من بيع ما هذا ما عدا ذلك في ديونه. وبعضهم لم يقس قوله في المنع من بيع مال الحي، على قوله في إباحة بيع مال الميت في ديونهما. وبعضهم لم يقس قوله في جواز النكاح بشهادة حرين فاسقين، على قوله في إبطال النكاح بشهادة عبدين عدلين. وأكثرهم لم يقس الكافر الوثني يسلم فيعرض على امرأته الإسلام فتأبى، فيفسخ النكاح عنده، على قوله في امرأة الكافر تسلم فيستأني عنده بفسخ نكاحه ما لم تنقض عدتها، ولم يسلم هو، وبعضهم ساوى بين الأمرين. وبعضهم لم يقس قوله في كل كافر تزوج كافرة على خمر بعينها أو خنزير بعينه، ثم أسلما فلا شيء لها غير ذلك على قوله: إن أصدقها خمرا بغير عينها، أو خنزيرا بغير عينه، ثم أسلما فقال: لها في الخمر قيمتها، ولها في الخنزير مهر مثلها. وبعضهم لم يقس الحر يتزوج المرأة على خدمته لها شهرا فقال: لها مهر مثلها على العبد يتزوجها على ذلك، وقال: ليس لها إلا خدمته لها. ولم يقس بعضهم إيجابه الطلاق على الذمي على قوله في إسقاط العدة عن الذمية يطلقها الذمي. ولم يقس بعضهم قوله: إن أجل العبد في العنة ستة أشهر، وأجله في الإيلاء شهران، وأجل الأمة في المفقود سنتان، وطلاق العبد تطليقتان، وعدة الأمة حيضتان، على قوله: إن للعبد أن يتزوج أربعا، وعلى قوله: إن صيامه في الظهار شهران، وفي الوطء في نهار رمضان كذلك، وفي قتل الخطأ كذلك، وشهادة العبد والأمة أربع شهادات في اللعان كالحر والحرة، وعدة المستحاضة الأمة سنة كالحرة. وقاس كل ذلك بعضهم فجعل حكم العبد كل ذلك على نصف حكم الحر وقال آخرون منهم أجل العبد في الإيلاء أربعة أشهر، ولا يتزوج إلا امرأتين، فأبو حنيفة يقول: عدة الأمة حيضتان، ومن الوفاة نصف عدة الحرة، وبالشهور في الطلاق نصف عدة الحرة، وتحرم الأمة على زوجها الحر أو العبد بتطليقتين إلا بعد زوج، ولا يتزوج العبد إلا امرأتين فقط، وأجل العبد يولي من زوجته الأمة نصف أجل الحر، في إيلائه وأجل الحر في إيلائه من الأمة نصف أجل إيلائه من الحرة.

Some of them did not assimilate these people by analogy to the brigand, but assimilated them to the killer, although the killer is more remote than the brigand in resemblance with respect to the prescribed punishments that are obligatory. Some of them assimilated by analogy a killer who is pardoned to a person who commits unlawful sexual intercourse without having the status of prior lawful consummation, but did not similarly assimilate the apostate who returns to Islam, or the brigand who repents before he is apprehended, or when the imam pardons him from execution or confines himself to something less than that. All this is inconsistency. Allah Most High has placed wine, gambling, sacrificial stones, and divining arrows on an equal footing. Why, then, did they not apply analogy and impose upon someone who plays games of chance and gambles, and upon someone who seeks a determination by divining arrows, a further prescribed punishment like that for wine? Some of them did not apply analogy between their ruling permitting the sale of an undivided share and their ruling denying the permissibility of pledging it, giving it as a gift, or providing it as a marriage dower. Most of them applied analogy between sale at the time of the call to Friday prayer and marriage at that time, and authorization, either permitting this or invalidating all of it. Some of them established by analogy that the fetus of a slave woman conceived by someone other than her master, the offspring of a ewe, and the fruit borne by trees are included in a pledge, on the basis of the inclusion in the pledge of the things bearing all these. Yet they did not apply analogy between the cancellation, from the amount secured by the pledge, of what corresponds to the bearers if they perish and their ruling that none of the claim is canceled through the loss of the offspring, the fruit, and the milk. Some of them did not apply analogy between their ruling that a judge may sell a debtor's dinars to discharge his debts denominated in dirhams, or his dirhams to discharge his debts denominated in dinars, and their ruling prohibiting the sale of anything other than that to discharge his debts. Some of them did not apply analogy between their ruling prohibiting the sale of a living person's property and their ruling permitting the sale of a deceased person's property to discharge their respective debts. Some of them did not apply analogy between their ruling permitting marriage on the testimony of two free men of unrighteous conduct and their ruling invalidating mar-

riage on the testimony of two upright slaves. Most of them did not apply analogy between the case of an idolatrous unbeliever who embraces Islam, whose wife is then offered Islam and refuses, whereupon, according to their ruling, the marriage is dissolved, and their ruling concerning the wife of an unbeliever who embraces Islam: according to them, dissolution of his marriage is delayed so long as her waiting period has not expired and he has not embraced Islam. Some of them treated the two cases alike. Some of them did not apply analogy between their ruling concerning any unbeliever who marries an unbelieving woman with a particular quantity of wine or a particular pig as her dower, after which they both embrace Islam, so she is entitled to nothing beyond that—with his ruling that, if he assigns her wine not individually specified, or a pig not individually specified, as her dower, and then both embrace Islam, she is entitled to its value in the case of the wine, and to the customary dower of a woman of her standing in the case of the pig. Some of them did not apply by analogy their ruling concerning a free man who marries a woman in return for serving her for a month, in which case they say that she is entitled to the customary dower of a woman of her standing, to a male slave who marries her on that basis, in which case they say that she is entitled only to his service to her. Some of them did not apply by analogy their imposition of divorce upon a non-Muslim under Muslim protection to their ruling that a non-Muslim woman under Muslim protection has no waiting period when her husband, likewise a non-Muslim under Muslim protection, divorces her. Some of them did not apply by analogy their ruling that a male slave's allotted period in a case of impotence is six months, his allotted period for sworn abstention from marital intercourse is two months, a female slave's allotted period when her husband is missing is two years, a male slave's divorce consists of two pronouncements, and a female slave's waiting period is two menstrual periods, to their ruling that a male slave may marry four women, or to their ruling that his fasting for a declaration likening his wife to a prohibited female relative (ẓihār) is two months, and likewise for intercourse during the daytime in Ramadan, and likewise for accidental killing; that a male slave and a female slave each make four attestations in mutual imprecation, just as a free man and a free woman do; and that the waiting period of a female slave with irregular uterine bleed-

قال أبو حنيفة: صيام العبد في ظهاره من زوجته الحرة والأمة كصيام الحر في ظهاره من الزوجة الحرة والأمة، ولا تحرم الحرة على زوجها العبد إلا بثلاث طلقات، وأجل العبد على زوجته الحرة أو الأمة كأجل الحر في ذلك، وأجل العبد يولي من الزوجة الحرة كأجل الحر. وقال مالك: عدة الأمة حيضتان، ومن الوفاة نصف عدة الحرة، وتحرم الزوجة الحرة والأمة على العبد بتطليقتين، وأجل العبد يولي من زوجته الحرة والأمة نصف أجل الحر، في إيلائه، وأجل العبد يعن عن زوجته الحرة والأمة نصف أجل الحر. وقال مالك: يتزوج العبد أربعا من الحرائر، والإماء وصيام العبد في ظهاره من زوجته الحرة والأمة، كصيام الحر، وعدة الأمة في الطلاق بالشهور ثلاثة أشهر كالحرة. وقال الشافعي: عدة الأمة حيضتان، وفي الوفاة وبالشهور في الطلاق نصف عدة الحرة، وتحرم الحرة والأمة على العبد بتطليقتين، ولا يتزوج العبد إلا اثنتين، وأجل العبد يعن أيولي من الحرة أو الأمة كأجل الحر في كل ذلك، وصيامه في الظهار كصيام الحر. فاعجبوا لتناقض قياساتهم وهكذا في سائر الأحكام ولا فرق. فاتفقوا في صوم الظهار على ألا يقيسوه على سائر أحكام العبد، ولا إجماع في ذلك، لأن قتادة وغيره يقول: هو على نصف صيام الحر، ولم يتفقوا على نصف حكم العبد من حكم الحر إلا في عدة الوفاة، وعدة الحيض وطلاق العبد والأمة، ولا إجماع في ذلك، لأن ابن سيرين يرى عدة الأمة كعدة الحرة في الوفاة وفي الإقراء، وصح عن ابن عباس أنه أمر عبده بمراجعة زوجته، وهي أمة بعد طلقتين، ولم يقس بعضهم قوله: من نظر إلى فرج امرأة طلقها طلاقا رجعيا في العدة بشهوة فهي رجعة، على قوله: فإن نظر إلى شيء من بدنها غير الفرج بشهوة فليست رجعة، ولا على قوله إنه إن لمسها في بدنها بشهوة فهي رجعة. ولم يقس بعضهم قوله فيمن قال لامرأته: لست لي بامرأة ونوى الطلاق ولم يره طلاقا، على قوله لها: قومي ونوى الطلاق فهو طلاق. ولم يقس بعضهم قوله فيمن قال لامرأته: اختاري، فقالت: أنا أختار نفسي، قال: فهي

ing is one year, just as for a free woman. Some of them applied analogy to all of this, making the rule for the male slave in all of it half the rule for the free man. Others among them said that a male slave's allotted period for sworn abstention is four months, and that he may marry only two women. Abu Hanifah says that a female slave's waiting period is two menstrual periods; following a husband's death it is half the waiting period of a free woman; and, when reckoned in months following divorce, it is half the waiting period of a free woman. A female slave becomes forbidden to her husband, whether free or enslaved, through two divorce pronouncements, until after another husband. A male slave may marry only two women. The allotted period for a male slave who swears abstention from his enslaved wife is half the allotted period for a free man in his sworn abstention, and the allotted period for a free man in his sworn abstention from an enslaved woman is half his allotted period for sworn abstention from a free woman. Abu Hanifah said: A male slave's fasting for his ẓihār concerning his wife, whether free or enslaved, is like a free man's fasting for his ẓihār concerning his wife, whether free or enslaved. A free woman becomes forbidden to her enslaved husband only through three divorce pronouncements. A male slave's allotted period concerning his wife, whether free or enslaved, is like a free man's allotted period in that matter. The allotted period for a male slave who swears abstention from a free wife is like the allotted period for a free man. Malik said: A female slave's waiting period is two menstrual periods, and following a husband's death it is half the waiting period of a free woman. A wife, whether free or enslaved, becomes forbidden to a male slave through two divorce pronouncements. The allotted period for a male slave who swears abstention from his wife, whether free or enslaved, is half the allotted period for a free man in his sworn abstention. The allotted period for a male slave who is impotent with his wife, whether free or enslaved, is half the allotted period for a free man. Malik said: A male slave may marry four women, whether free women or female slaves and a male slave's fasting for his ẓihār concerning his wife, whether free or enslaved, is like a free man's fasting. A female slave's waiting period following divorce, when reckoned in months, is three months, just as for a free woman. Al-Shafi'i said: A female slave's waiting period is two menstrual periods; following a husband's death, and

بذلك طالق: على قوله لها: طلقي نفسك فقالت: أنا أطلق نفسي، أو قالت: قد اخترت نفسي، فلم ير ذلك كله طلاقا، ولا على قوله: لو قال لها: لا ملك لي عليك، قال: هو طلاق. ولا قاس بعضهم قوله لمن قال لامرأته: أنت طالق مثل الجبل، فجعلها واحدة رجعية على قوله: إن قال لها أنت طالق مثل عظيم الجبل فجعلها واحدة بائنة. ولا قاس بعضهم قوله فيمن قال لامرأته: اختاري اختاري، اختاري فقالت: قد اخترت نفسي بالأولى أو قالت بالوسطى أو قالت بالآخرة فهي طلقة واحدة، على قوله فيمن قال لامرأته: اختاري اختاري اختاري، فقالت: قد اخترت نفسي بالواحدة، أو قالت واحدة، قال: فهي طالق ثلاثا. وقاس بعضهم قوله في التخيير على قوله في التمليك. ولا قاس بعضهم قوله فيمن قال لامرأته المدخول بها، أنت علي حرام مثل الخنزير والميتة والدم، فقال: هي ثلاث ولا بد، على قوله ذلك في غير المدخول بها وقال بعد ذلك: لم أنو إلا واحدة فإنه يحلف، وتكون واحدة ويراجعها إن أحبا، ولم يقس ذلك كله على قوله: قال لمدخول بها أو لغير مدخول بها: أنت بتة، أو أنت البتة، فقال: هي ثلاث على حال فيهما معا. ولم يقس بعضهم قوله فيمن قال لامرأته المدخول بها وغير المدخول بها: قد خليت سبيلك، إنه ينوي ويحلف على ما نوى، على قوله لمن قال لامرأته: حبلك على غاربك، إنها في المدخول بها ثلاث ولا بد، وفي غير المدخول بها ينوي وتكون واحدة، ولا قاس أكثرهم في قوله في التحريم في الزوجة على قوله في التحريم في الأمة وقد سوى بعضهم بين كل ذلك. ولا قاس بعضهم قوله فيمن شك أطلق زوجته أم لم يطلق وهي تقول له: لم تطلق أنه تطلق عليه ولا بد. على قوله فيمن قال لامرأته: إن كتمتني أمرا كذا فأنت طالق، أو قال لها: إن أبغضتني فأنت طالق، فأخبرته بخبر لا يدري أكتمه ما خاف عليه أم لا، وقالت له: لست أبغضك وهو لا يدري أصدقت أم كذبت أنه طلاق عليه. ولا قاس بعضهم قوله في إباحة جميع كفارات الإيمان قبل الحنث على قوله: إن كفارة يمين الإيلاء لا تكون إلا

when reckoned in months following divorce, it is half the waiting period of a free woman. A woman, whether free or enslaved, becomes forbidden to a male slave through two divorce pronouncements. A male slave may marry only two women. And the allotted period for a male slave who is impotent or swears abstention from a woman, whether free or enslaved, is like the allotted period for a free man in all of that, and his fasting for ẓihār is like a free man's fasting. So marvel at the contradictions in their analogies! It is the same with the other rulings, without distinction. Thus, concerning the fasting for ẓihār, they agreed not to apply analogy to it on the basis of the other rulings concerning a male slave. Yet there is no consensus on this, because Qatadah and others say that it is half a free man's fasting. They agreed that the rule for a slave is half the rule for a free person only concerning the waiting period following a husband's death, the waiting period reckoned by menstruation, and divorce involving a male or female slave. Yet there is no consensus on this, because Ibn Sirin considers a female slave's waiting period to be like a free woman's waiting period following a husband's death and in the menstrual cycles. It is authentically reported from Ibn 'Abbas that he instructed his male slave to take back his wife, who was a female slave, after two divorce pronouncements. Some of them did not apply by analogy their ruling that, if someone looks lustfully at the private parts of a woman whom he has revocably divorced, during her waiting period, this constitutes taking her back, to their ruling that, if he looks lustfully at any part of her body other than her private parts, this does not constitute taking her back; nor to their ruling that, if he touches her body lustfully, this constitutes taking her back. Some of them did not apply by analogy their ruling concerning someone who says to his wife, 'You are no wife of mine,' intending divorce, which they did not consider a divorce, to their ruling that, if he says to her, 'Get up,' intending divorce, it is a divorce. Some of them did not apply by analogy their ruling concerning someone who says to his wife, 'Choose,' and she says, 'I choose myself,' in which case they say that she is thereby divorced, to their ruling concerning his saying to her, 'Divorce yourself,' and her saying, 'I divorce myself,' or her saying, 'I have chosen myself,' none of which they considered a divorce; nor to their ruling that, if he says to her, 'I have no ownership over you,' they say that it is a divorce. Nor did some of them

بعد الحنث. ولا قاس بعضهم جواز تسري العبد عبده على منعه من التفكير بالعتق فيما لا يجزي فيه إلا العتق لواجد الرقبة، وهو واجد رقابا يطؤهن. ولا قاس بعضهم قوله فيمن قال لامرأته: كل امرأة أتزوجها عليك فهي كظهر أمي، قال: ليتزوج عليها واحدة أو اثنتين معا أو ثلاثا معا، وليس عليه في كل ذلك إلا كفارة واحدة على قوله لها: ومتى تزوجت عليك فالتي أتزوج عليك كظهر أمي، فرأى عليه لكل امرأة يتزوجها كفارة. ولم يقس بعضهم سقوط اللعان على الأعمى والمحدودة لسقوط شهادتها على قوله: إن اللعان لا يسقط عن الفاسق المعلن لسقوط شهادته. ولم يقس بعضهم قوله: من أعسر النفقة أجل شهرين أو نحوهما وإلا فرق بينهما، على قوله: فإن أعسر بالصداق أجل عامين أو نحوهما ثم فرق بينهما. ولم يقس بعضهم عدة المستحاضة من الطلاق سنة، ميزت الدم أم لم تميز كانت لها أيام معهودة أو لم تكن، على قوله: عدتها من الوفاة أربعة أشهر وعشر. ولم يقس بعضهم قوله: من قتل أمة أو عبدا قيمة كل واحد منهما مائة ألف درهم لم يغرم في العبد إلا عشرة آلاف درهم غير عشرة دراهم، وفي الأمة خمسة آلاف درهم غير خمسة دراهم، فإن كانت القيمة أقل من عشرة آلاف في العبد وخمسة آلاف في الأمة غرم القيمة كلها، على قوله: إن غصب عبدا أو أمة فماتا عنده غرم قيمتهما، ولو بلغت ألف درهم، ولم يقس هذا الهذيان على سائر أقواله: إن أحكام العبد على نصف أحكام الحر، في النكاح والطلاق وغير ذلك. ولم يقس قوله: إنه يقص بين الحر والعبد والكافر والمؤمن في النفس على قوله: إن ما دون النفس يقص فيه بين المؤمن والكافر، ولا يقص فيه بين العبد والحر. ولم يقس بعضهم قوله: يقتل عشرة بواحد على قوله: لا تقطع يدان بيد، ولا عينان بعين. ولم يقس بعضهم قوله: لا يستقاد من أحد بحجارة ولا بطعنة رمح، على قوله: يقتل الزاني المحصن بالحجارة والمحارب بالطعن بالرمح. ولم يقس بعضهم إباحته قتل المرأة في الزنى وفي القود على قوله في منع قتلها إذا ارتدت. قال أبو محمد: فيما ذكرنا كفاية

apply by analogy their ruling concerning someone who says to his wife, 'You are divorced like the mountain,' which they treated as one revocable divorce, to their ruling that, if he says to her, 'You are divorced like the great mass of the mountain,' they treat it as one irrevocable divorce. Nor did some of them apply by analogy their ruling concerning someone who says to his wife, 'Choose, choose, choose,' and she says, 'I have chosen myself by the first,' or says, 'By the middle one,' or says, 'By the last,' in which case it is one divorce pronouncement, to their ruling concerning someone who says to his wife, 'Choose, choose, choose,' and she says, 'I have chosen myself by the one,' or says, 'One,' in which case they say that she is divorced three times. Some of them applied by analogy their ruling concerning granting a choice to their ruling concerning vesting the wife with the power of divorce. Nor did some of them apply by analogy their ruling concerning someone who says to his wife with whom he has consummated the marriage, 'You are forbidden to me like swine, carrion, and blood,' in which case they say that it is necessarily three divorce pronouncements, to their ruling concerning his saying that to a wife with whom he has not consummated the marriage, and then saying afterward, 'I intended only one,' in which case he swears an oath, it is one divorce pronouncement, and he takes her back if they both wish. Nor did they apply all of that by analogy to their ruling that, if he says to a wife with whom he has consummated the marriage, or to one with whom he has not consummated it, 'You are severed,' or 'You are utterly severed,' they say that it is three divorce pronouncements in every case, for both alike. Some of them did not apply by analogy their ruling concerning someone who says to his wife, whether he has consummated the marriage with her or has not consummated it 'I have set you free to go your way,' that his intention is to be ascertained and he swears to what he intended, to their ruling concerning someone who says to his wife, 'Your rope is on your withers,' that, for a wife with whom he has consummated the marriage, it is necessarily three divorce pronouncements, while, for one with whom he has not consummated it, his intention is to be ascertained and it is one divorce pronouncement. Nor did most of them apply by analogy their ruling concerning declaring a wife forbidden to their ruling concerning declaring a female slave forbidden, though some of them treated all of that alike. Nor did some of them apply by analogy

على أننا لم نكتب من تناقضهم في القياس، وتركهم في القياس، وتركهم له إلا جزءا يسيرا جدا من أجزاء عظيمة جدا، ولو تقصينا ذلك لقام منه ديوان أعظم من جميع ديواننا هذا كله. وكل ما ذكرنا فإنهم إن احتجوا فيه بإجماع على تركه لم ينفكوا من أحد وجهين: إما أن يدعوه بغير علم فيكذبوا، وإما أن يصدقوا في ذلك، فإن كانوا قد صدقوا أقروا أن الإجماع جاء بترك القياس، ولو كان حقا ما جاء الإجماع بتركه، وإن ادعوا أنهم تركوا القياس حيث تركوه لنص وارد في ذلك، فاعلموا أن كل قياس خالفناهم فيه، فإن النص قد ورد بخلاف ذلك القياس، لا بد من ذلك، وإن قالوا بتركنا القياس حيث تركناه لدليل غير النص، قلنا لهم هذا ما لا نعرفه ولا قدرته، وأي دليل يكون أقوى من النص؟ هذا عدم لا سبيل إلى وجوده أبدا. وبالجملة فكل واحد منهم إنما استعمل القياس في يسير من مسائله جدا، وتركه في أكثرها، فإن كان القياس حقا فقد اخطؤوا بتركه وهم يعلمونه، وإن كان باطلا فقد اخطؤوا باستعماله، فهم في خطأ متيقن إلا في القليل من أقوالهم. وقال بعضهم: لا نقيس على شاذ.

[309] **Translator's note (L3455):** 'Your rope is on your withers' is a figurative formula of release, evoking an animal left free to go where it wishes. In the comparison involving uncertainty about divorce and conditional divorce, the supplied wording states that divorce takes effect in both cases. A missing negative in the second ruling is possible, but none has been inserted. The phrase 'تسري العبد عبده' uses a masculine form for the slave taken as a concubine. This is anomalous in the stated legal example and may be a transcription error for a female slave; the translation retains the anomaly through 'his own slave.' The source reads 'التفكير بالعتق,' literally 'thinking through manumission,' where the context indicates 'التكفير بالعتق,' making expiation through manumission. The translation follows that apparent intended reading. The mutual-imprecation sentence groups a blind man with a woman subjected to a prescribed punishment, but gives the reason using the feminine singular, 'her testimony being inadmissible.' That grammatical mismatch is retained. 'Distinguish the blood' refers to distinguishing menstrual blood from other uterine bleeding.

their ruling concerning someone who doubts whether he has divorced his wife or has not divorced her, while she tells him, 'You did not divorce me,' that she must necessarily be divorced from him, to their ruling concerning someone who says to his wife, 'If you conceal such-and-such a matter from me, you are divorced,' or says to her, 'If you hate me, you are divorced,' and she gives him an account, while he does not know whether she has concealed from him what he feared concerning it or not, or tells him, 'I do not hate you,' while he does not know whether she has spoken truthfully or lied, that a divorce takes effect against him. Nor did some of them apply by analogy their ruling permitting all expiations for oaths before the oath is broken to their ruling that expiation for an oath of abstention from marital intercourse can take place only after the oath is broken. Nor did some of them apply by analogy their permission for a male slave to take his own slave as a concubine to their prohibition against his making expiation through manumission in cases where nothing but manumission suffices for someone who possesses a slave, even though he possesses slaves with whom he has intercourse. Nor did some of them apply by analogy their ruling concerning someone who says to his wife, 'Every woman whom I marry in addition to you shall be to me like my mother's back,' in which case they say, 'Let him marry one woman in addition to her, or two together, or three together; he owes only one expiation for all of that,' to their ruling concerning his saying to her, 'Whenever I marry in addition to you, the woman whom I marry in addition to you shall be to me like my mother's back,' in which case they held that he owes an expiation for every woman he marries. Some of them did not apply by analogy their waiving mutual imprecation for a blind man and a woman who has received a prescribed punishment, on account of her testimony being inadmissible, to their ruling that mutual imprecation is not waived for an openly sinful man on account of his testimony being inadmissible. Some of them did not apply by analogy their ruling that someone unable to provide maintenance is granted two months or thereabouts, failing which the couple are separated, to their ruling that, if he is unable to pay the dower, he is granted two years or thereabouts, after which the couple are separated. Some of them did not apply by analogy their ruling that the waiting period following divorce for a woman with irregular uterine bleeding is one year,

whether she can distinguish the blood or cannot distinguish it whether she had an established pattern of days or did not—to their ruling that her waiting period following a husband's death is four months and ten days. Some of them did not apply by analogy their ruling that someone who kills a female slave or a male slave, the value of each of them being one hundred thousand dirhams, is not liable to pay for the male slave except ten thousand dirhams less ten dirhams, and for the female slave five thousand dirhams less five dirhams. If the value is less than ten thousand for the male slave and five thousand for the female slave, he must pay the entire value. Yet according to his statement, if someone wrongfully seizes a male or female slave and they die in his possession, he must pay their value, even if it amounts to a thousand dirhams. He did not apply analogy between this nonsense and his other statements that the rulings concerning a male slave are half those concerning a free man in marriage, divorce, and other matters. Nor did he apply analogy between his statement that retaliation for loss of life applies between a free person and a slave, and between an unbeliever and a believer, and his statement that, for injuries short of loss of life, retaliation applies between a believer and an unbeliever but does not apply between a slave and a free person. Some of them did not apply analogy between their statement that ten people are killed for one and their statement that two hands are not cut off for one hand, nor two eyes for one eye. Some of them did not apply analogy between their statement that no one is executed in retaliation with stones or a spear thrust and their statement that an adulterer possessing the requisite marital status is killed with stones, and one who wages war against society by being thrust through with a spear. Some of them did not apply analogy between their permission to kill a woman for unlawful intercourse and in retaliation, and their statement prohibiting her killing if she apostatizes.

Abu Muhammed said: What we have mentioned is sufficient, although, of their contradictions concerning analogy, their abandonment in analogy, and their abandonment of it, we have recorded only a very tiny portion of exceedingly extensive material. Had we investigated it exhaustively, it would have yielded a volume larger than this entire work of ours. Concerning everything we have mentioned, if they invoke consensus as an argument for

abandoning it, they cannot escape one of two alternatives: either they claim it without knowledge and thus lie, or they speak truthfully about it. If they have spoken truthfully, they have acknowledged that consensus established the abandonment of analogy. Had analogy been true, consensus would not have established its abandonment. If they claim that, wherever they abandoned analogy, they abandoned it because of a revealed text concerning that matter, then know that, in every analogy over which we disagree with them, a revealed text has indeed come in opposition to that analogy: this is necessarily so. If they say, 'We abandoned analogy wherever we abandoned it because of evidence other than a revealed text,' we say to them: This is something we do not know, nor do we know its force. What evidence could be stronger than a revealed text? This is a nonexistent thing that can never possibly exist. In sum, each of them has employed analogy in only a very few of his legal questions and abandoned it in most of them. If analogy is true, they have erred by abandoning it while knowing it; and if it is false, they have erred by employing it. Thus they are certainly in error, except in

a few of their positions. Some of them said: ‘We do not draw an analogy from an anomalous case.’[301][302][303][304][305][306][307][308][309][310][311]

[301]**Translator’s note (L3444):** The phrase منعه في إباحة الفروج للضرورة is awkwardly constructed; it is translated as a prohibition of permitting sexual access on grounds of necessity. The supplied واعترض literally suggests presenting or interposing oneself. ’Presents himself’ preserves that reading, though its precise procedural meaning here is uncertain. The text says ’each of the two’ after listing drinking blood, eating carrion, and eating swine flesh. This apparent numerical mismatch is retained.

[302]**Translator’s note (L3446):** غير المحصن denotes someone lacking the legal status associated with prior lawful consummation, relevant to the punishment for unlawful sexual intercourse. The supplied الإجازة means ’authorization’ and is retained. الإجارة, ’hire’ or ’lease,’ may have been intended in the list of contracts concluded during the call to Friday prayer. ثانيا, rendered ’a further,’ is awkward in its position after the comparison with the punishment for wine. The wording concerning the destruction of pledged bearers and their offspring is syntactically strained. The supplied يتلف is understood in context as expressing loss or destruction; بتلف may have been intended. الغرم in دنانير الغرم appears defective; the translation understands a reference to the debtor, likely الغريم. The phrase ما هذا ما عدا ذلك is corrupt or contains intrusive words. The rendering ’anything other than that’ follows the intelligible portion ما عدا ذلك.

[303]**Translator’s note (L3448):** The opening continues a comparison begun in the preceding segment; the thing referred to by ’that’ is outside this segment. The two-year period concerning a missing husband is described by the Arabic only as the female slave’s ’allotted period’; its precise procedural function is not specified here.

[304]**Translator’s note (L3449):** In Abu Hanifah’s statement, ’a male slave’s allotted period concerning his wife’ does not specify what occasion gives rise to the period. Impotence appears to be intended from the surrounding comparisons, but the Arabic does not expressly say so.

[305]**Translator’s note (L3451):** The supplied ’يعن أيولي’ is malformed. The translation takes it as ’is impotent or swears abstention,’ as the surrounding parallel statements suggest. The source writes ’الإقراء’ in the reference to menstrual cycles, an irregular form apparently intended to refer to the legally counted cycles (aqrāʾ). The term qurʾ can technically denote either menstruation or the interval of purity; the immediate discussion concerns a waiting period of two menstrual periods.

[306]**Translator’s note (L3452):** The examples contrast exact divorce formulas. ’Like the great mass of the mountain’ renders the awkward phrase ’مثل عظيم الجبل’; its precise intended distinction from ’like the mountain’ is not explained in the passage.

L3461 Abu Muhammed said: This is an invalid arbitrary assertion, for nothing in the revealed law is anomalous. Exalted is Allah above obligating us to follow anomalies! Rather, everything that has come from Allah Most High and from His Messenger ﷺ is true, and truth cannot be anomalous. Only falsehood is anomalous. Some of them said: 'We do not draw an analogy from a derivative ruling.' Abu Muhammed said: This is like the first assertion. There is no derivative ruling in the revealed law: everything established by an explicit text or consensus is a foundational ruling. Where, then, is there a derivative ruling here, if these people would judge themselves fairly? Some of them said: 'Prescribed punishments and expiations are not established by analogy.' Abu Muhammed said: What difference is there between them and someone who says, instead, 'Acts of worship and rulings concerning sexual relations are not established by analogy'? Everyone who distinguishes between any of the rulings of Allah Most High is mistaken. Rather, throughout the whole religion, it is unlawful to rule on anything by analogy. Moreover, they have contradicted themselves and employed analogy in both categories: they have made a prescribed punishment obligatory for a man who commits sodomy by analogy, and have made many expiations obligatory by analogy. These people contradict themselves in a manner resembling play and jest. I seek refuge in Allah from that with which they have been afflicted. If someone says, 'You too have abandoned many hadiths,'

L3462–3463 we say to them—and through Allah Most High comes success: You have lied and fabricated falsehoods. This is never found on the part of any of us except in four circumstances, with no fifth: either because demonstration establishes its abrogation or the restriction of its general scope by another explicit text—and this is not lawful for anyone—or because it has not reached

قال أبو محمد: وهذا تحكم فاسد، لأنه ليس شيء في الشريعة شاذا، تعالى الله أن يلزمنا الشواذ بل كل ما جاء عن الله تعالى وعن رسوله صلى الله عليه وسلم فهو حق والحق لا يكون شاذا وإنما الشاذ الباطل. وقال بعضهم: لا نقيس على فرع. قال أبو محمد: وهذا كالأول، ولا فرع في الشريعة، وكل ما جاء نصا أو إجماعا فهو أصل، فأين ههنا فرع؟ لو أنصف القوم أنفسهم؟. وقال بعضهم: الحدود والكفارات لا تؤخذ قياسا. قال أبو محمد: وما الفرق بينهم وبين من قال بل العبادات وأحكام الفروج لا تؤخذ قياسا، وكل من فرق بين شيء من أحكام الله تعالى فهو مخطىء، بل الدين كله لا يحل أن يحكم في شيء منه بقياس، على أنهم قد تناقضوا وقاسوا في البابين، وأوجبوا حد اللوطي قياسا، وأوجبوا كفارات كثيرة قياسا، والقوم متناقضون تناقضا يشبه اللعب والهزل: أعوذ بالله مما امتحنوا به. فإن قال قائل: وأنتم قد تركتم حديثا كثيرا.

قلنا لهم: وبالله تعالى التوفيق: كذبتم وأفكتم، ولا يوجد ذلك من أحد منا أبدا إلا أربعة أوجه لا خامس لها: إما لقيام البرهان على نسخه أو تخصيصه بنص آخر، وهذا لا يحل لأحد. وإما أنه لم يبلغ إلى الذي لم يقل به منا وهذا عذر ظاهر و {لا يكلف الله نفسا إلا وسعها لها ما كسبت وعليها ما كتسبت ربنا لا تؤاخذنا إن نسينآ أو أخطأنا ربنا ولا تحمل علينآ إصرا كما حملته على لذين من قبلنا ربنا ولا تحملنا ما لا طاقة لنا به وعف عنا وغفر لنا ورحمنآ أنت مولانا فنصرنا على لقوم لكافرين} وإما أن بعضنا يرى ترك كل ما رواه المدلس إلا ما قال فيه حدثنا أو أنبأنا وهذا خطأ، وبعضنا يرى قبول جميع روايته إذا لم يدلس المنكرات إلى الثقات، إلا ما صح فيه تدليسه، وبهذا نقول وعلى كل ما ذكرنا البرهان، والبرهان لا يتعارض، والحق لا يعارضه حق آخر.

[307] **Translator's note (L3453):** The opening preserves the source's distinction between 'by the one' and 'one,' as contrasted with 'by the first,' 'by the middle one,' and 'by the last' in the preceding segment. The source says that he 'takes her back' despite specifying that the marriage was not consummated. The wording is retained without resolving the legal difficulty.

[308] **Translator's note (L3454):** The two formulas 'أنت بتة' and 'أنت البتة' differ by the definite article. The English renderings preserve two distinct formulas, although the Arabic difference has no exact English equivalent.

the one among us who does not adopt it. This is an evident excuse, and: {Allah does not burden a soul beyond its capacity. It shall have what it has earned, and against it shall be what it has acquired. Our Lord, do not take us to task if we forget or err. Our Lord, do not lay upon us a burden as You laid it upon those before us. Our Lord, do not burden us with what we have no strength to bear. Pardon us, forgive us, and have mercy upon us. You are our Protector, so grant us victory over the unbelieving people.} Or because some of us hold that everything transmitted by a transmitter who conceals defects in transmission must be rejected, except where he says, 'He narrated to us,' or 'He informed us.' This is an error. Some of us hold that all his transmissions should be accepted, provided he does not deceptively attribute objectionable reports to trustworthy transmitters, except those transmissions in which his concealment has been established. This is the position we adopt. There is demonstration for everything we have mentioned; demonstration does not conflict with demonstration, and no truth conflicts with another truth. Or because some of us hold that two conflicting hadiths should both be rejected because it has not been established for him which abrogates the other; and since it has not been established for him which of the two is the abrogating report, he is forbidden to pursue that of which he has no knowledge. This is an error. Some of us hold that, here, one should adopt the report containing the additional provision, and this is the position we adopt.[312][313]

L3464–3465 Thus none of us—praise be to Allah—has ever abandoned an authentic hadith that reached him, in any manner whatsoever, for the statement of anyone other than the Messenger of Allah ﷺ, or for personal opinion, or for analogy. We seek refuge in Allah from that. As for them, they abandon the explicit

[312] **Translator's note (L3462):** The supplied text says 'and this is not lawful for anyone' immediately after allowing departure from a hadith on demonstrated grounds of abrogation or restriction of general scope. This apparent inconsistency is retained. The Qur'anic quotation, corresponding to 2:286, contains numerous defective spellings and omitted letters, including «لله» for the divine name and «كتسبت» in place of the expected verb form. The recognizable wording is rendered in English; these transcription defects are flagged here. 'A transmitter who conceals defects in transmission' renders mudallis; the subsequent wording concerns deceptive concealment or attribution in a transmission chain.

[313] **Qur'an references (L3462):** Qur'an 2:286 (Al-Baqarah).

وإما أن بعضنا يرى ترك الحديثين المتعارضين، لأنه لم يصح عنده الناسخ، وإذ لم يصح عنده الناسخ منهما فهو منهي أن يقفو ما لا علم له به، وهذا خطأ، وبعضنا يرى ههنا الأخذ بالزائد، وبه نقول.

فليس منا أحد ولله الحمد ترك حديثا صحيحا بلغه بوجه من الوجوه لقول أحد دون رسول الله صلى الله عليه وسلم ولا لرأي ولا لقياس ونعوذ بالله من ذلك وأما هم فإنهم يتركون نصوص القرآن لآرائهم وأهوائهم وتقليدهم، ويتركون الصحيح من الحديث عندهم كذلك، ويتركون القياس وهم يعرفونه ويعلمونه وهو ظاهر إليهم كذلك، فالقوم لم يتمسكوا إلا باتباع الهوى والتقليد فقط، ونعوذ بالله من الخذلان. وقد انتهينا من إيضاح البراهين على إبطال الحكم بالقياس في دين الله تعالى إلى حيث أعاننا الله تعالى عليه، راجين الأجر الجزيل على ذلك، ولاح لكل من ينصف نفسه: أن القياس ضلال ومعصية وبدعة، لا يحل لأحد الحكم به في شيء من الدين كله،

texts of the Qur'an for their opinions, their desires, and their unquestioning adherence to authority. They likewise abandon hadiths they themselves consider authentic, and likewise abandon analogy while recognizing it, knowing it, and finding it evident. These people have therefore held fast only to following desire and unquestioning adherence to authority. We seek refuge in Allah from being forsaken. We have now reached, in elucidating the demonstrations invalidating judgment by analogy in the religion of Allah Most High, the point to which Allah Most High has helped us, hoping for abundant reward for doing so. It has become evident to everyone who judges himself fairly that analogy is misguidance, disobedience, and innovation, and that no one may lawfully rule by it in anything whatsoever pertaining to religion. Let every person therefore fear his Lord. Let obstinacy not drive him to turn away from the truth, and let the love of perpetuating a little authority not plunge him into bearing prolonged remorse. Soon he will stand at the stations of judgment before the Knower of hidden things. Let anyone who has ruled in the religion of Allah Most High by something other than what He enjoined upon him in His speech and in the speech of the Messenger of Allah ﷺ to us consider what his argument will be when he is questioned about that. Let him be certain that whoever is asked on the Day of Resurrection, 'By what did you rule?' and says, 'By Your speech, my Lord, and the speech of His Messenger to me,' has been entirely cleared of liability in this respect. Whoever adds to that or goes beyond it should consider how he will escape, and should prepare an answer to the question concerning his ruling through unquestioning adherence to his forefathers, his personal opinion, and his analogy. And: {You will remember what I say to you, and I entrust my affair to Allah. Indeed, Allah sees His servants.} Allah is sufficient for me, and an excellent Trustee is He.[314][315]

فليتق كل امرىء ربه. ولا يحمله اللجاج على الإعراض عن الحق، ولا يقتحم به حب استدامة رياسة قليلة على تحمل ندامة طويلة، فعن قريب يقف في مواقف الحكم بين يدي عالم الخفيات، فليفكر من حكم في دين الله تعالى بغير ما عهد به إليه في كلامه وكلام رسول الله صلى الله عليه وسلم إلينا ماذا تكون حجته إذا سئل عن ذلك وليوقن أن من سئل يوم القيامة بماذا حكمت؟. فقال: بكلامك يا رب وكلام رسوله إلي، فقد برىء من التبعة من هذا الوجه جملة، ومن زاد على ذلك أو تعداه فلينظر في المخلص، وليعد المسألة في حكمه بتقليد الآباء ورأيه وقياسه جوابا و {فستذكرون ما أقول لكم وأفوض أمري إلى الله إن الله بصير بالعباد} وحسبي الله ونعم الوكيل

[314] **Translator's note (L3465):** Within the direct address 'Your speech, my Lord,' the supplied text unexpectedly shifts to 'His Messenger' rather than 'Your Messenger.' That shift is retained. The phrase «وليعد المسألة ... جوابا» is syntactically awkward; it is rendered as preparing an answer to the question concerning his judgment. The Qur'anic quotation, corresponding to 40:44, has defective spellings, including «لله» for the divine name and «بلعباد» for 'His servants'; its recognizable wording is translated.

[315] **Qur'an references (L3464):** Qur'an 40:44 (Ghafir).