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Reinhart, Arthur Kevin

BEFORE REVELATION: THE BOUNDARIES OF MUSLIM MORAL KNOWLEDGE

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Date   *May 20,* April 25, 1986

Before Revelation
The Boundaries of Muslim Moral Knowledge

A thesis presented

by

Arthur Kevin Reinhart

to

The Committee on the Study of Religion

in partial fulfillment of the requirements
for the degree of
Doctor of Philosophy
in the subject of
The Study of Religion
Harvard University
Cambridge, Massachusetts
May 1986

Abstract

Between the 4th and 7th Islamic centuries, Muslim students of dialectical theology (*kalām*) and of principles of jurisprudence (*uṣūl al-fiqh*) debated a set of issues linked to the question: assessment of an act before the arrival of the *shar*^c?" Our thesis is that what seems here to be a straightforward debate between "Revelationists" and "Rationalists" is more properly understood as a debate among proponents of various theories of Revelation.

This dissertation defines the controversy and presents the several positions taken: that pre-Revelational acts are to be described as proscribed, permitted, or as impossible to assess. A brief doxography discusses the participants in this debate and attempts to account for divergences of opinion *within* legal and theological schools.

Further, we attempt to locate this question against a background of the evolving Islamic legal sciences in the second, third and early fourth Islamic centuries. One particular problem, that of the obligation to "thank the benefactor," is investigated in depth, and it is shown that the debate on this topic is really a debate between those defending an archaic pre- and early Islamic idea (the Mu^ctazilī theological school) and those defending a new understanding of God and His message.

Two translations are included here also. The first, a translation of a section from al-Jaṣṣāṣ's "principles of jurisprudence" work, *al-Fuṣūl*, defends the notion that before Revelation useful acts have the status "permitted". The second translation, from al-Ghazālī's work *al-Mustasfá*, argues that such acts cannot be assessed before Revelation since the only grounds for assessment are Revelational

indicants (*dalīl al-sharᶜ*).

Two other chapters discuss two Muᶜtazilī moral ontologies and their epistemologies, and criticism of them by other Muᶜtazilīs as well as Ashᶜarīs and Ḥanbalīs.

Finally we describe the *sharīᶜah* epistemology and suggest that it is best understood as a consciously developed alternative to the Muᶜtazilah moral epistemology previously discussed.

For Anne:

Nun hast du mir den ersten Schmerz getan[*].

---

[*]Adelbert von Chamisso, "Frauenliebe und Leben," viii; set to music by Robert Schumann.

Before Revelation:

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Acknowledgements

It is a pleasure to acknowledge the many persons and institutions that have made a contribution to this dissertation.

I

II

The staff of the Dār al-Kutub library in Cairo were never anything but helpful both in locating and in microfilming manuscripts. Gunay Kut and the staffs of the Sulimaniyye, and Ahmad III libraries in Istanbul were indulgent of a frenzied American trying to see if several particular manuscripts were present in their wonderful collections. The Turkish Ministry of Foreign Affairs in Anakara was likewise sympathetic and granted a research visa in what must have been record time. I could not have moved a step in the realm of bureaucracy, however, without the kind support of Professor Figan Ünlü, who together with her aunt Mrs. Uzer were the absolute incarnations of Turkish kindness, generosity, and the firmness and efficiency of Turkish womanhood. Qāḍī Ismaᶜīl al-Akwaᶜ, Director of the Yemeni General Organization of Antiquities and Libraries permitted me to use the remarkable manuscript collections of the Western Library of the Great Mosque, and Muhammad al-Akwaᶜ custodian of the Gharbiyyah Library supervised my work there. To both I am most grateful. Dean Elizabeth Patullo, was the Fulbright officer for Harvard during my time abroad, and she did as much as anyone could have to make my research time smooth and productive. Finally, I am grateful to the staff of Library of Congress in Egypt who cheerfully mailed back an absurd number of books, and who helped me find printed materials that a novice to Cario book-buying could never otherwise have hoped to acquire.

I have benefitted more than I can record here from friends and col-legues during my time in graduate school. At the risk of omission, I wish particularly to mention my collegues at Dartmouth who during my time here have shown me models of that impossible combination -- resposible teaching and first rate scholarship. Muhsin Mehdi was a formative teacher and has given me much good advice on dissertations, particularly in steering me away from bad topics, over the years.

The remarkable Patsy Carter and her staff at the Baker Libarry Inter-Library Loan department never flinched at obscure requests whose titles were blotched with dots and dashes; she helped me more than anyone else in using Dartmouth as an Islamics research library. I cannot thank her enough. Similarly, John Crane, Sue Marcoulier and their staff in Circula-tion have done me many kindnesses, and have often caused me to recall that librarians can be the most humane of workers in the humane sciences.

Alan Wylie made it possible to use the troff formating system for something other than what it was designed to do, namely, to transcribe Arabic. He helped me to wrestle the troff-formatting system to a draw, and without him this dissertation would look much worse than it does. I particularly recall with pleasure Jon and Jan Mandaville who provided a warm home in the hostel in Ṣanᶜā'. This is also my first chance to record my gratitute to John Williams, my first teacher of Islamics, who in addi-

tion to procuring books for me in Cairo, demonstrated an attitute of respect and affection toward Islam and Muslims that I aspire to emulate. Debts to first teachers are impossible to discharge except by emulation. Jane Smith has been my advisor at Harvard, and was never afraid to be friend or Dutch aunt by turn, depending on what I needed at the time. In the trackless waste of institutional life, she was a lodestar more often than she knew. Frank Vogel helped me immensely by procuring two important manuscripts for me from the Dār al-Kutub and al-Azhar.

I cannot thank Emily Bryant anything like enough for all the help she gave me, particularly in these last desparate months. Not only did she give unstintingly of her time and expertise on the UNIX system, but in many other domains as well she was a cheerful voice of common sense and rationality. Carl Ernst, has been a delightful colleague throughout my time at Harvard, and found me a wonderful lithograph *uṣūl* in India. William Graham has likewise been a stimulating teacher, conversation partner, and employer since 1975. Aron Zysow, too has been a very helpful senior colleague in a difficult field; I look forward to a fruitful future of scholarly collaboration with him.

On a more personal note, John and Ineke Carman have made the Center for the Study of World Relgions the stimulating academy and warm home that it has been for me during the time I lived in Cambridge. John, as dissertation reader, Center director, dean and friend has shown me

kindnesses too numerous to mention. Most of all, he is among the most stimulating discusssants I know; I have never left a conversation with him that I have not jotted something down on a piece of paper to mull over afterwards. Everett Rowson has also been an exciting and stimulating person to talk to; I have learned a lot from my time spent with him in Cairo and Cambridge. Jim Laine has been a real intellectual and moral soulmate these many years; talking to him never fails to make me recast some idea I had mis-apprehended. He and his wife Joy Laine have been particularly staunch friends in this last difficult year.

Anne Royal's family have been kind, supportive, and generous -- more so than I could ever have expected, and my debt to them will never be repaid. I am grateful too to my own family, and particularly my patient parents who have humored me in this enterprise since they took me to Turkey as a high school student, and then gave me my first copy of Han's Wehr's Dictionary for my birthday in 1971.

Finally, no student could hope to have more careful and attentive readers than I have had in Wolfhart Heinrichs and Wilfred Cantwell Smith. Both have been inspirations and models to me during my graduate school years, and I have profitted enormously from their erudition and counsel while writing this dissertation.

Despite the help and wisdom of these friends, and more besides, I am conscious that there remain in this dissertation many errors; they are entirely my own.

This dissertation is dedicated to my late wife Anne Royal, who during our life together was my closest friend, and closest colleague, as well as all the other things one hopes for in a wife. Every part of this dissertation reflects her stimulating mind, her high standards, and the many kindness she did me. Her death came during a trip taken to celebrate the completion of her dissertation, and I deeply wish that she could be with me now to celebrate this dissertation's end. During that trip she told me for the first time of Schumann's "Frauenliebe und Leben" cycle, which she promised to sing for me when we returned from Prince Edward Island. Her death was certainly the first and only pain any of us suffered from knowing her, and that pain continues as I reflect on the loss not only to myself, to her friends and family, but to scholarship as well that her death occasioned. *Qur'ān 3:145.*

Preface

This dissertation was to be the first chapter of another dissertation:
one on the five assessments (*hukm*) that are characteristic of Muslim moral
thought. That other dissertation, however, could go nowhere until the sec-
tion on the definition of the *hukm* was completed, and that chapter grew
and grew into a separate dissertation — this dissertation, and even this one
is substantially trimmed from the design of only a few months ago.

Why has a preliminary chapter been allowed to aggrandize itself so?
The answer lies in the previously unrecognized centrality of the concept of
assessment or *judgment* or *evaluation*[1] to the Islamic endeavor. There are
only two religious figures in official and universal Islam: the *qāḍī* (judge)
and *muftī* (jurisconsultant), and their characteristic activities are assessing,
judging, evaluating. Yet this fact is not be itself enough to explain the
importance of the topic, until it is realized that in these activities the *muftī*
or *qāḍī* replicates, imperfectly to be sure, a divine activity, for God is not
only the Judge at the end of time, but is the Assessor before time begins;
His Word inlibrate in the *Qur'ān* is evidence of His assessments — evidence,
I should say, for discovering His assessments. Thus to judge, evaluate, and

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[1] all three translate aspects of the word *hukm*, though the activities of *qāḍī*s
and *muftī*s are also called *qaḍā'* and *iftā'*. Here the word "assessment" is the most
frequently used translation of *hukm*, since it conveys the notion of an exterior
agent's action, and is not syntactically ambiguous as "judgment" can occasionally
be.

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assess, is to collaborate sacramentally in an activity with God — one of the few moments — in the Islamic understanding — when humankind can emulate and even participate in a divine activity.

That metastasized chapter in that first dissertation was to have begun with a problem regularly encountered in "principles of jurisprudence" (*uṣūl al-fiqh*) works in the section where the nature of the *ḥukm* is explained. It is: What are the assessments of acts before the arrival of Revelation[2] — are they "permitted," "proscribed," or is there "no assessment" possible? Gradually it became clear that this particular question was only a single part of a complex of questions: Whether there is an obligation to thank a benefactor before there is Revelational stipulation to that effect; whether utility is a sign of "goodness;" whether the mind can independently assess act; whether the quality of an act (goodness for instance) is necessarily connected to its operational assessment (obligatory for instance); and finally, whether the goodness of an act arises from an intrinsic quality of that act or from something extrinsic to it. This complex of problems I have, for convenience, called the "before Revelation" complex of ideas, since all of these issues can

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[2]Throughout this dissertation, I use the word "Revelation" to translate both *samᶜ* and *sharᶜ*. The use of the same word might seem to obscure important textual distinctions, but despite inquiry into this matter, I am unable to justify textually a distinction between them as they are used in the texts. I am inclined to speculate, however, that *samᶜ*, the word preferred by our earliest source, al-Jaṣṣāṣ, refers to the audited historical descent of the *Qur'ān* and behaviour of the Prophet as related in *ḥadīth*. *Sharᶜ*, by contrast, suggests Revelation understood as an ordination or stipulation. To go beyond this speculation will require further study.

be debated in the context of the discussion of pre-Revelational acts.

The great puzzle, as I found more and more texts, was why this debate occurred at all. Surely the value of acts before Revelation was irrelevant in a post-Revelational world? It became clear however from the vehemence of the discussion that important matters were at stake in here -- nothing less, I argue, than the natures of Revelation and morality themselves, and particularly at issue is the confluence point of Revelation and morality -- the *sharīᶜah*.

Time, space, and circumstance have constrained the scope of this dissertation, as no doubt all dissertations are constrained, and extensive sections on doxography, and the meaning and history of the concept "*sharᶜ/sharīᶜah*" have had to be postponed. Nonetheless, the dissertation as it stands attempts to establish three points.

(1) That despite their differences, for both the major moral theoretical schools to whose works we have access -- the (Baṣran) Muᶜtazilah and various groups within the People of (the Prophetic) Norm and Solidarity (*Ahl al-Sunnah wa-Jamāᶜah*) who opposed them -- the structure of an act of moral knowing was the same: an interplay of circumstance and Revelational signs that allowed the correct assessment of an act to manifest itself to the inquirer.

(2) That these two groups differed not on "Revelation versus Reason," (both groups esteemed both sources of knowledge), but on what the corpus of Revelation understood as the collected indicants of moral knowledge, was. The Mu'tazilah, drawing on *Qur'an*ic references affirmed not only a supernatural Revelation consisting of moral indicants preserved in *Qur'an* and *hadith*, but also, in effect, a natural Revelation in which signs could be found in the interaction of the mind and the act or thing being assessed.

(3) The seeds of this disagreement and all of the topics of later scholarly debate around this complex are to be found at an early date (at least the late 2nd century) in Islamic history[3], suggesting that this controversy is best understood as arising from the within very structure of Islamic moral thought, although to be sure there were inherited influences from Greek, Jewish and Christian sources. With these latter, however, we are not here concerned.

Having now at last written the first "chapter" of the original study, it is my hope that the rest of that effort will follow more speedily.

The dissertation has the following form:

A first chapter that presents the problem, a brief doxography and a quick

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[3]This assertion is documented in chapter two in the discussion of the permissability of *nabidh*, and chapter five on al-Muzani's implicit use of an ontological argument.

sketch of the three answers proposed to the problem.

A second chapter demonstrating that the issues underlying this complex of debating topics is found at a very early date in diverse sources.

A third chapter on another of the standard problems in the complex, thanking the benefactor, showing the ancient nature of the Mu𝑐tazilah position and the novelty of that of their opponents.

In a fourth chapter we present a translation from manuscript of the earliest surviving discussion of this problem, together with a brief commentary.

The fifth chapter is a detailed and technical discussion of Mu𝑐tazilī moral ontology and epistemology. This is followed in turn by a sixth chapter comprised of a translation of what seems to me the most elegant and coherent critique of Mu𝑐tazilī moral thought, from the *Mustasfá* of al-Ghazālī, together with a commentary.

The seventh chapter is a detailed overview of the critique of the Mu𝑐tazilī by their opponents.

The last substantial chapter is a description of what I take to be the alternative to the moral theory of the Mu𝑐tazilah, namely, *sharī𝑐ah* epistemology.

In such a broad essay as this where so many of the sources crucial to understanding the debate have been lost, and where so much of what we are trying to do is make visible what Muslim scholars un-selfconsciously

presumed, there is necessarily a certain amount of speculation. In this first essay, I have tried to do justice to the profundity of Muslim science, and the rigor of Muslim controversialist's discussions, but of course I am aware of having fallen short of the standards these scholars have set.

Ḥasabanī llāh, wa-naʿama 'l-wakīl.

Abbreviations

The following abbreviations will be used. Full citations for all works
cited will be found in the bibliography.

1) **Baḥr** = al-Zarkashī, *al-Baḥr al-Muḥīt*

2) **Mughnī** = al-Qāḍī ʿAbdaljabbār, *al-Mughnī*
followed by
volume, and page number, sometimes
line number.
Thus "M13:250:13" is
al-Mughnī, volume 13, page 250, line 13.
A reference to a different page or
line number, when the previous page
or volume is the same, is abbreviated
with a simple colon (:).
Thus ::13
would be *same* volume, *same* page,
line 13.

3) **Masāʾil al-Khilāf** = Abū Rashīd al-Nisābūrī,
Masāʾil al-Khilāf bayna al-Baṣriyīn wa-l-Baghdādiyīn

4) **EI-2** = *The Encyclopedia of Islam, 2nd edition.*

5) **ṬU** = *al-Marāghī's Ṭabaqāt al-Uṣūliyīn*

When there is an extended discussion of a particular text, references to page
and/or line numbers may be placed in the body of our discussion.

Other abbreviations in the footnotes will be self-explanatory.

Transliteration

Transliteration is standard Library of Congress form, with the follow-
ing modifications:
(1) *alif maqṣūrah* is represented thus: á. The *ta marbūṭah* is represented
with an "h." Rather than using the Arabic plural, we have opted for a
final "s" after the Arabic singular: Thus the plural of *ḥadīth* is *ḥadīth*s
not *aḥādīth*; of *ʿaql* the plural is *ʿaql*s, not *ʿuqūl*.
(2) Compound names are written together, with the "sun letters" phoneti-
cally transcribed, rather than transliterated. Thus: **Fakhraddin**

ar-Rāzī rather than Fakhr al-dīn al-Rāzī or Fakhraldīn al-Rāzī.

(3) In the names of persons referred to by their *kunya*'s, the pseudo-*alif* of the second element is dropped. Thus Abū l-Hudhayl rather than Abū al-Hudhayl. Finally, some technical terminology is used here. For reasons explained in the text, *ᶜaql* and products of the root *sh-r-ᶜ* are often untranslated. The word Revelation is used to refer to *sharᶜ*, and *sharīᶜah*, and sometimes also to *Qur'ān* and *ḥadīth*.

Chapter I

The Problem:

The Assessment of acts and allied controversies

1. Introduction

In the study of Islamic thought, a taxonomy of arguments and a dox-ography of those arguments' proponents is not sufficient to explain the "meaning" of a topic discussed in the literature. What is lost sight of is that many of the topics debated were "things to think with," or *camerae obscura* by means of which controversial or delicate matters could be regarded without fear of injury. To understand these controversies — predestination, the createdness of the *Qur'ān*, and many others — they must be viewed, if the metaphor may be permitted, through an intellectual tele-scope that magnifies and brings together both background and foreground; otherwise, the point of these fierce discussions is missed, and students of Muslim thought are reduced to mere heresiographers.

Once it is noted that the central activity of the Islamic legal domain is judging, assessing etc., it must be noted also there there is an anomoly — one that attracted considerable Muslim attention: that while, on the one hand, it is God alone who establishes assessments (*aḥkām* plural of *ḥukm*), that is, it is God alone who is Assessor (*ḥākim*)[1] , He has nonetheless

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[1] al-Qarāfī, *Tamyīz* p. 26

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seemingly entrusted a large area of assessing to His bondsmen: by a vow, an act ordinarily assessed as "recommened" can be made "obligatory[2]," and a man may establish nearly anything to be the occasion (*sabab*) for a divorce or manumission[3]. In similar fashion, God has entrusted a group distinguished by their scholarship and probity with the assessment of acts in general, and these are the judges and jurisconsultants who constitute the Islamic religious elite[4]. Furthermore, while these mortal assessors are attempting to assess in parallel with God's assessments, it is recognized that one can do no more than *suppose* that the assessment arrived at conforms to the transcendent assessment of the act or thing under consideration[5]. Humans are thus licensed to make assessments, while guided only by an uncertain knowledge of what it is God commands in the circumstances. Muslims, in effect, wondered: Is this difficulty a novel one in human history?

Reflection on this uncertainty together with other more practical uncertainties, led to the development of a problem-complex that is the topic of this dissertation: the assessment that properly belongs to an act before

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[2]ibid p. 26-27

[3]ibid p. 27

[4]ibid p. 28

[5]Reinhart, "Islamic Law.." p. 192

2

the "arrival" of Revelation.

In order to grasp what is at issue, however, it is necessary to see both background and foreground. ·It is not a difficult matter to set forth the history of the debate, its controversialists, and its development over time; that is the bare task of this first chapter. To *understand* this debate, however, one must attend to the assumptions of the debate, the background which, as the foreground is more carefully examined, looms ever larger. Everything that follows the first chapter, then, should be understood as a preliminary attempt to describe that background.

2. The Problem

A typical formulation of the problem with which this dissertation is concerned is found in al-Khaṭīb al-Baghdādī's *Kitāb al-faqīh wa-l-mutafaqqih*:

> Scholars disagree concerning [acts] from which it is possible to benefit before the arrival of the shar^c. Among them there are those who say that [these acts] are [recognizable by humans as] **proscribed,** [by God] so that it is not permitted to benefit from them, nor to perform them. Among them are those who say that [these useful acts] are **permitted,** since whoever believes a thing permitted for him may use it and possess it. And among them are those who say that it is something **in suspension** (^{c}*alā l-waqf*): it may not be determined that it is either *permitted* or **proscribed.**[6]

This passage is typical for a number of reasons. First, in his report, al-Khaṭīb does not make clear whether those who say that an act before the

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[6]p. 217

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shar^c is proscribed are claiming that the act is in fact proscribed by God and perceptible as such before Revelation, or whether it is claimed that these acts are proscribed but that proscription is known *subsequently* by Revelation. Second, the phrase here translated as "before the arrival of the *shar^c*" — *qabl^a wurūdⁱ l-shar^c* — can mean "before the *shar^c* arrives," "before it is met with[7]," or "before it takes effect[8]." From this text of al-Khaṭīb's then, it is not clear whether what is at issue is whether acts are proscribed, for instance, before the historical event of Revelation, or before one knows of Revelation, or before some Revelational command comes into effect. This lack of clarity is seldom corrected, and I suspect that all of these senses of the phrase are in some way being argued.

Finally, this text is typical in that the possible positions on this problem are divided into three: "permitted" "proscribed" and "no assessment." By way of introduction to the topic, it is therefore expedient to organize the discussion with reference to these three positions on the question of "acts before Revelation." The presentation below will be grouped by these rubrics, which were used already by the earliest surviving source for this

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[7]Wehr 1060

[8]For this usage see for instance the chapter heading, Abū l-Ḥusayn, *al-Mu^ctamad* 2:573: permissibility of an act of worship being-in-effect by [a command whose evidence is] a unique report (*jawāz wurūd al-ta^cabbud bi-akhbār al-āḥād*).

discussion, Abū Bakr al-Jaṣṣāṣ, and which were consistently discussed
throughout the literature. The three positions recorded are

(1) That the use of things (possibly excluding things necessary for life)
before the coming of the *shar^c* is **forbidden**, and therefore things and
acts before Revelation are presumed to be *maḥẓūr*, proscribed. Pro-
ponents of the *ḥaẓr* position, the "proscribers," prove this argument by
stressing that it is God's permission that makes something "permitted,"
and God's command that makes something "obligatory." In the absence
of information as to God's command, things, on the analogy of illegiti-
mate usufruct, may be assumed to be proscribed. These people tended
to argue not only that we can in hindsight recognize these acts as pros-
cribed, but these acts could be recognized as proscribed before ever
Revelation arrived. In this the "proscribers" are somewhat more expli-
cit than their opponents[9].

(2) That the use of things whose assessment is not otherwise known, is
permitted or indifferent (*mubāḥ*)[10], although some acts that <u>before</u>

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[9]Note that it is not denied that one may use *^{c}aqlī* (mental, rational etc. See
below, chapter five) intuitions of a thing's qualities as signs indicating moral
knowledge.

[10]Both terms can translate the Arabic word. The difference between them is
of course crucial since one requires a Permitter, and the other is simply outside of
the system of moral evaluation. Although in general I would say the Mu^{c}tazilah
thought of *mubāḥ* as meaning something close to "indifferent," for consistency I
have generally used the term "permitted," regardless of who is speaking. *Caveat
lector*.

Revelation fall into the "permitted" category may change their status
after Revelation. Proponents of this position derive their argument
from a perception of acts as being in some sense intrinsically "good" or
"detestable," and from use of both *ʿaql* and perception of utility as
valid indicators of moral knowledge. To so argue also implies a con-
tinuity between the method of moral knowledge before and after Reve-
lation. In so assessing, these scholars in effect vitiated the uniqueness
of Revelation by making it one source of data among others, rather
than an epistemologically unique event with unique significance.

(3) That the very notion of the "assessment" or "judgment[11]" of acts
implies Revelation: that it is God's <u>act</u> of Revelation that effects judg-
ments of acts. On such an account, acts before Revelation simply can
have no moral quality or qualification whatsoever. They have **no**
assessment (*lā ḥukmᵃ lahu*)[12].

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[11]On the difficulties of translating this term see Watt, *Formative Period* p 230

[12] There is a fourth position, namely, that there is not enough information to
determine whether acts have moral status before Revelation, or that acts <u>may</u> have
such status, but what the assessment of an act might be cannot be known until
after Revelation. Thus the knowledge of the act's assessment is **in suspension**
(*ʿalá l-waqf*). We will not be discussing the *waqf* position here as it seems rather
insignificant. In addition to the brief mention in the al-Ghazālī translation (para.
103), the reader may consult *Baḥr* 18b–19a

2.1. History of the discussion: Overview"

There is evidence that the questions that make up the "before Revela-
tion complex" are discussed in a period before we have any surviving text.
An early discussion by al-Shāfiʿī(d.204/820)[13] suggests that ʿadl (justice)
consists (only?) of obedience to God: "Justice is to act in obedience to God;
thus [one] has the means to knowledge of justice and what is contrary to
it[14]." Al-Shāfiʿī's disciple, Aḥmad b. Ḥanbal (d. 241/855) is asked if one
can use [for prayer] the Torah or Injīl "if he esteems it good[15]." Al-Nāshī'
al-Akbar (d.293/906) discusses the question of whether someone who
assents at the beginning of the [Islamic] summons is a mu'min "before the
descent of the specific obligations (qablᵃ nuzūl al-farā'iḍ)[16]." Yet beyond
these fragmentary reports of positions taken, there is no way to trace the
development of this particular question. When first met, the discussion is
already in its mature form[17]. What can be presented with certainty is only

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[13]section 71 cited by Hourani in "Two Theories" p. 274

[14]He also takes what seems to be the original "proscribed" position when he
says, "There is consensus that the one made-responsible may not undertake to do a
thing until he knows the assessment of God concerning it." (Baḥr 20b:4)

[15]Masā'il Aḥmad, Riwāyat Isḥāq al-Naysabūrī p. 45 no. 257. "'Uff Uff,' said
Aḥmad. 'Is this the question of a Muslim?' And he grew angry."

[16]Kitāb al-Awsat, Section 121 page 103 in van Ess, Frühe Muʿtazilitische
Häresiographie

[17]i.e. in the Uṣūl al-Jaṣṣāṣ

what is present in surviving texts: both the positions of the authors them-
selves and positions attributed by them to others whose works are now
lost.

2.2. Doxography

The history of this particular complex of problems is no doubt
interwoven with the development of the whole science of *uṣūl al-fiqh*.
Clearly, the most important developments occurred in the Islamic 300's, a
period from which there are very few surviving texts. Nonetheless it is
possible in a few pages to list the participants, if not the subtleties of their
position on the topics that form the complex of problems that is the topic
of this dissertation.

The earliest discussion of anything that seems relevant to this problem
is two statements attributed to Abū Ḥanīfah: that when in doubt one can
consult the Books of the other scriptuary peoples[18] and second, his state-
ment that everyone can know of the existence of his Creator[19]. If, as seems
probable, these statements are not genuinely Abū Ḥanīfah's, nevertheless
they are early records of a general concern with questions of innate human

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[18]al-Zinjānī, *Takhrīj* p. 369. This position is also attributed to ʿUmar b.
al-Khaṭṭāb cited in Juynboll *Muslim Tradition* p. 26 from Sachau's edition of Ibn
Saʿd III/I/243.

[19]*Baḥr* 16b:34; attributed to Murjiʾites by Aḥmad b. Ḥanbal in Abū Yaʿlá
al-ʿUddah 183A. See also *Uṣūl* of al-Shāshī p. 32.

moral knowledge and with the boundaries of Revelational signs.

The first figure to whom a position on this matter is reliably attributed is Ibn Surayj (d. 306). Judging from the fact that it is a cluster of his contemporaries and students who are recorded to have held opinions on thanking the benefactor and the status of acts before the *shar*^{c}, it seems probable that if not the originator or formulator, he was at least catalytic in the discussion of these questions. Ibn Surayj held the opinion that the useful act before the *shar*^{c} is "permitted."

At around the same time as Ibn Surayj was active among the Shāfi^{c}īs in Baghdād, the two Jubbā'īs Abū ^{c}Alī (d. 303) and Abū Hāshim (d. 321) were the most prominent scholars of their time in Baṣrah. They too held that the useful act was "permitted" before the *shar*^{c}, but they defended their position from a Mu^{c}tazilah perspective. In direct lineage from them we have the works of Abū l-Rashīd al-Naysābūrī (d. after 400), Abu l-Ḥusayn al-Baṣrī (d. 436), and al-Qāḍī ^{c}Abdaljabbār (d. 415). Also influenced by Baṣran Mu^{c}tazilī doctrine was al-Sharīf al-Murtaḍá, (d. 436) and other Imāmī Shī^{c}īs.

Meanwhile, in Baghdād, Ibn Surayj seems to have stimulated considerable debate and partisanship on this question; on his side (the "permitters") there were also al-Ṣayrafī (d. 330, perhaps a "permitter" for only a brief time), al-Qaffāl al-Shāshī (d. 365) Abū Ḥāmid al-Marwazī (d 362), Abū

ᶜAlī b. Khayrān (d. 320), al-Iṣṭakhrī (d. 328) -- all Shāfiᶜīs, Abū Bakr al-Jaṣṣāṣ (d. 370) and perhaps many Ḥanafīs, Abū 1-Faraj, a Mālikī, and Abū 1-Ḥasan al-Tamīmī (d. 371), a Ḥanbalī.

Holding the position that useful acts were proscribed before Revelation, were the Baghdād Muᶜtazilah in general, including al-Kaᶜbī (d. 319), as well as a surprising Ḥanbalī school consisting of Ibn Ḥāmid , the Qāḍī Abū Yaᶜlá, and with Abū ᶜAbdallāh al-Zubayrī (a Shāfiᶜī) Abu ᶜAlī b. Abī Hurayrah (d. 340) and al-Abharī (d. 375) who was a Mālikī.

Finally, the holders of the position that there were "no assessments" before the *sharᶜ* include al-Ashᶜarī (d.324), al-Ṣayrafī (d.330) (later in his career), al-Bāqillānī (d.403), Ibn Ḥazm the Ẓāhirī (d.456), and the majority of Shāfiᶜīs. By the 500's, no one except the Imāmī and Zaydī Shīᶜīs, and perhaps some Māturīdīs are defending any position other than the "no assessment" one.

A much longer account of the doxography of this dispute remains to be written, but several facts will emerge in fuller form from such a study.

The *first* is that no prior knowledge of legal or theological school affiliation (eg. Shāfiᶜī Ḥanbalī Ashᶜarī Muᶜtazilī etc.) allows us to predict with certainty what position a given scholar might hold. The Muᶜtazilah seem consistently to be permitters or proscribers, but our sources on this matter are not reliable enough to know if there were not Muᶜtazilī "no assessment"

renegades on this issue. This diversity is particularly remarkable among the Shāfiʿīs, for whom all three possibilities seem to have been options in the 4th and early 5th Islamic centuries. No less is this the case for the Ḥanbalīs, who harbored no-assessors, permitters and proscribers. It is only toward the end of the Islamic 400's that a consensus begins to emerge, a consensus denying that moral knowledge exists outside the *sharʿ*. The sophisticated arguments of al-Juwaynī and al-Ghazālī nail down the last bit of this controversy, but the discussion seems already ending by the beginning of al-Ghazālī's scholarly career.

During the period of diversity however, there are two significantly different ways of looking at moral knowledge, and these two views influence one's position on the complex of questions with which we are concerned. The first depends upon how one assesses the present world, as a whole, and the second depends upon where one looks for signs. There is some correlation between positions held on these two issues.

Is the world trustworthy? That is the question that divides the proscribers from the no-assessors and the permitters. The proscribers are epistemologically and attitudinally suspicious of the world; it is a place in which it is easy to go astray, even perhaps when acting in accord with the demands of one's physical nature: eating, moving, breathing. Baghdādī Muʿtazilah and Ḥanbalīs are generally mistrustful of the world, and from

what we can reconstruct of their argument (see below) they mistrusted the pre- and post-Revelational worlds nearly equally: *wara^c*, scrupulosity, was a central practical principle for their legal interpretations, rulings, and their legal procedures[20]. In an untrustworthy world the corpus of signs is necessarily limited to the most reliable of them. It is not surprising that the proscribers are willing to use the intellect prudently to be wary of acts on which there is no guidance from Revelation; even after the *Qur'ān*, the corpus of signs is strictly limited to the Revelation -- the *Qur'ān*, the *ḥadīth* of the Prophet, and the actions of the charismatic early generations after him.

Their "permitter" opponents on the other hand see the world as a benign place, and so both before and after Revelation they have a certain trust in the world and its signs and its practices. Al-Jaṣṣāṣ goes so far as to see the moral status of humans as unchanged by Revelation -- he uses the same terminology to refer to moral agents before and after the *Qur'ān*[21]. Revelation in fact is only an augmenting set of signs, not distinguished, except in content, from the other sources of moral knowledge in the world.

Finally, in what we demonstrate below to be a Muslim triumphalist position, the moral world before and outside of Revelation does not, for the

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[20]See below on al-Ka^cbī and Abū Ya^clá.

[21]See below, chapter four

no-assessors, exist. There are no signs in the world that could lead to moral knowledge but there is no cause for suspicion of the world either. Revelation is understood by these people to be the *sine qua non* of moral life and without it there simply are no assessments possible.

Each of these three positions requires a longer treatment to understand their implications and arguments. We will present them in what we suspect, based on the doxography above, to be the order of their appearance.

3. Permitted (Mubāḥ)

3.1. Context of the argument

To say that something is "permitted" (*mubāḥ*) before the *sharᶜ*, without audited Revelation (*al-samᶜ*), is to assert that moral assessments are not dependent upon Revelation; therefore humans may use some other source or means for coming to moral knowledge beside the Revelational. This is the position classically attributed to the Muᶜtazilah of Baṣrah, the Karrāmiyyah, the Imāmī Shīᶜah, and a few Shāfiᶜīs, Mālikīs and even a Ḥanbalī[22].

An argument for the permitted position — that of al-Jaṣṣāṣ — is translated and commented upon below. Other than that text, there seem to be only two surviving sources defending the permitted position: the

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[22]See for instance *Baḥr* 16a and 16b, *Rawḍah* 22, *al-Musawwadah* 473; *Mankhūl* 8

Dhari̅ᶜah of al-Shari̅f al-Murtaḍá[23] (d.438) and the *Mu̅ᶜtamad* of Abu

l-Ḥusayn al-Baṣri̅ (d. 436)[24]. Even a quick glance is enough to confirm that

the placement of this argument is consistent among the "permitters." In

each case the discussion of acts before the *sharᶜ* is in the latter part of the

book, after the discussion of the material sources of moral knowledge, the

Qur'a̅n and *ḥadi̅th*; in each case this discussion is connected with issues of

legitimate knowledge from extra-Revelational sources. In the *Fuṣu̅l* of

al-Jaṣṣāṣ this discussion comes in the last half of the work[25] at the end of

the section on "historical information (particularly about the prophet)

(*akhbār*), subsequent to the discussion of abrogation, and directly after a

discussion of the unique character of the Prophet's acts: was he a *mujtahid*,

for instance. Immediately following the section with which we are con-

cerned is the section on consensus (*ijmāᶜ*), and after that the discussion of

the use of analogy in legal knowledge. Judging from the placement of this

argument it seems clear that in discussing "the assessments of acts before

the arrival of Revelation," al-Jaṣṣāṣ is asking whether there is a source of

knowledge that predates or stands outside the *sunnah* and the Book. For

him it is clear that *ᶜaqli̅* knowledge carries less weight than even a

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[23]The argument is located at 805ff

[24]868ff.

[25]folios 212b-215b out of 331

"uniquely transmitted tradition," but the power of innate human faculties to know or infer moral values is at least as important as consensus.

Abū al-Ḥusayn al-Baṣrī locates his discussion of this matter in nearly the same place: he concludes his section on Consensus, and follows that with a discussion of various kinds of "historical information" -- their various kinds of authentication, and their harmonization. This is in turn followed by a section on analogical reasoning (qiyās) and inquiry into a novel legal problem (ijtihād). For Abu l-Ḥusayn it is only after having discussed the relatively uncontroversial sources of sharīʿah-knowledge that "proscription and permission" (ibāḥah wal-l-ḥaẓr) before the sharʿ can be discussed. He ends his book with a description of the qualifications necessary for one to give legal responsa to novel cases (fī l-muftī wa-l mustaftī), that is, the least epistemologically certain undertaking in which a legal scholar takes part. As Abu l-Ḥusayn is a generation later than al-Jaṣṣāṣ, it is tempting to see in his moving of the argument still farther toward the back of the book, proof that ʿaqlī knowledge was in his mind of less account than it had been for others a generation before.

Al-Sharīf al-Murtaḍá follows *his* section on consensus with a long section on qiyās. There follows then a separate section on ijtihād, (which has a more elevated status in Shīʿī than in Sunnī legal thought[26]) at the

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[26]See Modarresi *Introduction* p. 6; also on the elevated status of the ʿaql, see p. 4.

conclusion of which he places his discussion of "prohibition and permission," the section with which we are concerned. This in turn is followed by a section on what can be known from silence, namely "negation and continuity-of-status [of the previous judgment]27."

The consistency with which these permitters located their discussion of this complex of problems within their compendia of legal-methodological knowledge, suggests that the *non-Revelational sources of knowledge* that were thought to provide information of the acts' assessment "before the arrival of the *shar*c*" -- the mind, habit, custom, utility -- were understood to be subordinate to those sources discussed at greater length in preceding sections: the *Qur'ān*, the *ḥadīth*, etc. Still, for the permitters, those means by which humans might know the judgment of an act before Revelation are still signs, legitimate sources of knowledge, and are not categorically different from the supernatural Revelational ones.

3.2. The Meaning of 'Permitted'

It should be mentioned that the term *mubāḥ* was not without ambiguity; the question of what the term *"mubāḥ"* meant was an controversial one. It was a point of dispute not only between the Muctazilah and their opponents, but also among themselves as well. The three surviving texts

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27*al-nāfī wa-l-mustaṣḥib li-l-ḥāl; hal calayhimā dalīl am lā? Dharīcah* p. 829

from proponents of the "*mubāḥ* position provide somewhat different

answers to the question of what *mubāḥ* means[28].

Al-Jaṣṣāṣ defines *al-mubāḥ* as "that for the doing of which the one

made-responsible (*mukallaf*) does not deserve reward, nor punishment for

the avoidance of it..[29]." Abū al-Ḥusayn al-Baṣrī defines *al-ibāḥah* as "some-

thing the existence of which is not preferred to its non-existence in terms of

deserving (*yastaḥiqqu*) reward and blame[30]," as something having no attri-

bute other than "goodness" that causes it to be deserving of praise or

reward" (1:364), or, as being something that "God has permitted and *indi-*

cated to us its goodness (*ḥusnih*)[31]... The *mubāḥ*-thing is described as legiti-

mate (*ḥalāl*) and unrestricted (*ṭilq*)[32]. Significantly, Abu l-Ḥusayn also

says that "the permitted" is something about which *there is no assess-*

ment"[33]. Thus for Abu l-Ḥusayn the ontological aspect of the "permitted"

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[28]See also the argument of al-Kaʿbī reported to the effect that *al-mubāḥ* is in fact *wājib*. al-Shāṭibī *Muwāfaqāt* 1:124: al-Qarāfī *Iḥkām* 3:5

[29]tr. of al-Jaṣṣāṣ paragraph 2. Note the curious idea that there are *mukallafs* before Revelation.

[30]*Muʿtamad* p. 78. On *Istiḥqāq see below chapter five section 3.5, and chapter seven section 1.4*

[31]1:366:12

[32]ibid ll. 13

[33] *fa-hiya anna l-afʿālᵃ minhā mā lā ḥukmᵃ lahu ka-l-mubāḥāt. al-Muʿtamad* 370:7.

is its freedom from qualities other than "goodness"; its "consequential"

aspect is its separation from reward and blame; epistemologically, it is that

about which nothing distinguishing is known. Given such definitions, it is

not surprising that Revelational absence, or silence, about a useful act marks

that act or thing as "permitted."

Al-Sharīf al-Murtaḍá describes "the permitted" in the following

fashion:

> The definition of "al-mubāḥ" includes affirmation (ithbāt), negation
> (nafy), and a link (taᶜalluq) with something else.

> The affirmation is [the act's] being good (ḥusnuh); the negation is that
> there is neither praise nor blame nor damage in it; the link is that the per-
> son made-responsible is informed, or this is indicated to him from [the
> act's] situation (min ḥālih)... [Thus the "permitted" is to be distinguished]
> from other acts, because by its being good [the act] is distinguished from
> the detestable, and from what is neither good nor detestable. Inasmuch as
> there is no harm in [doing] it, and neither praise nor blame, it is dis-
> tinguished from "being recommended" (al-nadb) and the obligatory
> (al-wājib). By [its] link [to a situation], it is distinguished from the good
> that takes place [solely by the action of] God most High. [God's acts] have
> no attribute other than being good, such as consequentiality (istīfā'
> al-ᶜiqāb)[34], because it is inconceivable that God most high be informed or
> indicated to. [And by its "link", al-mubāḥ is similarly differentiated
> from] the acts of animals and cases similar to these[35].

For all three authors "mubāḥ" has a common core meaning. Since a

"mubāḥ" act is one devoid of a sign of its detestability, it seems that for the

permitters "mubāḥ" actually meant something like indifferent, permissible,

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[34]Literally "discharge or fulfillment of consequence"

[35]Dharīᶜah p. 805

and no specific act of permitting was necessary to make the act licit.

3.3. Argumentation

In al-Jaṣṣāṣ we see a simpler, less ontologically grounded, more legalist argumentation than is that of the later theologians Abu l-Ḥusayn and al-Sharīf al-Murtaḍá.

Al-Jaṣṣāṣ defines the categories of acts in terms of punishment and reward, rather than using the characteristic Muʿtazilī criteria of praise and blame. He argues that some acts are manifestly obligatory and proscribed, and then goes on to argue that when usefulness outweighs harm, the act is to be considered permitted, i.e. for doing it there is no reward nor punishment for either doing or not doing it. The sign of an act's assessment is the ʿaql's perception of detestability and good; the legal classification (proscribed or obligatory) is secondary or derivative from the more affective or aesthetic classifications "good" (ḥasan) and "detestable" (qabīḥ).

It is a noteworthy part of al-Jaṣṣāṣ's argument that acts belonging to the intrinsically prohibited/obligatory class are consistently so <u>across the boundary of Revelation</u>. Revelation cannot make them other than what they were before it. Therefore the domain of Revelation's action is limited to those acts that are indifferent/permitted before Revelation's coming[36].

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[36]al-Jaṣṣāṣ para. 8c.

For al-Jaṣṣāṣ, utility is a sign of permittedness, because it is God's intention that the thing be used for the benefit of those to whom it might be of use. The argument in justification of this (esp. para. 9) is essentially a deductive one in which a principle of creation's benignity is invoked to "prove" that a useful thing cannot be harmful and is therefore permitted. From fact that God must provide an indication of detestability if the thing is harmful (12), al-Jaṣṣāṣ deduces the knowledge that the absence of a sign is itself a sign of an act's permittedness/indifference. His argument is that creation is a sign, and since creation exists from the beginning, so too does moral status, so much so that he dares to use the word "made-responsible" (mukallaf) for a person before the coming of the samᶜ (i.a. 32).

Abū l-Ḥusayn al-Baṣrī represents the intellectually more sophisticated tradition of the Baṣran Muᶜtazilah as articulated by the two Jubbā'īs and Qāḍī ᶜAbdaljabbār. Abu l-Ḥusayn's account is, like that of other Baṣrans, designed to justify the "permitters" while taking into account the variability of acts according to circumstance[37].

Abū l-Ḥusayn's clearest justification of the "permitted" position is straightforward and reasonable[38]:

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[37]See below chapter five section 3.2

[38]al-Muᶜtamad. bottom 868 top 869

> Our proof that the use of edibles is permitted by the ʿaql is that the use of them is a usefulness in which there is no aspect (wajh) of detestability. Everying of this sort — its goodness is known. The rationale (ʿillah) for the goodness of things of this sort is that the usefulness summons to the deed and permits it, for it is a goal (gharad) of a sort. If all aspects of detestability are eliminated, there remains only what would indicate goodness . . . If there were something reprehensible (mafsadah) in it, God would give indication of it.

Like al-Jaṣṣāṣ he sees creation as fulfilling a purpose that can only be use by humans (872:5ff).

The abyss that separates Abū l-Ḥusayn from his Shāfiʿī/Hanbalī opponents is made clearest in the chapter on "The varieties (fuṣūl) of methods (ṭuruq) of sharʿī assessment (879ff). Surprisingly he says (line 2) that "there is no escaping that for sharʿī assessments [one must follow] either the ʿaqlī or the sharʿī method". That is to say, one can by ʿaqlī methods come to sharʿī assessments. As chapter five below demonstrates, Abū l-Ḥusayn is making his argument in a context of a very sophisticated ontological and psychological theory.

In this uṣūl text of his is the Baṣran "permitted" perspective in a nut-shell: Analyzed, the distinctive elements are (1) an equivalence of samʿ and ʿaql as sources of knowledge[39] (2) an ontological quality underlying the assessment (the wajh as link) (3) utility as a characteristic suggestive of ontology, a sign as it were, (4) Permitted as meaning "free of

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[39]869:7

harm/detestability" rather than "permitted by a permitter" (5) a calculus
of value wherein the possible harm is weighed against good and (6) an
assumption that God indicates the nature of things by means extrinsic to
Revelation.

It is clear that for al-Sharīf al-Murtaḍá the ontology of the act is like-
wise important for understanding how a useful act (about which one might
have no other information) is to be assessed. His definition of "the pros-
cribed thing" (al-maḥẓūr) is straightforwardly affective: "[Al-Maḥẓūr] is
the detestable thing (al-qabīḥ) which the one made-responsible knows, or it
is indicated [to him] to be thus from its condition (min ḥālih)[40]." Using this
principle, to know the "good" one seeks a manifestation of detestability in
the act; if it is missing, then the act cannot possibly be "proscribed." There-
fore, when al-Sharīf al-Murtaḍá comes to the discussion of "what is sound
to make use of when there is no harm to anyone in [using] it" (808:8ff) it
follows clearly that there is no cause for the useful thing to be other than
permitted (mubāḥ): The act is "permitted" because, having benefit and no
harm, it has the attributes of mubāḥ; the knowledge that it is good to do it
is, immediate (ḍarūrī), as is the knowledge that what is oppressive (ẓulm) is
detestable. No one really denies this principle, it is only that they suppose

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[40] *Dharīᶜah* p. 808.

the act harmful, and what is harmful is of course detestable[41].

The most important point in this section of al-Sharīf al-Murtaḍá's work is his statement that "the knowledge [that it is good to do the act] is immediate". That doing it is permissible follows from innate knowledge that, what is good and free of harm, is permissible, and Revelational silence (because Revelation has not yet come) is not moral silence because of the knowledge innately present in the ᶜaql. So assessing as useful act in the absence of Revelation is done by following a kind of formula: Is there Revelation?; if not, is the act useful?; if so, is there also something harmful about it?; if not, then the act is good, and so, permissible. Thus when discussing "the useful act before the sharᶜ," it is a question of knowledge that is at issue: whether Revelational silence is filled by other sources of knowledge. Al-Sharīf al-Murtaḍá says that that silence is filled, and that the root of all judgments about acts is the innate knowledge found in the ᶜaql[42]; an assessment based solely on ᶜaqlī knowledge is not categorically different from a sharᶜī assessment which is dependent also upon ᶜaqlī knowledge: both depend upon this common source, this innate and indubitable mental data.

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[41]Dharīᶜah p. 809-810

[42] It is inescapable concerning every type of the judgments of acts [that it has] a immediate root in the ᶜaql. La budda fī kullⁱ nawᶜ min aḥkāmⁱ l-afᶜālⁱ min aṣlⁱⁿ ḍarūriyyⁱⁿ fī l-ᶜaql. (808:16-17)

In terms of ontology al-Sharīf al-Murtaḍá holds the typical Muʿtazilī position that what is absolutely free of the attribute "harm" has the status "mubāḥ. His epistemology — that every assessment of an act has an immediate source in the ʿaql[43] — is a product of his theology of Revelation: God informs humans of the harmful nature of an act. This is made most clear when al-Sharīf al-Murtaḍá says:

> [There is no harm for performing the useful act before the sharʿ comes, be-cause harm in the afterlife] is chastisement. But the negation (intifāʾ) of punishment is known by the absence (faqd) of the samʿ, by which [knowledge of the punishment] must come, were it established (thābit[an])[44].

Therefore, he concludes, the useful act is "permitted[45]."

These three "permitters" of various kinds — an Eastern Ḥanafī, a Baghdādī Imāmī, and a Basran Shāfiʿī — all saw God as by His silence per-mitting what He had not somehow made obligatory or forbidden. To assess an act, one for which Revelation has provided no assessment (either because it has not come or has not spoken to the act in question) one seeks a way to characterize the act that amounts to <u>a sign</u> to the ʿaql of God's evaluation of that act. The recognition of an act as wrong-doing (ẓulm), for instance, is a

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[43]Dharīʿah p. 810

[44]Dharīʿah p. 813.

[45]But as we shall see, from just this very fact that there is no knowledge of recompense for performing an act, his opponents drew the conclusion that the act is not "permitted;" it is not characterized in any way at all.

sign that it is *maḥẓūr*, since the *ᶜaql* detests (*yastaqbiḥ*) that particular act of wrong-doing as it detests *all* acts of wrong-doing.

Three implications of the **permitted** position seem clear:

(1) That a consequence of arguing that the *ᶜaql* is a source of moral knowledge is that Revelation is devalued, since there are other "signs" that supplement the *samᶜ* and allow one to make valid inferences about the moral qualities of acts.

(2) That the world itself is evaluated more positively by those holding the "permitted" position, since the mundane world is declared morally licit, with the presumption being that an act has been affirmed as good and acceptable in the absence of evidence to the contrary.

(3) That in the Muᶜtazilī view, God has tipped His hand at creation. Lies, for instance, have been made detestable and cannot be changed to "good" by Revelation or even perhaps by circumstance[46]. The consistency of the world is what makes it knowable, and the lie, once known as such, is by that knowing, recognized as detestable and hence

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[46] See Jaṣṣāṣ translation section 8b

proscribed.

4. Proscribed

To the best of my knowledge, only one text — the *ʿUddah* of Abū

Yaʿlá — survives from those who held that acts in the absence of Revelation

were proscribed (*maḥẓūr*). It is regrettable that we do not have a surviving

source from the other stronghold of the proscribers, the Baghdādī

Muʿtazilah, whose leader was Abū l-Qāsim al-Kaʿbī (d.319/931). We do,

however — in effect — have a record of some of the Baghdādī positions

recorded in the arguments of Abu l-Ḥusayn. It seems reasonable to suppose

that some of the counter-arguments to the positions Abu l-Ḥusayn is

defending, especially when they are clearly not strawmen presented to

advance his argument, must be those of an opponent defending the pros-

cribers' position. I think it is reasonable to suppose that these positions are

those of the Baghdādī Muʿtazilah, and for convenience I will refer to this

interlocutor as al-Kaʿbī[47].

The most notable difference between al-Kaʿbī and the other Muʿtazilah

was that he and the Baghdādīs defended the notion that useful acts before

the *sharʿ* are proscribed. In this argument he was successful in ways not

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[47]Though it is clear from *Masāʾil* that there were later developments by the
Baghdādīs after al-Kaʿbī's day. 355:15

yet fully understood. It does appear that he influenced the more rationally oriented of the Ḥanbalīs, including Ibn Ḥāmid who then trained Qāḍī Abū Yaʿlá and Ibn ʿAqīl.

From his sole surviving manuscript it is clear that al-Kaʿbī's general stance was a pietistic skepticism of every source of knowledge[48]. He prefers to exclude the uncertain source however useful and is an acid critic of the too-lax standards of most transmitters of *ḥadīth*, however useful and enlightening a particular text might be. Just so, in *uṣūl* he prefers to defend the implausible position that the performance of useful acts, according to some sources including even breathing, is proscribed before the *sharʿ* arrives with permission.

It is easy to see what some speculatively inclined Ḥanbalīs would have found attractive about a position emphasizing rigor over license, and one that while defending the commonsense notion that the *ʿaql* does rate some things as obligatory and proscribed, does not allow the performance of an act merely because of its usefulness. What arguments does he adduce in support of this position?

The *ḥaẓr* argument for him amounts to the assertion that the *presumptive* assessment of an act must be its proscription, because of the <u>possibility</u>

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[48] *Qabūl al-Akhbār wa-maʿrifat al-rijāl* Dār al-kutub ms *muṣṭalaḥ al-ḥadīth* m 14; and see Juynboll *Muslim Tradition* pp. 165-7; 169-76; 193-6.

of harmfulness in a thing[49]. His argument rests upon just the sort of suspicion of sources with which al-Ka'bī's name is associated: "Just as the possibility of an story being a lie suffices to [establish] its detestability," he says (ibid) so too the possibility of an act's being corrupt establishes its detestability[50]. The notion that the manifested aspect (wajh) of an act reveals its ontology, which as we shall see below is characteristic of Basran moral epistemology, is turned against the Basrans here. Al-Ka'bī argues that the possibility of an act being corrupt is that aspect (wajh) of the thing that requires the assessment of prohibition[51]. An important aspect of the Ka'bian argument and an idea easily compatible with Ḥanbalī rigor is that the 'aql is not self-sufficient, in his own words, "the 'aql is not to be separated from the shar' or the sam'[52]." In other words, contrary to the Basrans' urging, the 'aql misleads and is not to be trusted without the shar'.

4.1. Hanbali 'Proscribers'

Before discussing the position of the large majority of 5th century and subsequent scholars — namely that there is no ḥukm that is morally

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[49]Abu l-Ḥusayn, al-Mu'tamad 869:8ff

[50]see also 870:14

[51]872:3-16

[52]873:2, 14.

significant on any matter before Revelation -- an unsuccessful position on the question should be discussed.

Improbable as it may seem, al-Kaᶜbī's position was shared by a group of theology-minded Ḥanbalīs in Baghdād, led by the esteemed Abū Ḥāmid, but followed by, according to the sources, Qāḍī Abū Yaᶜlá and others. Abū Yaᶜlá's position is actually a bit difficult to discern, but from his work it is possible to reconstruct part of a non-Muᶜtazilī ḥaẓr position.

In his *al-ᶜUddah*, Abū Yaᶜlá'(d. 458 h.)[53], straightforwardly argues what must have been by his time the archaic position that what is not mentioned is forbidden; hence, what is useful but not necessary is proscribed before the *sharᶜ* arrives. Exceptions are made for those things which, if humans were deprived of them would result in bodily harm. But as the world is God's property, permission is necessary to use it. The exception for necessities is justified as preventing harm to God's other property, namely ourselves.

In the *ᶜUddah*, the differences between the "no assessment" position and the "permitted" position that scholars like al-Ghazālī assume are dismissed as trivial: both positions imply *no harm* for acts performed with

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[53]on Abū Yaᶜlá see *Ṭabaqāt al-Ḥanābilah* of Ibn Abī Yaᶜlá, 2:193ff. I am very grateful to Frank Vogel who provided a copy of this very important work -- the *ᶜUddah* -- in manuscript. I now find that this work has recently been edited, but the edited version stops just before the section with which we are concerned.

out *sharᶜī* sanction (186b). Abū Yaᶜlá urges a middle position on the question of *ᶜaqlī* capability (ibid) since one <u>can</u> know the reprehensibility of ingratitude and the unicity of God by means of the *ᶜaql*. It is not possible to say that such knowledge as that is Proscribed. Rather, he argues, the question applies to things that could be *either* Proscribed or Permitted, such as eating pork or mutton (ibid).

He then depicts a person created alone, knowing nothing of *sharᶜiyāt*. There are fruits and goods: are these things, as far as this Robinson Crusoe is concerned, Proscribed or Permitted before the *sharᶜ* comes with an indication? His answer is: these things are Proscribed. His argument is that all created things are the property of God because He created them, and one may not use the property of another without his permission: the indication (*dalīl*) of that is that the things of humans may not be used by any of them without permission of the owner (ibid).

This much of the *ḥaẓr* argument is found also in the anti-*ḥaẓr* sources. What is not elsewhere found is the Proscribers' rebuttal to critical arguments advanced by their opponents. Here Abū Yaᶜlá's text is invaluable.

In a somewhat unclear section, Abū Yaᶜlá asserts that "a *sharᶜ* cannot be separated from *ᶜaql*, otherwise a given thing could be understood to be both proscribed and permitted." Abū Yaᶜlá asserts that if the *sharᶜ* requires *ᶜaql*, so too does the *ᶜaql* require *sharᶜī* information — otherwise there is no

ground for the assessment. In other words, he assumes that a deductive
(*°aqlī*) principle, prudence, is required as an *a priori* before either *°aql* or
shar° are invoked [54].

Further, against the permitters, he points out that some useful things
are in fact proscribed (pork and wine) and God may have created these
things as a test (187b)[55]. For Abū Ya°lá, the notion of useful things given
as tests reflects an image of an untrustworthy world in which humans *may*
be held responsible for acts they do unwittingly, through carelessness.
Vigilance and suspicion are constantly required.

Every anti-*ḥaẓr* text from al-Jaṣṣāṣ onward smugly presents as
decisive the argument that God is not harmed by use of His creation and so
His permission is not required. Yet when it is objected in standard fashion
that it is damage to the <u>owner of property used</u>, not use itself that is for-
bidden, Abū Ya°lá replies that it is in fact <u>damage to the actor</u> that necessi-
tates the proscription of the use of another's property in this case, since he
will be harmed in the next world for his transgression[56]. Abū Ya°lá also

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[54]bottom 187a top 187b

[55]Though al-Ghazālī uses a similar argument (para. 99), the force of the argu-
ment is different here because of the different context. For al-Ghazālī the point of
this alternative explanation is simply to demonstrate the incapacity of the *°aql* to
come to knowledge that accords with *shar°ī* assessments.

[56]He does not elaborate on how it is known that there will be such punish-
ment in the next world. This inclines me to think that he is really interested in
acts *after* Revelation about which there is no textual information.

demonstrates (187b) that it cannot be damage to the owner that is at issue, since if a man had hundredweights of money, the theft of a *dirham* would not *harm* him, but it is still forbidden to take that *dirham* without his permission. Abū Ya'lá makes short shrift also of the argument against the Proscribers that if the *ḥaẓr* position were accepted, it would follow that breathing and moving about from place to place would be forbidden.

> As for breathing air and moving [in different] directions, let [us] consider the occasion (*waqt*). If there is need, he may do it because the permission[57] has been obtained for it as far as the *'aql* is concerned[58]. Its equivalent is that one [may be] forced to [eat] the food of another; it is permitted to him because the *'aql* does not prevent that, just as the *shar'* does not prevent that in case of need. If there is no need, it does prevent it[59].

Need justifies exceptions in both the *'aql* — which is all one has before Revelation — and in the *shar'*.

He similarly dismisses the counter-argument that his *ḥaẓr*-position would proscribe kindling a light from someone else's fire, or resting in the shade of someone's wall. Abū Ya'lá points out that neither the fire nor shade *per se* are anyone's property[60]. So the argument that creation is God's

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[57]reading *idhan*

[58] *min jihat l-'aql*; also used on page 188a.

[59]It is noteworthy that Abū Ya'lá reports that some would proscribe eating etc. even in need because of the harm one does to God's property. Top 188a.

[60]187b

property stands, with modifications, and Revelation constitutes the sole permission for its use.

Clearly implied is the notion that there *is* moral life before the *shar^c*, based upon knowledge of the *^{c}aql*. Subsequent to Revelation, we come to know that the *^{c}aql* is irrelevant *at that time* for making moral assessments, but that is something not known before the arrival of the *shar^c* (188a).

To the objection that "before the *shar^c*" has no meaning since there is always Revelational knowledge available — Adam having been both first man and first Prophet — Abū Ya^{c}lá cites Aḥmad b. Ḥanbal who said that such prophetic knowledge is interrupted from time to time[61]. Abū Ya^{c}lá's understanding of this gnomic utterance is that there are times in which there is no perduring *shar^c* but only people of knowledge who try and transmit the *shar^c*.

The *ḥaẓr* (proscribing) position seems an absurd extremism, especially if first encountered in sources hostile to this perspective: a prohibition of useful things, perhaps even breathing and moving from place to place[62] seems untenable from the start.

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[61]188b. "Aḥmad said.. who in each time of no messengers caused people of knowledge to perdure." *al-ḥamd^u li-llāh^i l-ladhī ja^{c}al^a fī kull^i zamān^i fatrat^{in} min^a l-rusul baqiyy^{an} min ahl^i l-^{c}ilm.*

[62] *Baḥr* 18b

Yet like all the arguments here discussed, this one must be set in its context: For the proscribers, their position reflects a heightened perception of the world's corruption, a sensibility for which the prime virtue to be cultivated by the pious is *wara^c*, scrupulousness. For the early followers of Aḥmad b. Ḥanbal, one's obligation was to eschew anything whose licitness according to the strictest understanding was not established. This pietist stance is well known in Sufi circles, but was equally well established in rigorist Muslim circles not particularly friendly to Sufism[63]. It is in this context that the strange argument of the Proscribers must be seen. To my knowledge, the only surviving *ḥaẓr* text is the *^{c}Uddah* of Abū Ya^{c}lá[64].

In sum, the *ḥaẓr* position is designed to safeguard the authority of God as an assessor of acts. In the course of the argument, however, the *shar^c* comes to be understood as the authorizer par excellence, and the world is conceived of not as indifferent, but unauthorized and dangerous until Revelation arrives with God's assessment of the act.

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[63]see Aḥmad b. Ḥanbal *Kitāb al-Wara^c* and EI2 "Ibn Ḥanbal". For Sufis see Schimmel *Mystical Dimensions*

[64]The actual stance of Abū Ya^{c}lá is not clear in this text, but he faithfully reproduces others' *ḥaẓr* arguments at great length. The *Kifāyah* (unchecked) must have similar arguments. It is notable that he argues against the *^{c}aql* having any evaluative role, in his *kalām* work, the *Mu^{c}tamad* (see p. 21).

5. No assessment

It is unfortunate that there seems to be no surviving discussion of the topic by the "no assessment school" from the period before the "Golden Age" of *uṣūl* work, the Islamic 400's[65].

5.1. A short history

We would like here to discuss some of the background of the position often identified with the Ashʿarīs, namely that useful acts before the *sharʿ* have no assessment (*lā ḥukm*)

Ideas later characteristic of the Ashʿarī position on this question can be found much earlier than the first full discussion of their position[66]. Hourani, in his search for the roots of "theistic subjectivism," has found the following in al-Shāfiʿī's *Risālah*:

> Justice is to act in obedience to God; thus [humans] have a way to knowledge of justice and what is contrary to it[67].

From this statement Hourani infers that al-Shāfiʿī held not only that God commanded the good, but that the good was understood to be what-God-

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[65]al-Jaṣṣāṣ does not take the "no assessment position seriously, it seems, and does not report their argument at any length. See para. 28ff.

[66]The earliest surviving text seems to be the work of al-Khaṭīb's quoted above section one.

[67]*Risālah* section 71; cited in Hourani "Two Theories" p 274.

commanded.

There seems to be no surviving textual evidence of continuity between al-Shāfi'ī and later Ash'arī *kalām*. Yet given the rapid transmission of al-Shāfi'ī's thought to Baghdad, where figures like Aḥmad b. Ḥanbal and Dawūd al-Ẓāhirī identified themselves with al-Shāfi'ī and his positions, it is likely that some nascent form of "good-is-what-God-commands" was in currency among non-Mu'tazilah in the middle to late 3rd century.

It was not only Ash'arīs who held the "no assessment" position, however. Later Ḥanafīs like al-Samarqandī defend this position and are critical of the Mu'tazilah[68]. Nonetheless, it is with the Ash'arīs that the "no assessment" position is usually identified. The role of al-Ash'arī himself in the development of this argument is far from clear. His position on thanking the benefactor is known, and will be discussed below. In addition, in a famous passage from his *Kitāb al-Luma'* he argues that a lie is detestable

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[68]*al-Mīzān*, 7bff. Nonetheless, the eponym of Ḥanafī theology, al-Māturīdī, is said to have held a medial position: that *ḥusn* and *qubḥ* are linked necessarily to *wajib* and *maḥẓur* (and the latter may therefore be known before Revelation) but the *obligation* to act or refrain from acting is not in force for those who would otherwise be responsible until Revelation. *TU* p. 1:182. This position accords nicely with the Ḥanafī theory of competence (*ahliyyah*). See Reinhart "Islamic Law"

There is probably enough material available to reconstruct in more detail the Māturīdī position on this argument. See the partial argument in *Sharḥ Musallam al-Thubūt* p. 25-62. I have also checked the printed version of the *Kitāb al-Tawḥīd* of al-Māturīdī and the *Sawād al-A'ẓam* of Abū l-Qāsim al-Samarqandī, but neither discuss the issue at length. An investigation of 5th and 6th century Māturīdī manuscript works would be necessary.

only because God made it detestable "and if He had esteemed it good, it would be good, and if He had ordered [us] to it, there would be no gainsaying him[69]." It seems that the position that holds that there is no moral knowledge before Revelation has its roots deep in Islamic intellectual history, going back at least to the late 2nd/early 9th century. Certainly by the early 4th Islamic century, the argument that there is no assessment of an act without supernatural knowledge, together with its supporting constellation of counter-arguments and proofs, was well-formulated and defended.

The earliest *full* account of the "no assessment" position seems to be that of al-Khaṭīb al-Baghdādī (d. 436) who, immediately after the chapter on 'continuity of status' (*istiṣḥāb al-ḥāl*), discusses the "assessment of things before the *shar*[70]." Though al-Khaṭīb identifies himself with the *waqf* ("in suspension") position[71] the phrase for him means the same as "no judgment[72]," since his argument is the standard one that the *shar* is the

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[69]al-Ashʿarī *Lumaʿ*, section 170. See also pages 98-99 where he argues that "the good is what He ordered them to do or commended them for doing and permitted to them."

[70]*Kitāb al-faqīh wa-l-mutafaqqih* p. 217ff

[71] *wa huwa al-ṣaḥīḥ.* p. 218

[72]al-Ghazālī and others allude to an agnostic *waqf* position, that says "we can't know if there is or is not a *ḥukm* for acts before the *shar*," but there is no surviving text of which I am aware that defends this position. See note on *the waqf position* above 1st section.

sole source of permission or denial. Without the *shar^c* the terms "proscribed and permitted" do not apply. "Its *hukm* is in suspension until the arrival of the *shar^c*.[73]" He emphasizes that the *^caql* does not judge -- not even on the immorality of usufruct without permission: "the taking of possession [of a thing not owned] by mankind: it is forbidden <u>by the shar^c</u> (*bi-l-shar^c*) to make use of that thing without the permission of its owner, not by the *^caql* (*dūna l-^caql*)."

Al-Khaṭīb al-Baghdādī objects to the idea that utility might be a "sign" that indicates judgment. He argues that utility does not establish permission, because a useful thing, even if forbidden, is not necessarily futile (*^cabath*), but it could be a test, or its purpose could be to indicate God's creation of it (khāliqihā). What the purpose of that thing is cannot be said, since we cannot assign ultimate causes (*^cilal*) to God's actions.(218-19.)

It is noteworthy that for the Ẓāhirī Ibn Hazm (d. 456 h.), as well as for most of the later Ash^carīs, the discussion of this problem is located in the in <u>prolegomena</u> of his work. For these later scholars such problems do not belong beside the discussion of "real" sources of signs -- the *Qur'ān* and *hadīth* -- but rather they are strops against which to hone their preliminary

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[73]*hukmuh^u mawqūf^{un} ^calá wurūd al-shar^c*. p 218

definitions of the *ḥukm* itself. As part of the process of describing the
nature of the *ḥukm*, these scholastics generally spend a bit of time deriding
other defintions of the *ḥukm*; how better to catalog alternatives than to dis-
cuss the term *ḥukm* abstracted from time and history? This complex is then
moved into the definition section of the *uṣūl* work, and it comes to precede
the actual discussion of the *ḥukm*'s derivation from the sources.

The possibility of knowing depends on knowing where to look, and for
the non-Muʿtazilah, especially the Ashʿariyyah, knowledge of "where to
look" for the *ḥukm* is provided by first defining what the *ḥukm* is: a locu-
tion (*khiṭāb*) of the *sharʿ*. Accordingly, Ibn Ḥazm denies that the judg-
ments of the *sharʿ*: ibāḥah, [wājib] and *ḥaẓr* can be found elsewhere: specif-
ically not in the *ʿaql*[74]. "We do not say that the permitting of a thing
(*ibāḥat^u -l-shay'*) or its proscription is in the *ʿaql*; in it is only the distin-
guishing of existents according to how they are (*ʿalá mā hiya ʿalayhā*) and
[the ability] to understand the locution (*khiṭāb*)." It is clear that this is not
like Ibn Ḥazm's putative leader, Dāwūd, a denial of any value to the *ʿaql*
whatsoever[75].

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[74]*Iḥkām* p. 54

[75]on Dawūd's denial of the *ʿaql*, see *Uṣūl al-Jaṣṣāṣ ms. 229 folio* 237b:2-4. For
Ibn Ḥazm's high valuation of the *ʿaql*, see 1:62 and following.

Ibn Ḥazm, rather, denies the epistemological method of al-Jaṣṣāṣ, and asserts a minimalist definition of the various *ḥukm*s: namely that they are to be understood in relation to divine reward and punishment. Without Revelation there can be no knowledge of reward and punishment, hence no evaluation of acts (54). Further, he denies "continuity of status" between the times before and after Revelation, arguing that God has indeed created things (passions, for instance) that He has (subsequently) proscribed:

> [God] has created in us passions that effect wickedness from (*taqtaḍī ityān al-fawāḥish*) every beautiful woman we see and every handsome youth, and drinking wine in gardens, and taking everything the lower soul (*nufūs*) deems good, and rest (*rāḥah*), and ceasing to oppose the heathen (*ahl al-shirk*) by the sword, and sleeping through the prayers on hot noondays, and cool (*qarrah*) luncheons: then He forbade all of these to us[76].

Ibn Ḥazm's belief in the decisive nature of Revelation is most clearly seen in his account of a virtuous hermit who is a moral paragon in every respect but that he never hears of Muḥammad except in the context of lies and the attribution of evil characteristics to him; when he dies uncertain of, or in denial of Muḥammad's mission, "is not his fate everlasting, eternal, permanent Fire, without end?" By contrast, a corrupt Jew or Christian, innocent of no sin and who has fought against Muslims: if he should become convinced of the mission of Muḥammad, and cleanse himself of all religion (*dīn*) save Islam, and then die, "is he not of the people of Paradise? (56)..." Many indubitable Islamic truths — e.g. the special status of

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[76]Ibn Ḥazm *Iḥkām* 1:55

Muḥammad and of the other prophets are not found in the ᶜaql; how then can one expect to find permission and proscription, esteeming good and detesting? these things await what God has send down in His Revelation (waḥyih), period (56)."

Moreover, in a point that seems not to have been much discussed[77] Ibn Ḥazm argues that since Adam, first man, was a prophet, the entire assertion of the need for ᶜaqlī judgments in the absence of the sharᶜ is pointless (59). Ibn Ḥazm also discusses maturity: If it were permissible to remain without sharᶜ, (Adam's prophecy and others ignored) our judgment would be like our judgment before we attain puberty (59)" — of no moral significance. "The condition of [one whom the sharᶜ has not reached) is as the condition of one who has not reached the threshhold (ḥadd[78]) of being made-responsible (taklīf) until he reaches maturity (62)." Those to whom the sharᶜ has not yet been transmitted, though it has arrived in the world, are morally incapacitated, morally minor, morally incompetent.

For the non-Ashᶜarī Shāfiᶜī Abū Isḥāq al-Shīrāzī, this discussion provides an opportunity to discuss various matters of interest, including the question of the value of "the sharᶜ of those before us". His major

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[77]not surprisingly, since "before Revelation" is an excuse to argue certain more significant things.

[78]or limit.

discussion of "acts before Revelation," is toward the end of his *Kitāb al-Lumaᶜ*, where it would be expected in a Muᶜtazilī work[79]. That is, it comes after the discussion of *Qur'ān* and *ḥadīth*, in the chapter on juristic analogy (*qiyās*), and immediately after the section on other somewhat marginal or suspect forms of knowledge e.g. *istiḥsān* (juristic preference).

For Abū Isḥāq, the question of "acts before Revelation" is of concern -- to judge from its location in his book -- because it might be considered a legitimate form of knowledge. For Abū Isḥāq as a good Shāfiᶜī, the boundaries of legitimate knowledge end with *qiyās*.

It is clear that Shāfiᶜīs in Abū Isḥāq's time held various positions on the matter[80], because he says the matter is one of disagreement "among our colleagues". After sketching the various positions, he supports the "no judgment" position: "else, for what did the *sharᶜ* come (69)?" He adds, "and why is it possible that the *sharᶜ* come with *ibāḥah* one time and *ḥaẓr* another? This indicates that the *ᶜaql* does not compel -- in this -- either proscription or permission." Here we have the first evidence of the criticism of Muᶜtazilī ontology that it is more *rigid* than is reasonable. The *ᶜaql* must perceive consistently, yet a given act -- in the light of the *sharᶜ* -- can be

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[79]Pages 68-70.

[80]See above, section 2.2

permitted in one circumstance where another circumstance requires its prohibition. Abū Isḥāq follows this section with a discussion of Revelational silence and the role of "continuity-of-status" in that.

5.2. The Nishapuri's: al-Juwayni and al-Ghazali

In the work of the great Ashʿarī theologians and legalists al-Juwaynī and al-Ghazālī, a change in the method of argument appears. The position defended is still that of *tawaqquf* (suspension) or *lā ḥukmᵃ lahu* (no assessment), but now the defense is more formal, more philosophic (*falsafī*).

With these grand masters of Ashʿarī *uṣūl*, a subtler criticism of the Muʿtazilī position begins to take shape. The fault of the Muʿtazilah, say al-Juwaynī and his pupil al-Ghazālī, lies not in asserting that the ʿaql makes assessments, but in suggesting that those assessments are what we would call moral assessments. The ʿaql is reconceptualized by the Ashʿarīs and is understood to be not a collection of knowledge, but an instrument for discrimination and recognition of possibility[81]. Thus for them it cannot be itself an *aṣl*, a source of knowledge as the *Qurʾān* is a source but it is a tool used to manipulate the data of the world and Revelation. Nonetheless, it does evaluate and in that sense makes "judgments." These *ḥukm*s made by the ʿaql are not linked to reward and punishment in the hereafter, or

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[81]See chapters two and five below.

obedience and rebellion here on earth. They are rather, as al-Ghazālī makes clear[82], mere prudential evaluations of situations, and so cannot be the equivalent of *shar⁽ī* assessments: Self-interest cannot be synonymous with morality[83].

5.2.1. al-Juwayni and the Burhan

Al-Juwaynī's difficult work, the *Burhān*[84] is a turning point in the history of the "no assessment" position, for he concedes the power of the *⁽aql* to make assessments, but he and his student al-Ghazālī understand the *⁽aql* to be something quite different from the "collection of knowledges" described by the Mu⁽tazilah[85].

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[82]see the *Mustasfá* translation below, paragraph 39ff

[83]In their description of the Mu⁽tazilah, it is striking how ill-informed these great scholars are, and particularly in their emphasis on (putative) Mu⁽tazilī beliefs that the *⁽aql* is a determiner (*ḥākim*). They distort the position of their opponents, and seem on the whole, not to understand the "circumstance" (*wajh*) position of the Basrans. Something of this distortion has been observed by the editor of Fakhraddīn al-Rāzī's *al-Maḥṣūl*: see 1:1:185 penultimate paragraph. But see below in the chapter on criticism of the Mu⁽tazilah where it is clear that Amidī and others were familiar with this argument.

[84]called by al-Subkī "the riddle of the *ummah*"(EI-2 2:605); Subkī *Ṭabaqāt* 5:192

[85] On Mu⁽tazilah theories of the *⁽aql* see below chapter five. See his discussion in the *Burhān* 1:112 where (following al-Muḥāsibī) he says that the *⁽aql* is a "natural disposition (*gharīzah*) by which one perceives things known (*⁽ulūm*); but [these things known are not] from [the *⁽aql*]". And again on 113: that it is an "attribute by which, if established [in a person] one comes to things known through inquiry (*⁽ulūm al-nazariyyah*), and their preliminaries (*muqaddimāt*) of the indubitable kind (*ḍarūriyyāt*)."

Al-Juwaynī begins by suggesting that *ḥasan* and *qabīḥ* are *judgments of the sharᶜ*, but he immediately adds that they are grounded (*rājiᶜān*) in command and prohibition. He further concedes that the *ᶜaql* also assesses things as "good" and "detestable"[86]. Unlike Abū Isḥāq al-Shīrāzī, for instance, al-Juwaynī's supporting argument, by which he enviscerates his opponents' position, rests on the ontological proposition that "a thing is not "made detestable" of itself (*li-ᶜaynihi*)[87].." in the assessments of God.

Al-Juwayni is aware of the novelty of this argument and he attributes this formulation, which uses the ontological terminology of the Muᶜtazilah themselves, to al-Qāḍī al-Bāqillānī (89). In the first part of this argument he attacks the idea that moral knowledge is known immediately (*ḍarūratᵃⁿ*). He offers the observation that some people disagree about moral assessments, which could not be the case if they were truly the product of immediate knowledge, and hence shared by all *compotes mentis*. *ᶜAqlī* assessments must, therefore, be speculative, and the speculative technique is thus subject to the criticisms particular to that realm (p. 90). To emphasize his epistemological differences from his opponents, he points to the different results of his epistemology, as opposed to that of his opponent.

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[86]*al-Burhān* volume 1 p. 87.

[87]*Burhān* p. 87

> Therefore we say that causing pain to beasts and to children for which
> there is no recompense, and which does not follow upon some previous
> desert, is [to be accounted] "good," [while causing pain] in this cir-
> cumstance (*wajh*) is [according to the Mu'tazilah], detestable, by the im-
> mediate knowledge of the *'aql*[88].

Clearly al-Juwaynī's contribution to the discussion of this complex is to

grant that the *'aql* does make some judgments, but to deny that its assess-

ments have anything to do with what is meant by the phrase "assessments

of God" (*ahkām*" *llāh* (91)). Living as he is in a period in which Mu'tazilī

fortunes have declined, he is not afraid to point to discomforting results of

the process (that causing pain is "good" really, though not rationally) since

the paradox of God's chastising children (for instance) has become an

indisputable dogma. For al-Juwaynī, real determination of value, *shar'ī*

determination, has no connection with what is meant by *hukm* in the case of

the *'aql*. We can see here most clearly a separation of knowledge into dif-

ferent domains: the religious and the intellectual, the mundane, the

worldly.

> The right course (*al-maslak al-haqq*) as we see it in this, unites the good
> parts of the contradictory schools so as to smooth them out. [And so] we
> say: We do not deny that rational capacities (*al-'uqūl*) require their "own-
> ers'" to avoid destructive things, and to utilize possibly-useful things, ac-
> cording to their particularities. Rejection of this is to go beyond the ra-
> tional, but this is with respect to humans. Yet discussion of our topic is
> oriented toward what is declared detestable or good in the *hukm* of God

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[88]p. 90. That is, the Ash'ariyyah understand non-Muslim infants to be eter-
nally punished; and the causing of pain to animals by hunting or slaughtering
them to be acceptable, since in their view both these positions are affirmed in Reve-
lation. On infants, see Wensinck *Muslim Creed* p. 81, 262, 267.

most High. [From that perspective], even if [the act] brings us no damage, [and by doing it] a utility which the *caql* does not permit us to neglect is [thus] obtained[89] or what is similar to this, [nonetheless] the perception of its detestability and goodness [arises solely] from the [its association with unfavorable] consequences [directed] towards us by God most High, or His favoring us when we do [these things]. This is a hidden [matter]. But God is praiseworthy and elevated above being affected by our harm or benefit. [Given that] the matter is thus, it is impossible [for us to determine] the detestability of a thing, or its goodness, in the *hukm* of God most high. It is not, however, forbidden to apply these two descriptions (*hadhayn^i l-wasfayn^i*) [namely *hasan* and *qabih*].[90] [meaning that] a harm is [thereby] eliminated or it is possible to benefit, on the condition that [nothing] is as-cribed to God, and it is not [implied that it is] required of God to punish or reward [on this basis][91].

Al-Juwaynī's other arguments are somewhat less persuasive. On the ques-tion of the essential (*li-caynih*) nature of the detestability of untruth (*kadhib*) al-Juwaynī argues first that the "instinctual urge toward veracity (*sidq*)[92]" is, as it were, untestable, since anyone exposed to the *shar^c* is an unreliable witness. Of someone postulated to be ignorant of the *shar^c* he argues that it is conceivable to them that their *caql* would not "demand veracity." With regard to the argument that the Barāhimah[93] deny *sharā'i^c*, yet nonetheless judge things as good or detestable, al-Juwaynī says that this

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[89]Literally: and for this cause a benefit which the *caql* does not excuse our neglecting does not pass us by

[90]Following the variant in footnote 6 in the text

[91]*Burhān* p. 91

[92]page 93: and falsehood, and demands (*yataqādá*) veracity.

[93]On whom see S. Stroumsa, "The Barāhima in Early Kalām."

is another case of what one deems good or detestable according to his own particular interests[94] being attributed to God; this was covered above (in the passage translated).

Al-Juwaynī then argues that there is no (real) *ḥukm* by *compos mentis* folk, before the arrival of the *shar^c* (p. 99), since the *ḥukm*s are the *sharā'i^c* themselves (*bi-a^cyānihā*), for the *aḥkām* are not attributes of the acts [in question.]. If the *ḥukm* is defined as solely what is *sharā'i^c*, then the discussion is closed.

In answer to the *Ḥaẓr* position, he quotes al-Bāqillānī again:

> [Consider the case of] One who owns an inexhaustible ocean, and who is characterized by liberality, and in no need of improvement of his property, [while at that moment] his slave (*mamlūk*) is panting with thirst; a mouthful will quench his thirst, and even the froth of water will suffice him. The owner is aware of (*nāẓir ilá*) the thirst of [his slave], and there is no intellectually perceptible prohibition of [the use of] the amount set aside from the ocean, which [in any case] will not be depleted an appreciable amount by what is taken from it. There is no need to go farther with this example (*fann*) given the clarity of the logical approach [to the question][95].

In other words, in such a situation it would be absurd to expect the owner to proscribe use of the ocean to his slave.

When it comes to the permitters, al-Juwaynī takes a position that is generally not acceptable to his fellow Ash^carī's:

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[94] *yaruddūn^a mā yuḥassinūn^a wa yuqabbiḥūn^a ilá ḥuqūq^inā al-nājizah.*

[95] *Burhān* 100

As for the people of *ibāhah*, there is no difference, essentially (*ᶜalá l-ḥaqīqah*) with them: they do not mean by *ibāhah* the arrival of information about [the *aḥkām*], they mean by it the equivalence of the matter, as far as doing it and refraining [are concerned]; the matter is [for them also] as we mentioned [above].

This is so even if they say "It is the right of the owner to permit;" this can be turned against them immediately: by [pointing out that it is] arbitrary judgment (*taḥakkum*) in specific circumstances according to who is not benefited and who is not harmed[96].

Juwaynī accepts that the permitters do not differ in fact on action, but suggests that to say something is "permitted" without indicants is opening the door to caprice.

5.2.2. al-Ghazali

Since al-Ghazālī's long and very subtle argument in his *Mustasfá* is translated and commented upon below, it is unnecessary here to do more than epitomize his argument.

Al-Ghazālī takes up the argument from al-Juwaynī, and in the early work of his, the *Mankhūl*, he clarifies and simplifies his teacher's position. Moreover, al-Ghazālī adds an element of psychologism, by suggesting that "the *ḥukm ᶜaqlī* is somehow connected to an "interest" (*gharaḍ*) on the part of the agent. (20) In the *Mustasfá* this psychologistic element (perhaps strengthened by al-Ghazālī's espousal of experiential Sufism) is stronger, and his brilliant exposition of what he takes to be Muᶜtazilī thought is

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[96]*al-Burhān* p. 100

devastating[97].

Essentially, al-Ghazālī criticizes the rigidity of Muᶜtazilī ontology by pointing to the variability of a given act's status, citing the obligation to lie in order to protect a Prophet. He criticizes the Muᶜtazilī attribution of knowledge to the ᶜaql by explicitly characterizing the ᶜaql as an instrument, and not a body of knowledge. Further, what seem to be universal perceptions of good and detestability are, in fact, rooted in interest or association with interest in a quasi-Pavlovian way.

In sum, al-Ghazālī subjectivizes the Muᶜtazilī position and attacks their ontology as insufficiently fluid to account for indisputable moral facts. In doing so he makes very few positive assertions about how the ḥukm is in fact determined, except to repeat the slogan, first found in Abū Isḥāq, "the ḥukm is the dictum of the sharᶜ (al-ḥukm khitāb al-sharᶜ)".

6. Some Conclusions

There are several general points about the "no assessment" position that should be made here. It seems first of all that the persuasive power of this "no assessment" position comes primarily from the limited nature of the claim it makes. In denying any moral status to the world before or outside Revelation, the "no-assessors" neither have to defend reasonable

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[97]See the commentary on the translation for analysis and documentation.

matters contradicted by Revelation nor have they to justify the proscription of matters essential or useful to life itself: walking, breathing etc.

Secondly, as we argue below in the chapter on thanking the benefactor, this medial position is in harmony with the historical situation of the Islamic 4th century and later times, a time of Muslim majority and power. At this time, as was not the case before, it is possible to ignore the moral claims of the smaller and intellectually irrelevant Christian and Jewish communities. Moral life before the definitive Revelation is, in this view, non-existent or at least irrelevant.

The major challenge to this position comes from the experiential fact that human beings do tend to assess acts whether there is Revelation or no, and many of those assessments happen to be in accord with those of the *shar^c*. It seems that until al-Juwaynī and al-Ghazālī satisfactorily dispose of this issue by their systematic analysis of the role of interest in moral judgement and the illusory independence of the *^{c}aql*, the resolution of the debate is in doubt. After them, it is increasingly difficulty to defend any position other than theirs. This combination of limited claims and brilliant analysis, in a context of Muslim triumphalism, made the "no assessment" position the strongest available description of human moral life, and the one subscribed to by the majority of Muslim intellectuals after the 5th Islamic century.

Chapter II

The Context of the Problem

1. Origins of the Problem

To ask about the "origins of the problem" in the usual *urquellen-forschung* way is to pose not only an unaswerable question, but also perhaps an uninteresting one. On the one hand the general question of the source of goodness has been around at least since the *Euthyphro*[1] , where Socrates asks Euthyphro to explain the meaning of piety[2], where he asks, "what is characteristic of piety that makes all pious actions pious[3]," where he asks,"do the gods love piety because it is pious , or is it pious because they love it[4]," and so on. No doubt many Christian and Jewish intellectuals pondered and discussed these and similar questions, and as some of them debated with Muslims, and as others converted to Islam, these questions passed into the warehouse of Islamic controversies.

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[1] I am grateful to Walter Sinnot-Armstrong who first called this to my attention.

[2] page 5

[3] page 7

[4] page 11

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But there is a more significant way of asking about the origins of con-
troversies, and that is to ask, what it is about a problem that made it fas-
cinating to Muslim controversialists? What aspects of the Islamic matrix
made this kind of question an interesting one?

To begin answering such a question one must look to the kinds of
problems early Muslims faced and seek connections between those problems
and the later discussion, on the assumption that the kind of formalist con-
troversy found in such debates as that over "the assessment of acts before
the *shar^c*" -- an irrelevant question if ever there was one in post-
Revelational Islamic society -- is really a maximalization of certain per-
ceived problems in practical Muslim thought.

Though the absence of sources makes such a hypothesis speculative
indeed, I would argue that in the process of recognizing the implications of
the Qur'ān , in the process of discovering its applications and meanings[5]
problems with important practical consequences arose. These were what we
will call "adequacy problems," that is, those problems for which the state
of Muslim knowledge at some point is perceived to be inadequate. These in
turn frequently led to what we will call "boundary problems."

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[5]My general approach to the question of *Qur'ān*ization is shaped by Massignon
Lexique 45-48.

The most obvious instance of an adequacy problem would be a specific question of how to behave, for which there was no immediately apparent guidance in the Qur'ān or sunnah.[6] Adequacy questions are of the form "there is no obvious reference to this problem in *Qur'ān* or the *ḥadīth*; what should we do now?" Such adequacy problems lead naturally to the systematic questions of the science of *uṣūl al-fiqh*, specifically, what are the rules for applying the *Qur'ān* the *ḥadīth*, the consensus of the community and so forth, so as to resolve the perplexities that arise from an apparent revelational silence.

Yet in the process of systematically formulating the procedures for resolving such problems, other problems arise, problems in defining the boundaries of Revelational knowledge, and describing the "legitimate" ways of knowing. The *Qur'ān* had, in effect, re-categorized the world. Religious identities, the meanings of terms like "knowledge" and "ignorance," and the periodization of human history — all these were terms and concepts redefined and assigned a new significance.

For instance, in the post-*Qur'ān*ic world there is a high wall dividing the People of the Book (*ahl al-kitāb*) from the Associationalists (*mushrikīn*). Incidentally this implies that the People of the Book all have something an common, while among People of the Book, however, a further line was

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[6]For an example, see below on the question of drinking *nabīdh*.

drawn between Christians and Jews on the one hand, and Muslims on the other. Also, the Era of Uncouthness (*al-Jāhiliyyah*) and the Period of Revelation, the Abode of Islam (*Dār al-Islām*) and the Abode of Hostilities (*Dār al-Ḥarb*), halcyon period of Prophetic activity and that progressively less perfect time after his death — these two were separate domains, and the extent of interpenetration was a controversial issue among Muslims.

The 3rd, 4th, and 5th Islamic centuries were a period of self-definition for Muslims. In it the community was extending the scope of the Islamic summons while increasingly seeing itself as categorically different from other religious groups. The wealth, power, and success of Islamicate states helped Muslims not only to see themselves as distinguished (by God perhaps) from the rest of the world, but also to support the critical mass of scholars with the leisure and intellectual training necessary to pose and attempt to answer these increasingly extensive Muslim ethical questions. Perhaps as much as any others, it was these questions of adequacy and then of boundaries that shaped the legal discussions of these three centuries.

We see the subtext of a number of discussions and controversies in this period as being: What are the sources of Muslim religious knowledge to be? Is the text of Qur'ān and the body of sound ḥadīth sufficiently large to to answer all the questions that arise and ought to have a Muslim answer? If they are not, where does one turn — to common sense, to some sort of formal logical procedure, to other Scriptures? To previous custom? Might it be

that the absence of Revelation on some topic implies that the question is not one that ought to concern Muslims qua Muslims? All these questions can be summed up thus: where is the assessment (ḥukm)for an act to be found?

Those more oriented to abstraction were inexorably led to ask as well: "What difference has Revelation made to the process of making moral determinations?" "What sort of thing is this determination of the status of a thing (ḥukm) that we seek?" The final and fundamental question that lurks here is "What is it to be a Muslim, and how is it different from being not a Muslim?" I believe that it is this (unasked) question that gives the purely hypothetical question of the "status of acts before the arrival of Revelation," its appeal and its urgency.

The purpose of this present chapter is to provide a few instances of how quite concrete problems implied more abstract problems. Conversely, it is hoped also that by presenting these early discussions of matters that may have led to the problem of "aḥkām before the sharᶜ," the reader will see how this rather remote problem was seen to have practical implications beyond the limited problems supposedly at issue.

2. Discussion of a matter on which there is little apparent Revelational guidance

In order to see how practical adequacy problems lead to more recondite questions, including boundary questions, it is helpful to analyze one (of

presumably thousands) of little problems that confronted a Muslim trying
to live life according to God's command, as conveyed through His prophet
Muḥammad.

In his *Kitāb al-Ashribah*, Ibn Qutayba has preserved an early contro-
versy over the permissibility of *nabīdh*, a spirituous drink made by distilla-
tion, and therefore of uncertain relation to a spirituous drink more or less
clearly forbidden in the Qur'ān, *khamr*, which being wine, was made by
infusion and fermentation.

Those legalists whom Ibn Qutaybah followed (including al-Shāfiʿī)
argued that intoxication *in potentia* is the measure of *khamr*[7] and everything
that can have an intoxicating effect is therefore banned by an implication of
the *Qur'ān*ic injunction against *khamr*.

The process by which these legalists are ruling seems straightforward,
but in fact involves a complex set of assumptions, the most of important of
which is that the *Qur'ān*ic prohibition of *khamr* constitutes a "sign" point-
ing to an injunction against *nabīdh*. To say so is to assert that signs refer
by an application of their *underlying concept* (*maʿná*), and not by a
straightforward denomination of the thing named in the prohibition. Ibn
Qutayba argues that

1. What is banned by the *Qur'ān* is not a substance but an effect;

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[7]Inferred from *Kitāb al-Ashribah* p. 58

2. The effect is the intoxication produced by *khamr*;

3. therefore because <u>all</u> intoxicants are <u>in effect</u> *khamr*,

4. *Nabīdh* is forbidden.

This argument is close to the later Islamic legal practice of defining the thing prohibited in terms of the underlying cause (*ʿillah*) that is the reason for, the ground of, the *ratio* for its prohibition. By this argument, the word "*khamr*" becomes a sign pointing to the prohibition of both *khamr* and *nabīdh*.

Yet most of the Kufans, it seems, permitted *nabīdh*: no less personage than the great jurist Sufyān al-Thawrī drank "burned *nabīdh* (*nabīdh ṣalb*)," "from which his two cheeks would redden".[8] For us it is not important to observe that the Kufans permitted *nabīdh*, but pay attention to what authorities they appealed for justification.

2.1. Extra-Revelational Signs

Against their opponents, they argued positively that "all things are licit (*ḥalāl*) except those that God has (explicitly) forbidden (p. 53)[9]." The absence of a sign of prohibition is a sign of permission. Further they held that God has *not* forbidden *nabīdh*, as is proved by the fact of a consensus:

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[8] Ibn Qutaybah, *Kitāb al-Ashribah* p. 53

[9] A principle that assumes the licitness of the world, with prohibition constituting the anomalous condition.

all of the Kufans save Ibn Idrīs (al-Shāfiʿī) are agreed that such is the case
(p.53-54). Customary practice and consensus therefore constitute another
sign of the licitness of *nabīdh*.

They also argued philologically, that the *Qur'ānic* ban on *khamr* applies
only to *khamr*, since the <u>restricted</u> sense of a word defines its juristic scope
in a prohibition. This means that it is the substance or name (*ism*) which
"describes" a thing that limits its extension and scope, and not the senses of
the word (*maʿná*).

> As for the statement [of the ones who would forbid *nabīdh*] that what
> ferments and intoxicates is [effectively] "*khamr*[10]" so that [*nabīdh*] is a
> *khamr* like [*khamr* itself]: [We say]: things may resemble each other in
> some accidents (*maʿānī*) and thus be so described (*yusammá*) for a [certain]
> reason (*bi-ʿillatin fīhi*), while [the accident itself] is found in another [ob-
> ject]; but that description is not applied to the other [thing].

> Do you not see that milk ferments in the curds you find when you leave it
> till it curdles, but milk is not called "*khamr*." The leaven of dough
> (*khamīr al-ʿajīn*) is called "leaven" (*khamīr*) but it is not, nor is dough
> that is fermented with it, called "*khamr*"[11]. [Do you not also see that] the
> infusion of dates [is called] "intoxicating spirits (*sukār*) because of its
> power to intoxicate (*iskār*), but nothing other than it is called "intoxicant
> "*sākir*ᵃⁿ," though it may intoxicate.

> It is the more normal practice in the speech of the Arabs [to apply a res-
> trictive meaning to a word] rather than to use it in the widest possible
> sense (*nuhītu bih*)[12].

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[10]*al-khamru mā khamara, wa-l-muskiru mukhammaru*

[11]reading *khamr* instead of *khamīr*, which does not make sense.

[12]page 58

Moreover God's restrictions of things are themselves limited: He never forbids a thing but that he provides a compensation; the compensation for the loss of *khamr* being the licitness of *nabīdh* (!)(p. 57). As further proof the Kufans say, "God created provisions and fruits as an enablement (*qādir^{an}*) for some need of humankind"[13]". Therefore its <u>usefulness</u> is an sign of its licitness.

In summary, these Kufan opponents of Ibn Qutaybah argue they know God's assessment of *nabīdh* by turning to linguistic usage, and the nature of the world read against certain assumptions about how God makes these assessments known. These arguments are appeals to extra-Revelational sources of knowledge. No doubt these scholars could and did justify their position by reference to *Qur'ān* information, but they *argued* using non-textual evidence.

2.2. Knowledge Across Sectarian Boundaries

For Ibn Qutaybah's opponents, it is not only language that is a sign of God's will, and so a source of moral knowledge, but so too is salvation history: to know what God wishes Muslims must inquire beyond the boundaries of Islamic history (defined as beginning with the first Revelation to Muḥammad):

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[13]The nature of the world then is a sort of sign of the intentions of the Creator, and is to be scrutinized as source of knowledge.

> Were [it argued that] the forbiddenness of wine is on account of intoxication, [the fact remains that] He did not apply [the prohibition] to the Prophets and nations before us. Noah drank [nabīdh] when he went out of the ark.. until he became intoxicated from it... Lot drank it, and Jesus drank it on the night of the Ascension (laylat al-raf‘[14]), and Muslims drank [nabīdh] at the inception of Islam[15]."

From across the boundaries of Islamic/non-Islamic, Islamic/pre-Islamic, these Kufan scholars sought to draw useful knowledge from sources geographically and temporally distant.

Here, then, is an adequacy problem: what to do about the drinking of nabīdh since the Qur'ān is silent about it. In seeking to answer the question, these legists are led to a boundary problem — where is one to look to find an answer to the problem: outside of Islam, before Islam, in the early period of Islam, or using the method of linguistic analysis, is it to be found through theoretical consideration of the nature of the ḥukm and what the relation might be between two similar acts when the ḥukm of the first but not the second is known with certainty. The position of Ibn Qutaybah's Kufan opponents can therefore be summarized as follows:

1) There is such a thing as Revelational silence, and such silence is a sign of divine assent.

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[14]Professor Heinrichs calls my attention to the possibility that this may be somehow a confusion with the night of the Last Supper. Could it be that, in the Muslim understanding, this was the night Jesus was taken up to heaven, and Judas was substituted for him?

[15]p. 57-58

2) Further, the *usefulness* of a thing, in the absence of information about its status, is an indication of its permittedness.

3) In addition, the consensus of the Kufan Islamic community provides proof. If that is not a sufficient sign, one may turn for clarification to the actions of Christians and Jews before Islam. One may also use the behavior of early Muslims as a datum.

4) Finally, there is clear evidence here in the discussion of "name" and "concept", of speculation about the nature of the *hukm* and its relation to the thing it categorizes as a way of generating a methodology of assessment.

3. The aql as a sign

Still another instance of an adequacy problem leading to higher level discussion of the *hukm* was the problem of how crossing the line into the age of legal responsibility made one subject to the *shar*ᶜ. What was it that differentiated the child from the man, or indeed the beast from the man? All jurists agreed that application of the *shar*ᶜ was dependent upon majority (coming to legal age) of the Muslim, and soundness of the ᶜ*aql*[16]. If someone lacked or was deficient in ᶜ*aql*, the *shar*ᶜ either did not apply from

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[16]See R. Brunschvig "Théorie générale de la capacité chez les hanfafites médiévaux" in *Etudes Islamique* vol II pp. 37-52, esp. 40-41. See also Schacht *Introduction* p. 120-125 and *EI-2* s.v. "Baligh"

the start, or s/he was subsequently exempted from its provisions[17].

To assert the necessity of the *ᶜaql* was one thing; to describe <u>why</u> it is necessary and how its presence made one subject to the *sharᶜ* was another. What role does the *ᶜaql* play in moral knowing? If the *ᶜaql* is a <u>necessary</u> condition for moral obligation, is the knowledge contained in the *ᶜaql* sufficient for moral knowledge? What is the relation of the *ᶜaql* then to Revelation? These are only a few of the questions that seem to have arisen from the quite practical question of the relationship of competence and the *ᶜaql*. The *ᶜaql* is discussed in chapters Six and Eight, so here we will discuss only a few additional points in the context *ᶜaql* as the enabler of moral responsibility[18].

There are traces of an early discussion of the relationship between majority (*bulūgh*) and the perfection of the *ᶜaql* as signifiers of moral capability preserved in al-Ashᶜarī's *Maqālāt*[19], where he says "People differ concerning the attainment of maturity (*al-bulūgh*)". Immediately he begins a discussion of the nature of the *ᶜaql*. There seem to be two positions: The

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[17]On the differences in theories of responsibility see Reinhart "Islamic Law as Islamic Ethics" p. 197-98.

[18]These two texts are discussed below from a different perspective in chapter six.

[19]p.480ff.

first is that the *aql* is either unrelated to legal competence or at best a contributory factor. The ones who hold this opinion, says al-Ashᶜarī[20] are "many of the ones who engage in fiqh (*al-mutafaqqihah*)". They say that "maturity" is the result either of age alone (having attained fifteen or seventeen years of age) or the attainment of the physical changes of puberty (*al-ḥulum*) together with soundness (*salāmah*) of the *aql*[21]. Why a legalist would want to minimize the role of the *aql* in the qualification for moral responsibility will be seen in a moment.

Those who see *bulūgh* solely as a result of perfection of the *aql* (*kamāl al-ᶜaql*), are said to be "theologians" (*mutakallimūn*) who engage in *fiqh* (482)". Among this latter group, for whom the *aql* is most important because it is decisive in determining whether or not a person is subject to the *sharᶜ*, there is disagreement as to the exact nature of the *aql*.

For Abū 1-Hudhayl, among the aspects of the *aql* is

the indubitable knowledge by which a person differentiates between himself and a donkey, between the sky and earth, and things similar to that. [It is also] the faculty (*al-quwwah*) by which one acquires for oneself (*iktasaba*) knowledge. They allege [also] that the *aql* is knowing (*ḥiss*[22]), that we call "the *aql*." By which we mean "what is known as reasonable

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[20]p. 482

[21]p. 482

[22]For *ḥiss* as "knowing" see *EI-2* s.v. *ḥiss* Otherwise, "sense perception" might be a good translation. WPH suggestion.

[through the *ᶜaql*] (*al-maᶜqūl*). (480)

Abū l-Hudhayl seems therefore to understand the *ᶜaql* as a criterion, and the self-consciousness by which the self is distinguished from the non-self, and by which things are distinguished from each other. Since *ᶜaql* is also the faculty for the acquisition of knowledge, it is likely that knowledge obtained by the *ᶜaql* consists of discrimination between or among things. Finally, since the *ᶜaql* is equivalent to the *maᶜqūl*, that is the *ᶜaql* is the same as the thing "obtained by the *ᶜaql*," it would seem that the knowledge thus obtained becomes constituent of the *ᶜaql*. To be "of perfected *ᶜaql*" (*kamāl al-ᶜaql*), and so to be mature (*bulūgh*), might mean to have acquired a certain amount of knowledge and thereby crossed the threshold into moral responsibility, *by virtue of this knowledge.*

Thus for these people the *ᶜaql* is a way to knowledge, and in that sense things known by the *ᶜaql* might be argued to be "signs" also. The innate self-consciousness, power of discrimination, and the capability to acquire knowledge forms a certain stock of information that, as we shall see, provides knowledge of "goods" "detestables" and "obligations". It is the presence of these "knowledges," obtained through the *ᶜaql*, that carries one into full-fledged membership im the community of Muslims.

A more elaborate and later discussion of the *ᶜaql* than that of Abū l-Hudhayl shows some development in the concept of the *ᶜaql* and its

importance.

> [Muhammad ᶜAbdalwahhāb al-Jubbāʾī says that] the ᶜaql is knowledge (al-ᶜilm)... [He alleges that] these "knowledges" (ᶜulūm) are many. Among them is immediate knowledge (idtirār). It is possible to attain (yudrak) this [knowledge] before the perfection of the ᶜaql, through testing (imtihān) things, through experiencing them (ikhtibār) and through inquiry (nazar) into them. In some of what is contained in the totality of the ᶜaql[23] — such as if he sees an elephant, that it cannot enter through the eye of a needle while [the observer] is present (bi-hadratih); he inquires into it, and contemplates [the problem] until he knows (ᶜalima) that it is impossible that [the elephant] enter through the eye of a needle, even if he were not present[24] If these knowledges are perfected in a person, he is mature...

> He [also] denied that the faculty of acquiring knowledge (quwwat iktisāb al-ᶜilm) is [what is meant by the term] ᶜaql. However, although [the faculty] according to [al-Jubbāʾī] is not ᶜaql[25], it is not permissible to charge (yukallif) him until his ᶜaql be perfected; along with the perfection of his ᶜaql he comes to be capable of acquiring knowledge of God (480-81).

For these Muᶜtazilah the ᶜaql is not "the intellect" or "rationality" but a collection of knowledge. Since knowledge of the sharᶜ was requisite for one to be "charged debate about innate ᶜaqlī knowledge may be seen as a debate about whether the ᶜaql was a sign that pointed to moral knowledge[26].

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[23] fī baᶜd mā huwa dākhil fī jumlati l-ᶜaql.

[24] wa-in lam yakun bi-hadratih

[25] WPH suggestion

[26] To anticipate, the Ashᶜariyyah and later others conceded that yes, ᶜaqlī knowledge is real knowledge but argued that there are two kinds of knowledge, one of them being moral knowledge to which the ᶜaql has not access.

Al-Ashʿarī goes on to discuss other contributions to the controversy on the nature of maturity, but it is sufficient here to note that the question of maturity did provoke considerable controversy, and that it led to an inquiry into the nature of the ʿaql and the relation between it and moral responsibility. The two positions here, as elsewhere were (1) a broad and inclusivist understanding of moral knowledge and sources of its indicants and (2) a more restricted and limited understanding of moral knowledge, one that held that maturity was not a matter of knowledge but of physical attainment of a certain number of years. Legists — which is often a term for those hostile to kalām-speculation, would characteristically look for a formal definition of a legal quality — 17 years of life — rather than a subjective acquisition of certain experiential knowledge.

4. Revelational Silence We have seen that adequacy problems were a motivation to the development of theoretical discussions of the praxic rules for Muslims. There were several cases in addition to the ones cited above where adequacy problems gave rise to boundary problems. A clear example of this sort of problem is the question "what can a Muslim living in Dār al-Ḥarb be expected to know of Islam's requirements, and can he be held equally responsible with someone living at the heart of Islamdom who presumably has no reason to know what is required of him?" Hidden here

also is the question[27] how can all Muslims, some learned, some less so, be held equally responsible for knowledge, some of which is arcane and speculative?

The material for describing this question is rare, but there are a couple of tantalizing references particularly in Ḥanafī literature.

Al-Shāshī, for instance [28] says that faith is incumbent upon those whom the summons (al-daʿwah) hasn't reached. This is followed with a quote in which Abū Ḥanīfah is quoted as saying that where not a messenger sent, it would still be incumbent upon *compotes mentes* to know Him. Ibn Ḥazm gives us two imaginary instances of those whom the *sharʿ* hasn't reached, one on a remote island and one a Christian monk in his monastery, which are discussed above[29]. Aḥmad b. Ḥanbal is quoted in Abū Yaʿlá's *ʿUddah*[30] as saying that the Murji'ah theological school, of which Abū Ḥanīfah was a progenitor, held that knowledge of one's Lord in the heart requires acts by the limbs.

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[27]Addressed as early as al-Shāfiʿī see his *Risālah* section 966ff.

[28]page 32 of his *Uṣūl* work.

[29]in his *Iḥkām* p. 56 and 60.

[30]p. 183a

These Murji'ite positions are discussed at greater length in al-Baghdādī's *Usūl al-Dīn*[31] where he notes that for those who held that one must know God and act without Revelation, "the assessment upon him (*ḥukmuhu*) was the assessment upon a Muslim (ibid)". In other words, the Murji'ites were assessing a non-Muslim as if he were a Muslim. Finally, to confirm that there is a practical matter at issue here, al-Jaṣṣāṣ's commentary on 17:14 in his *Aḥkām al-Qur'ān* responds to the verse {We did not punish until we sent a Messenger.} Al-Jaṣṣāṣ says this statement means that one who becomes a Muslim in the abode of hostilities (*Dār al-Ḥarb*) and does not hear of the obligation to perform *salāh*, cannot be harshly judged. This is disputed by some of his fellow Ḥanafīs, who say in effect that ignorance is no excuse[32].

For some Muslim scholars, the question of the status of acts before the *shar*[c] implied a question about whether pre-Islamic judgments about acts or things could be presumed, in the absence of Revelational evidence to the contrary, to continue to be in force after Islam?

"The point (*fā'idah*) of the disagreement [about the status of acts before the *shar*[c]] is that those who make things forbidden or permitted [in the absence of Revelational knowledge], their achievement (*kafahu*) is the con-

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[31]262ff.

[32]3:195

tinuity of effect of the original [state of things] (*istiṣḥāb ḥāl al-aṣl*)".[33]

In other words, for those for whom the pre-revelational status of a useful act is either permission or interdiction, the presumption is that that state perdures after Revelation also.

More pressing than the problem of Muslims living outside of Islamdom who wish to maintain their practices at least until they are informed of the details of the *sharᶜ*, is the problem of those acts not ruled upon: the situation of true revelational silence. This is of course most difficult for those who hold that "[in the *Qur'ān*] is information about what was before you, a warning for what is after you and an assessment for what is among you[34]."

It is only a small step from the practical, but somewhat remote problem "are those ignorant of Revelation responsible for acting according to its dictates" to "are not those things about which Revelation is silent to be evaluated as if there were no Revelation -- namely in light of probable benefit and harm?" As al-Taftāzānī, one of the commentators on Ibn al-Ḥājib's *Mukhtaṣar al-Muntahá* says (attributing a position to the Muᶜtazilah): "permitted (*mubāḥ*) is what has no sanction (*ḥaraj*) when done or not done. And this is the case (*thābit*) before the *sharᶜ* and after it.

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[33]*Rawḍat al-Nāẓir*, p. 22; see also 79 where *istiṣḥāb* is explicitly linked with *dalīl al-ᶜaql*.

[34]al-Khaṭīb al-Baghdādī, *al-Faqīh* 1:55

(2:6:9-10)

It is clearest in these few specific discussions of Revelational silence,
that what troubled the no-assessors was the possibility that silence would
be taken as a sign *after* Revelation.

> The point of these controversies is that whoever forbids a thing or permits
> it, then is asked for his evidence, would then say 'I sought an indicant of
> the *shar^c*, but did not find one; so I remained with the assessment of the
> *^caql* in forbidding or permitting it[35].

Although the discussion is framed in terms of "acts before the *shar^c*,"
it is clear that what is really being asked is, is there any correspondence
between extra-Revelational knowledge (*^caqli*, pre-Islamic, linguistic, custom,
other-Scriptural) and Revelational knowledge? To answer that question,
some Muslims sought evidence from instances of indubitably good practices,
like "thanking the benefactor". Others sought to inquire into the nature of
the act itself[36].

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[35]al-Khaṭīb al-Baghdādī *al-Faqīh* 219.

[36]For lengthy discussions of these matters see also al-Shīrāzī, *Wuṣūl* 2:384ff
and 390ff.

Chapter III

Thanking the Benefactor

As we have argued above, "thanking the benefactor" was part of the problem-complex with which this dissertation is concerned. Restrictions of space and time preclude a thorough study of all of these questions, but a study of one of them does seem in order. We have chosen "thanking the benefactor" because in this question we most clearly see the continuity of an idea from pre-Islamic times, and most clearly see the conservatism of the Mu'tazilah, the so-called "rationalists" who were supposedly the product of the interaction of the Greek with the Islamic[1] .

What we hope to show here is that the Mu'tazilah were in this question (and other matters not instanced here) defending the old Islamic and pre-Islamic position, against the novel position of the so-called "traditionalists". The traditionists "won" because their position accorded with the changed circumstances of 5th and 6th century Islam and Islamdom. We hope also to show the limited significance of theological arguments in particular for assessing Muslim piety.

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[1] See Watt *Formative Period* for instance page 249.

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1. The Problem

"Thanking the Benefactor" is one of a list of virtues which a human might be expected to know or be able to discern before or in the absence of revelation. Most of these seem familiar and predictable: justice (*ʿadl*), equity (*insāf*), the existence of God, truthfulness..[2] Among these ethical commonplaces thanking the benefactor seems to stand out as particular to Islamic and Islamicate culture.

As it turns out, inquiry into this example of a virtue leads to sociological and psychological questions far more complex than might be anticipated. In short, the results of this study reveal a characteristic shift in Islamic thought in the the period between the era preceding the rise of Islam and the 600th year of the hijrah. Change is to be expected, of course, but the change we find is not simply a growing sophistication in analysis and conceptual terminology; it is a change from manifest social behavior as the realm of moral reference, to the interior and affective as the domain of ethical experience. Less surprisingly, the change in the understanding of "*shukr al-munʿim*," "thanking the benefactor," represents a change in the understanding of the nature of moral knowledge itself: In the early period moral knowledge tests and validates Revelation. In the later period, all moral knowledge is validated by Revelation and all duties owed God come to

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[2]For a list of such virtues see *Mughnī* 6/1 pp. 35-37

belong to the same class of prescribed and required obligations.

The earliest discussion of "thanking the benefactor" as a controversial

issue seems to be the debates that oppose al-Ashʿarī to Ibn Abī Hurayrah

and al-Ṣayrafī³ These debates are interesting because of their implicit Pas-

calian argumentation: If one doesn't know what to do one ought/ought not

to do it as a hedge against divine disfavor.

The earliest classical *uṣūl al-fiqh* work, that of Abū Bakr al-Jaṣṣāṣ, con-

tains an elaborate and sophisticated discussion reflecting intense discussion

that must have taken place to lead so rapidly to such an elevated debate.

al-Jaṣṣāṣ's formulation is typical of later discussions and it is clear he

preserves earlier discussions of which we have no surviving record.

> We say that the evaluation (*ḥukm*) of things in the ʿ*aql* before the coming
> of Revelation (*al-samʿ*) is of three sorts: (a) the obligatory (*al-wājib*):
> [These acts do not permit of] change or exchange, e.g. faith in God most
> high, thanking the benefactor, and the necessity of equitable action
> (*al-inṣāf*). (b) Those which are detestable (*qabīḥ*) in themselves [and
> therefore] proscribed: there is no exchange nor change from their condition
> (*ḥālih*). [These would include] ingratitude (*kufr*)and oppression (*ẓulm*)...⁴

What is at issue for al-Jaṣṣāṣ is not the appropriateness or necessity of

thanking the benefactor, but whether one can know of this obligation before

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³These must have taken place in the late 200's or early 300's. See below, ap-
pendix

⁴Uṣūl al-Jaṣṣāṣ, ms. Dār al-Kutub Cairo uṣūl al-fiqh 26 p.3a. I think it is
significant, though not precisely relevant to the present discussion, that *kufr*,
which I am translating as ingratitude, serves as the conceptual opposite of both
īmān (faith) and *shukr al-munʿim*, thanking the benefactor.

or in the absence of Revelation.

From al-Jaṣṣāṣ's time on, in both *uṣūl al-dīn/kalām* works, and *uṣūl al-fiqh* works, this problematic example of *ᶜaqlī* knowledge appears again and again.

It is important to note that *shukr* means neither "thanks" nor "gratitude" precisely and *niᶜmah*, the benefaction for which one is "grateful" to the benefactor (*munᶜim*), is a more culturally-specific concept than "benefaction, blessing" etc. can suggest.

2. Pre-Islamic Usage

The concept of thanking the benefactor for a benefaction is *Qur'ānic*, but it is useful to begin by considering the meaning of the terms *shukr* ("thanking") and *munᶜim* (benefactor) in the *Qur'ān*'s milieu: the Arabia of pre-Islamic times.

In a work that has been relatively neglected[5], Bravmann has tried to describe some of the underlying social and religious norms preceding Islam, drawing his information from the only documents surviving, the poetry and sagas (*ayyām al-ᶜarab* literature) of the pre Islamic and early Islamic period.

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[5] *The Spiritual Background of Early Islam.*

In a discussion of the concept of "*jizyah ᶜan yad*" Bravmann suggests that in pre-Islamic times a person who spared another person's life had a claim to reward for that deed. Sparing a person's life was called *niᶜmah* (benefaction, kindness[6]); the refusal to recognize that obligation was called "*kufr*", the term used above in al-Jaṣṣāṣ.[7] In this social interaction of clemency and gift, to be truly recognized as benefactor the person with the claim to reward must have acted not from need but from choice.[8] One is <u>obligated</u> to give a reward for this *niᶜmah*, but not <u>compelled</u>, as in ransom. Therefore, the reward given is not considered a ransom, because it was not given under duress. In any case, the customs require the one "benefacted" (*al-munᶜam ᶜalayh*) to publicly acknowledge the benefaction.

As an example Bravmann cites al-Ḥuṭay'ah as quoted in the Book of Songs (*Kitāb al-Aghānī*):

He spared my blood and released me without ransom and I shall never forget this benefaction[9]."

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[6]See Dozy: 2:649 "..munificence, libéralité, générosité"

[7] which, when it serves as the opposite of *īmān*, "faith", is misleadingly translated by Bravmann as "unbelief." p. 201 n.2

[8]p. 207 The link between a supererogatory act and thanksgiving can be seen in later *uṣūl al-fiqh* literature. E.g. *al-Dharīᶜah* p. 564

[9]*Fa-qad ḥaqanᵃ damī wa-'aṭlaqanī bi-ghayrⁱ fidā'ⁱⁿ fa-lastᵘ bi-kāfirⁱⁿ niᶜmatᵃhū abadᵃⁿ*. Zayd had freed al-Ḥuṭay'ah as a *niᶜmah*. Bravmann (p. 201 note 2) cites *al-Aghānī* 16:57, but he does not specify which edition. I used the Cairo

Also:

> We spared blood of the Muslims and this was accounted for us a benefaction which was praised at the fairs (of the festival seasons)".[10]

Sparing life then is, in this context, the benefaction par excellence. The person conferring the *ni*c*mah* has a right to reward from the beneficiary; in fact, it is fair to say that by this act of benefaction a relationship has been established between two otherwise unrelated, even antagonistic persons. After the conferrel of the benefaction — the sparing of life in this case — the most important element in the creation of this relationship is the *acknowledgment* of the new relationship. Bravmann shows that controversy could arise over whether a person had in fact performed a *ni*c*mah*, but so important was it not to seem to renege on this obligation that it was preferable to over-reward rather than be seen to be shortchanging a *mun*c*im*.

Thus, in one story, cAmr b. cAmr is freed by Qays b. al-Muntafiq. Al-Ḥārith b. al-Abraṣ says he has a claim on cAmr as well, which cAmr at first denies. Subsequently cAmr gives al-Ḥārith 100 camels "fearing blame

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1389/1970 edition, 17:266.

Sometime later, when Ḥuṭay'ah's tribe was once more at war with Zayd's tribe, Ḥuṭay'ah was asked to compose scurrilous poetry (*hija'*) on Zayd and his tribe; the above was his reply. The account continues "They said, 'We shall give you a hundred she-camels.' [Ḥuṭay'ah] said 'By God, not if you made them a thousand, would I do that.'"

[10] *Kitāb al-Naqā'iḍ Jarīr wa-l-Farazdaq* ed. Bevan, 740:7: *ḥaqannā dimā'a l-muslimīna fa-'aṣbaḥat lanā ni*c*matun yuthnā bihā fī l-mawāsimi*.

from him".[11]

The beneficiary's hope is to satisfy, or content, the benefactor. In
another story mentioned by Bravmann [in somewhat confused form, here
corrected[12]], one ʿĀmir waives his right to reward by Laqīṭ after freeing a
prisoner, saying,

> But satisfy my brother and my confederate who participated in the
> matter... So Laqīṭ gave to each of [the others] a hundred camels and [these
> two] were contented[13].

In sum, then, a kindness done supererogatorily obligates the person
receiving the kindness to acknowledge that relationship, and gives the
benefactor a claim on the benefacted one.

What role does *shukr* play in the complex of benefaction-obligation-
requital? From the *Aghānī*:

> When al-Ḥuṭayʾah returned to his people he began praising Zayd, pro-
> claiming (*shākir^{an}*) his benefaction...[14]

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[11] *tadhammam^a minhu* Bravmann p. 200. *Naqāʾiḍ* p.671-72, especially 672:11

[12] *Spiritual Background* p. 202, note 2.

[13] *radiyā*, a concept linked with *niʿmah* as we shall see below.

The passage reads: *ammā niʿmatī, fa-qad wahabt"hā lak^a wa-lākin ʾarḍi akhī
wa-ḥalīfī lladhayn^i shtarakā fīhi. Fa-jaʿal^a ..li-kull^i wāḥid^{in} miʾat^{an} min^a l-ibil^i
fa-raḍiyā..*" (*Naqāʾiḍ* 1063:10-11).

Bravmann has collected other usages interesting for us (including the cutting of the
forelock to symbolize God's having spared one's life, so that by that acknowledg-
ment God will grant (further) benefactions (p. 203 n. 1). The reader is referred to
the entire article especially p. 209, for a discussion of this and other matters.

"*Shākir^an li*" would ordinarily be translated "thanking for" or, literally, "a thanker for;" note here that the "thanking" is done not to Zayd, but when the poet has returned to his people. *Shākir*, "thanker", and its verbal noun *shukr*, "thanks," must mean something more public: "proclaiming" as above, or, in the context of the obligation established between Zayd and al-Ḥuṭay'ah, "acknowledging his benefaction" and the claim that Zayd has on him. "*Shukr*," then, is a public act performed in response to a benefaction. It is not a statement of <u>gratitude</u> <u>to</u> <u>the</u> <u>benefactor</u>, but it seems to be <u>an</u> <u>acknowledgment</u> <u>of</u> <u>the</u> <u>claim</u> that the benefactor has on the beneficiary.

This is the background against which the *Qur'ān*ic invocation of these two concepts must be understood, to be understood correctly the social context must be kept in mind.

3. Qur'anic Usage

There is no point here in an exhaustive study of all *Qur'ān*ic instances of the use of *shukr*, *ni^cmah*, and their derivatives.[15] There are, however, a

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[14] 17:266:4ff. *Lammā raja^ca al-Ḥuṭay'at^u ilā qawm^ihi, qām^a fīhim ḥāmid^an li-Zayd^in, shākir^an li-ni^cmat^ihi...*

[15] The root *sh-k-r*, "to thank" appears 75 times in *Qur'ān*. It appears six times in the same *āyah* (verse) with *n-^c-m*, and six with the opposite, *k-f-r*. In many more cases, however, *sh-k-r* appears in contexts with *n-^c-m* in preceding or succeeding verses. *N-^c-m* appears 144 times and seems to be an important concept. Some of the more interesting instances of their usage are 14:28–29; 29:7; 16:14; 54:25.

few passages where the meaning of these terms and their relation to each other emerge most clearly.

Perhaps the clearest sense of the meaning of *ni'mah* comes from Sūrah 8:52-59.

> {..The way of Pharaoh's folk and those before them: they repudiated (*kafarū*) the signs (*āyāt*) of God. God took them for their faults : God is strong, severe in punishment (53) That is because God does not alter a benefaction bestowed upon a folk until they alter their part of it (*mā bi-anfus'him*)..(55) The worst of beasts from God's point of view are those who repudiate, for they will not be faithful (*fa-hum lā yu'minūnᵃ*). (56) Those of them with whom you have made a contract (*'āhadtᵃ minhum*): they deny the contract at every chance (*thummᵃ yanquḍūnᵃ 'ahdᵃhum fī kullⁱ marratⁱⁿ*)..(57) If you come upon them anywhere in the war, deal with them so as to scatter the ones behind them; perhaps they will be reminded. (58) And if you fear from a people treachery, dissolve it with them equally: God loves not the treacherous. (59) Let those who repudiate not think they will win: They are unable. that those who repudiate (*kafarū*) win: They are made unable..}

The usual translations of this passage seem unclear here, and have the *Qur'ān* discussing God's "changing of grace"[16] or some other such term, without any clear sense of why "blessings" are being discussed in the context of war and treaties. Such discontinuity is common enough in *Qur'ān* of course, but if we follow Bravmann and suggest that the phrase refers to humankind refusing to acknowledge the claims God has on them for the benefactions He has provided, then the passage becomes not only clear, but unified and coherent. "God does not alter a contract made by Him as a

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[16]Arberry, upon whose translation I based my own, is more accurate with "change His favor." (I:203). But see Pickthall, "changeth the grace" p. 175.

result of their acceptance of an unearned benefaction, until they alter what is [due] on their part"... In the context of the passage God is a model for the behavior He enjoins upon the Islamic community in wartime saying in effect: alter until betrayed, but then He is stern. Similarly, if you (Muḥammad) have made a contract, when it is transgressed, you may repudiate it..." Here is a passage where not only the context (the discussion of treaties and their observance) but the formulation (*mughayyir... mā bi-anfus'him*) points not to blessings metamorphosed by God because of what a folk have in their souls but to transactions between benefactor and benefacted.

If *niʿmah* in this context implies transactions, what then of *shukr*? What is a thanker (*shākir*) doing in thanking (*shukr*)? *Qurʾān* 5:6-7 is, I believe, a locus where *shukr* as a response to *niʿmah* is clarified.

{God does not desire to make a burden upon you but He desires to purify you and that He may complete His blessing (*niʿmaᵗhu*) upon you; perhaps you will give thanks (*tashkurūnᵃ*)... And remember (or 'make mention' of) God's blessing (*niʿmah*) upon you and His covenant (*mīthāq*) He made with you when you said "We hear and obey".}

Ibn ʿAbbās summarized this passage in these words:[17]

God reminds them of His covenant which they had confirmed or consented to (*aqarrū bihi*) [making it binding] upon themselves, and He orders them to carry it out (*bi-l-wafaʾ bihi*).

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[17]*Tafsīr al-Ṭabarī* 6:140

In this passage too, *ni^cmah* occurs in the context of a discussion of contractual obligation (*mīthāq* — covenant). I would suggest this passage is best paraphrased as

> God desires to purify you; He appointed for you His gratuitous good deed in hopes you will acknowledge it. [Therefore] Mention the gratuitous and obligating benefaction of God [by which you are obligated], and His covenant by which you are [also] covenanted...

Shukr in this passage [and plausibly in others there is no space here to discuss] seems to be parallel to *dhikr*, "recollection," "recalling," "mentioning," and is the response to the *ni^cmah*. Obedience is also at issue, but it is, I think, subsequent to the thanks-giving by the benefacted.

4. An Early Post-Qur'anic Discussion

For confirmation of the interpretation proposed for this term's *Qur'ān*ic usage, an early theological source, a treatise or letter on Free-will and Predestination by the 1st century Baṣran rigorist, al-Ḥasan al-Baṣrī (d.728) offers additional evidence. It seems likely that this letter dates from an early period[18] though it seems likely to me that the text Ritter presents includes interpolations from a generation or more later. It may be, however, that this is the earliest surviving theological text in Islam. It is important for us because in this letter to the Umayyad caliph ^cAbdalmalik,

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[18]See van Ess *Anfänge Muslimischer Theologie* pp. 27-33; EI-2 s.n. Ḥasan al-Baṣrī; Michael Cook *Early Muslim Dogma* pp. 117-123; Wansbrough *Qur'ānic Studies* pp. 160-63.

al-Ḥasan wants among other things to argue that the cycle of retribution for wrongdoing begins with the human, God's bondsman. It is the human act of transgression that leads to punishment and not a divine act of predisposition or predestination. Along the way, he discusses how it is that humans err. Al-Ḥasan begins with the *Qur'ān*ic quote

{God does not alter a benefaction (*niᶜmah*) bestowed upon a folk until they alter their part in it.}

and then says as a paraphrase:

The benefaction (*niᶜmah*) was from God most high and the changing from the bondsmen, by their turning their backs (*li-mukhālafat'him*) upon that to which he had commanded them.[19]

This argument he follows with another *Qur'ān*ic quote:

{Do you not see those who exchanged the *niᶜmah* of God, repudiating it?}

Again his gloss:

"The *niᶜmah* was from God most high and the exchange (*tabdīl*) from the bondsmen."

Al-Ḥasan's use of *Qur'ān* in this passage confirms the "contractual" understanding of *niᶜmah*. Those who are at fault, in al-Ḥasan's eyes, are those who try to change the terms of the patron/client relationship established by the act of bestowing a *niᶜmah*. The nature of the change is a reneging on the obligation to obey, which must be understood to come about

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[19]p. 69 Ritter's edition in *Der Islam* 21 (1933)

<u>under the terms of the benefaction</u>. Obeying therefore follows the recognition and acknowledgment of the benefaction contract. This order of obligation is clarified in another passage in al-Ḥasan's treatise.

In arguing that God could not have foreordained humankind's wicked actions because He would not command what does not please Him, he quotes

{If they repudiate, then God has no need of you[20]; He is not content with repudiation for his bondsmen, but if you acknowledge (?)[21], He is content (*radiyᵃ*) with you (*Qur'ān*, 39:7)}[22]

Change and repudiation lead to God's disapproval. What then, according to al-Ḥasan, leads to His contentment (*riḍā'*)? It is *shukr*. Bearing in mind the story of ᶜĀmir and Laqīṭ above, it would seem that here *shukr* must refer to the response by the beneficiary to the claim of the benefactor, just as, in response to the claim upon Laqīṭ, he offers ᶜĀmir's confederates one hundred camels, with which they are contented. For al-Ḥasan and early Muslim pietists, "thanks" or "thanksgiving" is performative: it is an acknowledgment and statement of intention. In the *Qur'ān*ic (and in al-Ḥasan's) view, *shukr* is the recognition of God's claim-to-obedience

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[20] is quit of you: *ghaniyyᵘⁿ ᶜankum*;

[21] this is the root *sh-k-r*, usually translated 'give thanks'

[22] Ritter p. 69

resulting from the numerous benefactions enumerated throughout the
Qur'ān.

After the "thanks" by the beneficiary, to which God as Benefactor is
entitled, He demands not a hundred camels, but fealty: obedience to His
command. Envisaged here is a transaction of sorts in which the first ele-
ment is a gift that obligates the receiver and the second is the receiver's ack-
nowledgment of that relationship and its obligations. Thus "thanking" is
not saying "thank-you" to God, but recognizing a sort of moral claim to
sovereignty.

Here is an instance of a *Qur'ān*ic norm which indubitably reflects a
social norm. It is the case that the concept of "a duty owed a benefactor,"
becomes one of the organizing structural principles of Islamicate society, at
least in Būyid times. According to Mottahedeh, "*Shukr al-mun^cim*" is used
as a formulaic method for expressing the claim of a ruler upon his subjects,
especially the military (who more than other subjects were creatures of
royal bounty). Functionally, the bestowing of benefaction, and the recipro-
cal bond that resulted, was an important method of tying together indivi-
duals who had no kinship relationship; the concept of *shukr al-mun^cim* was
a way to distinguish oneself to individuals to whom one was otherwise an
undifferentiated stranger.[23]

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[23]I am indebted to Everett Rowson who first called my attention to this pas-
sage in Mottahedeh *Loyalty and Leadership* (pp. 72-82,168-70 and index), as well

In sum, in the early period of Islamic thought it seems clear that a benefaction received meant an obligation incurred. "Thanks-giving" was a medium for acknowledging this obligation; subsequently, the satisfaction of the claim depended upon the terms set by the claimant, the *mun*^c*im*. The goal was the satisfaction (*riḍā'*) of the benefactor. Mu^ctazilīs and others who insisted on the ability of human beings to know the obligation to "thank the benefactor", without Revelation, are defending the notion we describe here: the acknowledgement that makes obligation "reasonable."

5. Shukr al-Mun^cim, 400-500 A.H.

In order to understand the change that takes place between al-Ḥasan's time and later periods it is important to realize that one possible meaning of al-Jaṣṣāṣ's doxographical passage quoted above is that "by virtue of being human one knows that a benefaction lays one under an obligation that must be acknowledged. Not to do so is unthinkable (?*ghayr* ^c*aqlī*)." It follows for al-Jaṣṣāṣ, that moral knowledge comes in part from human nature, and that Revelation is another sort of knowledge parallel to the knowledge of the ^c*aql*. In this dispute <u>no one</u> denies that "thanking" is obligatory, what is in dispute is how we know it is so. At issue for the Mu^ctazilah is obedience

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as to the *Encyclopedia of Islam* (2nd edition) article "Hiba" which see for a general discussion of gifts and gift-giving [the most helpful part being Rosenthal's introduction]. On gifts to the military see *EI-2* also, article "In^cām."

itself; not so for their opponents.

Thus, later Shāfiʿī/Ashʿarī *uṣūl* texts differ from al-Jaṣṣāṣ and the

Muʿtazilah in two ways: they differ in their <u>opinion</u> on the matter under

discussion (the obligation to thank a benefactor before Revelation) but they

also reflect a different set of intellectual <u>assumptions</u>. Changed assump-

tions appear when a difference between the earlier and the later texts

appear, and the later author does not argue, but rather assumes the differ-

ence. In those changed assumptions there is evidence of developments that

are not differences of doctrine, but of world-view.

In his *uṣūl al-fiqh* masterpiece, the *Burhān*, Imām al-Ḥaramayn

al-Juwaynī contends not that *shukr al-munʿim* is anything other than obli-

gatory, but that its obligatory character cannot be known without Revela-

tion and in fact does not exist until Revelation.[24]

> "The certain proof of the invalidity of what [the Muʿtazilah, al-Jaṣṣāṣ etc.]
> hold is that "thanking" is wearisome effort (*taʿb*) for the thanker to ef-
> fect, and it is of no benefit to the One thanked. How then should the *ʿaql*
> determine its obligatory [character]?
>
> If it is said "The thanker will benefit from the reward which is his recom-
> pense in the afterlife; the *ʿaql* deems the enduring of wearisome effort in
> the immediate term [to be less] than the anticipated benefit in the
> hereafter [which consideration] is sovereign [in comparison]:
>
> We say "How is that apprehended by the *ʿaql*? From what should a *com-
> pos mentis* person (*ʿāqil*) know that? The One thanked [might] say "Your
> benefit (*nafʿukᵃ*) is not incumbent upon Me as a principle; and [being

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[24]*al-Burhān* 1:94ff.

thanked] does not benefit Me so that I should recompense you [for it].[Therefore, why should I reward you?]"... Ingratitude and thanks are equal as far as the thanked One is concerned.

Abū Isḥāq [al-Isfarā'īnī] said "The thanker wearies himself; he is the property of his Creator. There could come about [through the effort required to give thanks] a depreciation of the property of its Owner without His permission, by which loss the Owner does not benefit...

They allege that *shukr* is obligatory in the visible world (*al-shāhid*), then they determine this to be so in the hidden world (*al-ghā'ib*). This is manifestly inapplicable, for what they have mentioned, if we accepted it, pertains to the benefit of the One thanked; and the Lord most high is far above being able to benefit or be harmed...

It is quite clear here that the Ashᶜarīs held that moral knowledge could be known only through Revelation. Yet careful scrutiny shows that a shift has taken place in the formulation of the problem. It is difficult to know whether the shift is the self-conscious result of a general "Islamicization"/"de-Arabization" of Islamic culture, or whether it is the result of a carefully-thought-out polemical construction. Al-Juwaynī does not dispute that obedience to God is a desideratum, nor that thanks are owed to a benefactor. He argues instead that such thanks-giving is "wājib" (an obligation), but he uses the term *wājib* as part of the phraseology of the *fiqh* sciences. In doing so, he is implicitly describing *shukr al-munᶜim* as an instance of obedience to the divine command, rather than an *acknowledgment* of the legitimacy of such a command. Al-Juwaynī lives in an Islamic society, and the issue of God's moral claim is no longer a subject of debate— it is assumed. Thus he is here discussing the second-order problem of how

to know <u>this</u> obligation *among others*[25].

By contrast, for al-Ḥasan and for al-Jaṣṣāṣ, there seem to be two moral domains: that of "Arab tribal humanism,[26]" which according to al-Jaṣṣāṣ has its roots in human nature itself; and another kind of moral knowledge, the "Islamic" or "*Qur'ān*ic," understood by reference to Arab humanism. It is from the domain of Arab humanism that we know that God as a benefactor has the right to require obedience to His commands. The first claim legitimates the second. For al-Juwaynī, this order is reversed, and no appeal to human nature has any epistemological status, since Revelation is itself the information of what in "human nature" is virtuous and what is not. Note

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[25]A certain theologization can be shown to have taken place earlier than this of course. In the *Kitāb al-ʿĀlim wa-Mutaʿallim* of pseudo-Abū Ḥanīfah p. 33 we find "The student said.. Inform me about ingratitude to the benefactor (*kufr al-munʿim*): what is it?

[The Teacher] said Ingratitude to the benefactor is for a man to deny that the benefaction is from God. If he denies a thing of the benefaction, he is alleging that it is not from God, and he is a rejector of God (*kāfir bi-llāh*), because who rejects God rejects the benefaction... For God says {They know the benefaction of God then they deny it. (16:83)} He says that the ingrates (*kuffār*) know that the night is night and the river is a river, the know health and wealth and all that is changeable — comfort and ease — that it is a benefaction, although they attribute it to their objects-of-worship (*maʿbūdihim*) whom they worship and they do not attribute it to God from whom the benefaction [comes]."

It seems to me that this text, which is probably from the late 100's or first half of the 200's, differs from al-Ḥasan's considerably. Here the issue is acknowledgment of the metaphysical source, but there is no obedience implied in the argument, and there is no evidence of the "social-contract" notion present in al-Ḥasan's argument. See also Madelung "Early Murji'a p. 37, and Schacht, "An early Murci'ite treatise" p. 99-100

[26]Watt's term. See *Muhammad at Mecca* 24-25

too that for al-Ḥasan, a claim resulting from a benefaction is to be honored for its own sake. For al-Juwaynī, it is the fact of consequences (reward, for instance) attached to to an act (such as thanking) that makes that act worthy of our attention.[27]

And what of the *ni*^c*mah?* The complete absence of discussion of the term in these texts itself suggests a change in the concept: In the early texts *ni*^c*mah* is at the heart of the discussion. For al-Juwaynī, gratitude is not connected structurally, as it were, to *ni*^c*mah*, but *mun*^c*im* (benefactor) seems to have become merely one more synonym for the acts of the Creator, equivalent to *iḥsān* (kindness), *faḍl* (generous act), and so on. The idea of a particular kind of gift mandating reciprocal obedience has been lost, at least in the relations between God and His creation. In the first work of al-Juwaynī's pupil, al-Ghazālī, we can see that some changes occur in the argumentation of this problem even within the span of a generation.

More clearly than his master, al-Ghazālī explains that there must be an interest (*gharaḍ*) for someone in order for the *^caql* to deem something necessary. One thanks because it is in someone's interest to do so. Such a personal interest on the part of God is impossible since God is above such

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[27]This is of course in part due to the definition of *wājib* used by the early Ashʿarīs, i.e. an obligatory action is that for the neglect of which there is punishment. If there is no knowledge of punishment, or no punishment in fact, then nothing can be said to be obligatory.

things, and the putative thanker has no reason to think it is in his own interest to do so either.[28] Moreover, were one to "thank", one would be tiring oneself for no discernible reason. Al-Ghazālī makes concrete the implication of previous arguments: God did not *have* to make thanking Him an obligation. It does not "stand to reason."

> "Then also it may occur to the bondsman that if he speculates and thanks, he may be punished, for he is a bondsman leading an easy life whom God has granted him ease as a benefaction; perhaps he created him for well-being. So wearying himself [by thanking] is an infringement on his part on His sovereignty without His permission[29].

What is particularly interesting about the Ashᶜarīs is that they are willing to discuss the possibility that *shukr al-munᶜim* is *not* obligatory in order to show that the ᶜ*aql* is not the legitimating source of our knowledge of this moral principle. Since the Muᶜtazilah allege that, on the model of a beneficent King, one should express one's gratitude to the *greatest* of benefactors (namely God), al-Ghazālī suggests that, on the contrary

> One who would seek intimacy with a Sulṭān merely by wiggling his fingertips from the corner of the room, seems a fool in [the judgment of] his ᶜ*aql*. Yet the bondsmen's acts of worship, when measured against the Majesty of God, are less in stature [than the wiggling of the fingers to the Sulṭān]... One who is given as alms by the Sulṭān a morsel of bread in his hunger[30] --- when he takes to going about the countryside, summoning the chiefs of the notaries [to record] his thanks --- this is ignominious and dis-

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[28]*al-Mankhūl* p. 14-15

[29]*al-Mankhūl* p. 16. WPH clarified this for me.

[30]following the reading in note 2.

graceful. But measured against His capacity, all of the benefactions given by God most high to His bondsmen are less than this [giving of a morsel of bread by] the Sulṭān.[31]

Here, the young al-Ghazālī points out that, given God's infinite capacity and power, such thanking as might be offered to God, is so disproportionate as to make any analogy to human affairs irrelevant.

In his later work the *Mustasfá*, al-Ghazālī follows his eponym al-Ashʿarī in more boldly arguing that as far as ʿaqlī knowledge is concerned, thanking the benefactor is not obligatory, and it may be an impertinence.[32]

> Thanking the benefactor is not obligatory by the ʿaql, contrary to [the position of] the Muʿtazilah... It is obvious that the ʿaql would either make something obligatory because of a gain (*fā'idah*) or not for a gain. It is impossible that it would make something obligatory for no gain, for that would be pointless and foolish. If it were because of a gain, it is obvious that [the benefit] must *either* be something connected to the One worshiped,(and this is impossible because He is far too sublime and too holy to have [earthly] purposes (*al-aghrāḍ*)), *or* [for a gain of] the bondsman.

> Here it is obvious that the gain must be in this world or in the next. There is however, no gain in this world— rather [the thanker] wearies himself by speculation, thought, knowledge, thanks[giving], and forbidding himself passions and pleasures. There is [likewise] no benefit to him in the next world, for the Reward is a gracious act from God, which one knows *by His promise* and *His informing [us]*... But if He has not informed [us] of [the reward that follows virtuous conduct or obedience], how should one know that one is rewarded for it..?

> One might [even] imagine that God would punish [the thanker] if he thanked Him and speculated about Him, because He supplied him with the

[31]*Mankhūl* p. 17

[32]1:61:6ff

means for a pleasurable life: perhaps He created him to live at ease and en-joy [himself].[33] [The bondsman's] tiring himself is "usage of His property without His permission..".[34]

Here at the edges of theistic subjectivism[35] virtuous moral action is grounded solely in Divine command. Hence the obligation to thank a benefactor, which the *Qur'ān* and al-Ḥasan al-Baṣrī assume to be known by all humans, is for al-Ghazālī, unknowable. In fact, al-Ghazālī cannot conceive of an act of thanks directed toward God the Benefactor except in the forms prescribed in Revelation. As a result, he assumes that *ᶜibādāt* (ritual acts of worship) are the equivalent of the *shukr* discussed by his opponents. Put this way, their argument becomes absurd since there is no way to know the details of ritual acts before the *Qur'ān* is sent down. Al-Ghazālī seems simply unfamiliar with the possibility that the obligation to perform *ṣalāh* ("ritual worship") might be conceptually dependent upon knowing of the obligation to thank and gratify a benefactor. From the minimal value that al-Ghazālī assigns to 'giving thanks' per se, and because of the link he

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[33]reading "*li-annᵃhu 'amaddahu bi-asbābⁱ l-niᶜam, fa-laᶜallᵃhu [llāhᵃ] khalaqᵃhu [al-insānᵃ] li-yataraffahᵃ wa-li-yatamattaᶜ.*"

[34]A good example of al-Ghazālī's willingness to ride with the hunters and run with the hounds. The underlying idea is that use of someone's property without his permission is illegitimate and therefore forbidden. Later, however, he argues that knowledge of the illegitimacy of using someone's property without permission is also dependent upon Revelation. In the absence of Revelation this too cannot be known to be either evil or forbidden.

[35]G. Hourani's phrase. See *Islamic Rationalism..* page 3 and index

assumes between "thanks" and "ritual worship," it seems likely that for him "thanking the benefactor" means the mere saying "I'm grateful," and even that obligation is necessary only because of a Revelational injunction.

It is clear that al-Ghazālī writes as a Muslim, living in a Muslim world, inhabited by a Muslim populace. The obligation to perform *ᶜibādāt* is so thoroughly woven into his view of the world that to conceive of some other, prior form of thanks is impossible. This marks a significant change from the *Qur'ān*ic world and that of al-Ḥasan al-Baṣrī, in which the obligation to thank a benefactor is less controversial than the obligation to obey God's revelational dicta. That the obligation to worship is conceptually dependent upon the obligation to thank would seem to al-Ghazālī absurd.

For confirmation of this supposed change in understanding of the meaning of "*shukr*" let us turn briefly to the discussion of *shukr al-munᶜim* in *Nihāyat al-Iqdām*, , the 6th century dogmatic work written by the Shāfiᶜī-Ashᶜarī, al-Shahrastānī. In the discussion of *shukr al-munᶜim* he provides a definition of both *niᶜmah* and *shukr* that is highly suggestive.

> Broadly speaking (*ᶜumūmᵃⁿ*), a *niᶜmah* is everything by which a person is benefacted in state or property (*fī l-ḥāl wa-l-māl*)... A *niᶜmah* (using the word in its proper sense) is what is of praiseworthy effect. It is restricted to religious matters... Thanks for the benefaction is obligatory... and for sustenance [received]; this is that you perceive in your mind/heart (*qalb*) that it is a gracious act from the Benefactor, and you praise Him in speech, and you do not use [the benefactions and sustenance] in disobedient ac-

tion..[36].

Not only is the proper sense of the word *ni⁽mah* now restricted to the realm of religion, but it seems that the affective has totally replaced the effective. Thanking is intellectual (or emotional, depending on where one understands the mind to be[37]). Thanks is no longer a response implying action. Thanks is a realization of one's dependency and a declaration of one's gratitude. But there is no partnership established, no client/patron. The inner domain is becoming the realm of (especially religious) experience and knowledge, and the social model of human/divine relations has disappeared. Just as for al-Ghazālī and al-Juwaynī, for al-Shahrastānī, thanking God is an act different from thanking one's fellow human beings. There is nothing known from human relations that is relevant to human relations with God. The human polity is no longer a source of theological knowledge. Only sources of knowledge which are explicitly connected to that realm can provide information about it.

6. The Irrelevance of Scholarship

Despite the extensive discussion of possible reasons why thanking God might be an impertinence, "thanking" --- particularly the

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[36]p. 415: "Thanks" p. 412:

[37]See al-Bājī *Kitāb al-Ḥudūd*, q.v. ⁽*aql*

cognitive/affective understanding of the term — remained a central concept
of Islamic piety. In the very period in which al-Ash°arī and others were
arguing that thanking might be understood to be offensive, books were
being written by pietists to prove the merit of thanking. A brief look at
this genre of literature might round out the more theological/legal and scho-
lastic picture presented thus far.

There are at least two early works on thanking itself: the *Kitāb al-
Shukr* of Ibn Abī Dunyā (d.281/894), and the *Kitāb Faḍīlah al-Shukr li-llāh
°alá ni°matih wa-mā yajib min al-shukr li-l-mun°am °alayh* of al-Kharā'iṭī (d.
328 a.h.). These two works share with other pietistic works, for instance
the *Tanbīh al-Ghāfilīn* of al-Samarqandī[38] the form of being collections of
ḥadīth strung together around the theme of "thanking". Since, as the editor
of *Faḍīlat al-Shukr* establishes in his notes[39], there are few differences
between Ibn Abī Dunyā's work and that of al-Kharā'iṭī, the two may be
here discussed as a single work.

These collected *ḥadīth* reflect a general understanding of *shukr* as
"praise (*ḥamd*).

> no. 1: "God ... has not bestowed upon a bondsman a benefaction whereu-
> pon he then has said "Praise be unto God" — except that the praise was
> more than the benefaction[40]."

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[38]See p. 165-68: "*Bāb mā jā'a fī l-shukr*"

[39]page 23

Note that while there may be a public aspect to "praise," what is required by the *ḥadīth* is not praise but the saying of the phrase *praise is God's* (*al-ḥamd^u li-llāh*) for benefactions. In this context the phrase is not a public declaration of responsibility and fealty, but a pious ejaculation that both reminds the beneficiary of the source of benefactions, and is somehow pleasing to God.

Parallel to this understanding is the emphasis in the *ḥadīth* on *dhikr*:

> no. 25: It has reached us that Moses asked his Lord "Who among your bondsmen is most beloved to You?" He said, "Those who most recall Me[41]."

The *ḥadīth* collected in the *Tanbīh* of al-Samarqandī have much the same content, though in his selection he seems (characteristically) to have stressed the apocalyptic so that the requital for thanks or ingratitude is more prominent than in the other two works[42]. As with al-Kharā'iṭī, al-Samarqandī also stresses that obedience (*ṭāʿah*) is a kind of thanks, and rebellion (*ʿiṣyān*) is a kind of ingratitude. However, it is still the interiorist aspect of "thanking" with which al-Kharā'iṭī is here concerned.

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[40]*Mā 'anʿam^a llāh^u ʿazz^a wa-jall^a ʿalá ʿabd^{in} niʿmat^{an} fa-qāl^a al-ḥamd^u li-llāh illā kān^a l-ḥamd^u 'akthar^a min^a l-niʿmat^i.* al-Kharā'iṭī p. 33 On "praise" see *passim*.

[41]*Akthar^uhum lī dhikr^{an}* al-Kharā'iṭī p. 41

[42]See al-Samarqandī's *Tanbīh* pp. 165-168.

If it is somewhat surprising to find that scholars of more or less the same persuasion as al-Ashʿarī are collecting *ḥadīth*s to show the obligation to thank while he himself is arguing that thanks is an innately valueless act, it is still more instructive to see the same al-Ghazālī who argues so persuasively that thanking is not an absolute good[43] writing an entire chapter in his monumental *Iḥyā'* on "thanks[44]."

Al-Ghazālī begins this section with the phrase "You should know that God most high has associated thanks with recollection (*dhikr*) in His book[45]." He then lists various *Qur'ānic* and *ḥadīth* usages with the odd bit of commentary interspersed[46]. Al-Ghazālī begins his discussion proper of this concept with the propositional statement that

> [Thanking] is composed of knowledge (*ʿilm*), interior disposition (*ḥāl*), and action (*ʿamal*). Knowledge is the basis (*aṣl*): knowledge effects interior disposition, and interior disposition effects action[47].

Actually, for al-Ghazālī "thanking" has a particularly important status: He

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[43]see below chapter six paragraph 58ff

[44]See Volume 4, Book 2 section 2.

[45]*Iḥyā* 4:80

[46]ibid. Including, for {God is much-thanking and patient(64:17)}, "[Thanks] is one of the Lordly characteristics *wa-huwa khulqᵘⁿ min akhlāqⁱ l-rubūbiyyah*

[47]*Iḥyā'* 4:81

quotes approvingly the *ḥadīth* to the effect that "*shukr* is half of faith[48]," and to be ignorant of it is to be ignorant not only of one of the two portions (*shaṭr*) of faith, but of an attribute of God Himself (*ibid*).

There are many other instances of this kind of discussion. For our purposes, what is notable is that despite the speculation that thanking is not "obviously" obligatory, nonetheless, thanking in the individualist sense remains an important aspect of Islamic piety. It is grounded, however, only in Revelational dictate, not in any social or *ᶜaqlī* knowledge.

7. Conclusion

What conclusions can be drawn from this evidence? As far as the history of Islamic thought and religion is concerned, it seems clear that in the period 450-550 a.h. the transactional nature of the human–divine relationship is lost, and as Muslims become more and more intellectually sophisticated and ponder more and more the general thrust of the *Qur'ān*, they come to see God more and more as Someone or Something other, and apart. Thanking God becomes something categorically different from thanking another human being. Given the separation between the immanent (*al-shāhid*) and the transcendent (*al-ghā'ib*) no analogy between the two is informative.

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[48]*Iḥyā'* 4:60

In this shift from thanks as an acknowledgment of social obligation to thanks as an interior experience, it may be that the Mu^{c}tazilah are arguing the archaic position. It may indeed no longer be "reasonable" to see the link between thanking a king and thanking God, since the entire view of the cosmos as a society in which God is one among many generous benefactors has disappeared.

Yet at the same time, as this study pursues the discussion of obligations incumbent on a human by virtue of Revelation and by virtue of innate knowledge, it must not be lost sight of that thanking the benefactor and the other topics retain their obligatory nature. Perhaps the *shar^c* gains in significance as its content comes to be seen increasingly as incomprehensible by innate human capabilities.

Appendix

An Early Debate on 'Thanking the Benefactor'

It is noteworthy that the earliest reliable accounts we have of debates
on any issue in the "before Revelation" complex are on "thanking the
benefactor." It seems worthwhile to append two accounts of al-Ash'arī's
debates on this topic. There are two accounts surviving, one in the *Baḥr
al-Muḥīṭ*, the other in al-Subkī's *Ṭabaqāt*.

From the *Baḥr*[49]:

Al-Zarkashī transmits his account of the debate on "thanking the
benefactor" as recorded by a contemporary of al-Ash'arī, Abū Sahl
al-Ṣu'lukī via a contemporary of Ibn Abī Hurayrah:

[Abū Isḥāq al-Isfarā'īnī[50]] said, Abū 'Alī al-Saqaṭī, that is, al-Ṭabarī — and
he is known as Ibn al-Qaṭṭān — was a companion of Ibn Abī Hurayrah and
followed him jot and tittle in this matter [of thanking the benefactor][51].
And **he** said:

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[49]*Baḥr* 18A:8ff

[50]See 18A:4: The last referent is "and Ustādh Abū Isḥāq [al-Isfarā'īnī]
transmitted it in the gloss on the *Kitāb al-Tartīb* ..saying and al-Ṣayrafī belonged to
this school of thought.."

[51]*wa-yadiqq 'alayhi fi hādhā l-faṣl*

(1) Abū Sahl al-Ṣuʿlūkī narrated that Abū ʿAlī Ibn Abī Hurayrah happened by (*waqaʿa ilá*) Abū l-Ḥasan (that is, al-Ashʿarī) and Abū l-Ḥasan debated (*kallamahu*) this point with him [the obligation to thank the benefactor], and [the debate] did not have any effect on him[52]. So Abū l-Ḥasan said to Abū ʿAlī "You are hateful (that is, odious) to me[53]." [Al-Ṣaqatī] said "There arose [bad feelings] between them." (Abū Sahl continued): We were fierce partisans of Shaykh Abū l-Ḥasan.

(2) They [two] went and sat at the head of the bridge which was on Ibn Abī Hurayrah's way, the bridge to Baghdad called "*al-Ṣarāh*"[54]. We used to wait for him in order to benefit from him.

(3) As for Abū Bakr al-Ṣayrafī, he passed by Shaykh Abū al-Ḥasan and [al-Ṣayrafī] reproached[55] [Abū l-Ḥasan] on this question.

(4) Abū l-Ḥasan said to him "Do you seriously maintain that all created existents (*kā'ināt*) [exist] by the will (*irādah*) of God most high, the

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[52]text not clear: I read *lam yanjaʿ minhu*. Wolfhart Heinrichs informs me this can mean (with *fīhi*) "to have a wholesome effect," and may reflect the influence of *waqaʿa minhu*, "to make an impression on someone."

[53]I am assuming a fourth form for *sh-n-'*: the sentence does not make sense otherwise.

[54]The point of this remark is not clear to me.

[55]the Paris ms. has something like *b-ḥ-ḥ*. WPH suggests IV *l-ḥ-ḥ*

good of them and the detestable of them?" [Abū Bakr] said "Indeed."

(5) Abū l-Ḥasan said " If the cause (ʿillah) of the [supposed] obligation to thank the benefactor is that one is not sure [but] that there [might be] a benefactor who has created him, who has willed of him thanks, it is [also] possible that He willed of him not to thank Him, because He is in no need of his thanks.

(6) But either one believes that He wants only what is good[56], as the Muʿtazilah say, or he is not sure but that He [might] will of you shunning thanking [Him]: if you thanked Him He would punish you.

(7) Then it follows that it is not obligatory upon you to thank the benefactor, because of this possibility.

(8) Thereupon Abū Bakr al-Ṣayrafī departed from this school of thought [to which he had formerly belonged] and repudiated it. But as for Abū ʿAlī [Ibn Abī Hurayrah] and Abū Bakr al-Qaffāl, a repudiation is not established of them on this topic.

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[56]Thus there would be no possiblity that God would punish for impertinence?

From Subkī

Another, obviously sanitized version of the debate is preserved in the *Ṭabaqāt* work of al-Subkī[57] on the authority of Abū Muḥammad al-Juwaynī, whose authority is not specified.

(1) Abū Muḥammad al-Juwaynī related in his gloss on [al-Shāfiʿī's] *Risālah* that Shaykh Abū Bakr al-Ṣayrafī met with Shaykh Abū l-Ḥasan [al-Ashʿarī]. Abū l-Ḥasan said to him:

(2) You hold that the obligation to thank the benefactor is based upon what you have mentioned: It is probable that He wishes (*irādah*) thanks. Then if one does not thank Him He will punish him for it.

(3) Yet this statement [is held] together with the belief that God created the ingratitude of the ingrate (*kufr al-kāfir*) and wills it (*irādahu*). These are mutually contradictory. Either you say "Our acts are created for us," or you say "thanking the benefactor is not obligatory whatsoever, of itself (*abad^an li-mujarrid^ih*). //187

(4) [Al-Ṣayrafī] said:

(5) [Al-Ashʿarī] said: Your doctrine is that God wills the ingratitude of the ingrate. His willing his ingratitude does not make ingratitude

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[57]3:186

obligatory; suppose that He — the most High — wills thanks from us. His willing it does not making thanking obligatory, just as it does not make ingratitude obligatory. Either you deny God's willing of ingratitude and follow the doctrine of the Mu'tazilah, and your principle (*asl*) goes along with you, or you leave this doctrine.

(6) Al-Ṣayrafī said: Departing from the statement of the obligatory nature of thanking is the lesser [evil]. I will hold fast to that [namely that God creates the ingratitude of the ingrate and that thanking the benefactor is not obligatory of itself].

(7) Then he was wont to write on the margins of his books where he argued the obligation to thank the benefactor: obligatoriness, we state it [to be so] in association with the *shar'* and its *sam'*[58].

(8) I [al-Subkī] say: In [this] disputation is evidence for what al-Qāḍī Abū Bakr [al-Bāqillānī] said in *Kitāb al-Taqrīb*, and Ustādh Abū Isḥāq [al-Isfarā'īnī] in *al-Ta'līqah*, namely that certain circles of legists followed the doctrine of the Mu'tazilah on some questions, unaware of their invalid deviation (*tasha''ub*) from their principles (*uṣūlihim*), as we shall relate, God willing, in the biography of al-Qaffāl al-Kabīr of this generation.

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[58]*bi-qarīnat al-shar' wa-l-sam' bih*

(9) Furthermore I [al-Subkī] say: The answer of al-Ṣayrafī [should be] that the obligation to thank is because of the possibility that it has been said [by God] "it is obligatory;" not that it has been said "He wills it". Such as this has not come regarding ingratitude. We are certain that it is said "It is not obligatory, it is forbidden" -- even though He will it. It does not follow necessarily from His willing it for him that it is obligatory for him. In making obligatory thanking the benefactor, there is no mutual contradiction with the statement that He wills existents in their totality, both the good of them and the evil of them.

End

Translation and Commentary

on

Uṣūl al-Jaṣṣāṣ

Translation[1]

From Dār al-Kutub manuscript

229 uṣūl al-fiqh p. 212A and *29 uṣūl al-fiqh* 2B

[Chapter on] what is said concerning the assessment (*aḥkām*) of [29:3A] things (*al-ashyā'*) before the coming of the revelation (*qabla majī'*[2] *al-samᶜ*) concerning proscription (*ḥaẓr*) and permitting (*ibāḥah*).

Introduction

(1) Abū Bakr [al-Jaṣṣāṣ], upon whom be God's mercy said: The assess-

ments[3] of the acts of those made-responsible[4], which take place deli-

berately, are of three sorts in the ᶜaql: Permitted (*mubāḥ*[5]), Obligatory

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[1] This translation follows **29** with *significant* variants found in **229** noted in footnotes. Passages in brackets and paragraph numbering are provided by the translator. I have tried to translate a given Arabic word with a consistent English word, except where noted. The translation is literal, with the exception of certain conjunctions, *wa*, *li-anna*, *fa* etc which are sometimes reproduced as punctuation.

[2] *wurūd* in 229.

[3] *aḥkām* It should be noted that al-Jaṣṣāṣ is not making a direct claim about the ontology of the act, but is discussing the assessment made of an act, or the category to which it belongs.

[4] or charged: *mukallaf*. See Wehr 837; Dozy 2:491-3

(wājib), and Proscribed (maḥẓūr).

(2) *"Permitted"* is that for doing which the person made-responsible does not deserve[6] reward, nor punishment for shunning (tark) it, [229:213B]. The *Obligatory* is that for the doing of which one deserves reward and for its shunning, punishment. The *"Proscribed"* is that for the doing of which one deserves punishment, and for the shunning of which there is reward.

(3) Thereupon, people disagree concerning the assessment of those things by which it is possible to benefit,[7] before the coming (majī') of Revelation (al-samʿ).

(4) Some say: All of [those useful acts] are Permitted, except those whose detestability or obligatoriness the ʿaql indicates[8]. Those [acts] whose detestability the ʿaql indicates are ingratitude (kufr), oppression (ẓulm), falsehood (kadhib), and things similar to these. These things are "Proscribed" in the ʿaql (maḥẓūr fī l-ʿaql). Those [acts] whose

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[5]Or "indifferent". It should be noted that for al-Jaṣṣāṣ and for the Muʿtazilah, something mubāḥ was something with no moral consequences. The term implies the absence of information. For the non-Muʿtazilah, the term means that God has "Permitted" something in a positive sense.

[6]For a discussion of "deserving" (istiḥqāq) see below chapter five section 3.5

[7]intifāʿ: benefiting from, making use of; also usufruct.

[8] (dalla l-ʿaql ʿalá qubḥihi aw ʿalá wujūbihi)

obligatoriness the *ʿaql* indicates are, affirming God's unicity (*al-tawḥīd*), thanking the benefactor (*shukr al-munʿim*), and what is similar to these [things]. What is other than these is Permitted.

(5) They say [further], "When we say 'Permitted' we mean that there is no consequence for the performer [of the act]; he [also] does not deserve reward for his doing [the act]," as we have explained.

(6) Others say: that whose obligatoriness the *ʿaql* indicates, such as faith in God most high and thanking the benefactor and what is similar to these things, is Proscribed."

(7) And others say: concerning things before the arrival (*wurūd*) of the Revelation (*al-samʿ*) that they are Permitted, and it is not said that they are Proscribed, because Permitted implies a permitter and Proscribed implies a proscriber."

In addition, they say "There is no consequence for doing one of those things the detestability of which the *ʿaql* indicates, such as oppression and ingratitude.

I. That acts can be assessed into three categories

(8) Abū Bakr [al-Jaṣṣāṣ] says: We say that the assessment (*ḥukm*) of things in the *ʿaql* before the coming of the Revelation is of three sorts (*anḥāʾ*).

(a) Among them are the Obligatory: [There may be] no change (*taghyīr*) nor replacement (*tabdīl*[9]) [of their assessment]; e.g. faith in God most[10] high and thanking the benefactor and the necessity of equitable action (*al-inṣāf*).

(b) Among [the acts] are those which are detestable in themselves, (*qabīḥ li-nafsih*) [and therefore] Proscribed: there is no exchange nor change from their condition (*ḥālih*), such as ingratitude and oppression; their assessment does not differ for (*ʿalá*) the the ones made-responsible.

(c) And among them there is that which is in the *ʿaql* such that[11] permitting it is possible at sometimes, proscribing it at other times, and making it Obligatory at sill others, according to [29:3B] its context,

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[9]Missing in 229

[10]The copyist of 29 is much more liberal with his *taʿālá*'s and feels free also to add *ʿazzah wa-jalla*. These differences have not been noted.

[11]"*dhū ḥāl.*" Thus in 229. Ms. 29 reads unmistakably *dhū jawāz*.

[12]Literally: "according to what is connected to it in doing it, of usefulness for the responsible party, and harm".(*ḥasaba mā yataʿallaq bihi bi-fiʿlihi..*) (following 29).

beneficial and harmful.[12]

II. That "silence" means "Permittedness"

That which is not of the first two divisions [a and b], is, before the coming of the Revelation, Permitted, so long as there is not, in [doing it], more harm than the benefit that inclines one (*yajtalib*) to do it. It may be that Revelation comes with these acts' proscription, at other times with their Permittedness and others with their obligatoriness, according to Ultimate Goodness[13].

(9) That which indicates the Permittedness, as we have described it [above in paragraph 8c], for an agent who is one made-responsible, is that it is known that [these things] are created for the beneficial use (*al-manāfi͏ᶜ*) of those who are made-responsible: This is because [these acts'] creation obviously cannot be other than one of four things:

[a] Either that God, the Mighty the Sublime, created them for the benefit of *no one*, and this is futility (*ᶜabath*)[14] and foolish[15]; or
[b] it is that He created them in order by means of them to effect harm; without any benefit, and this is more disgraceful (*ashnaᶜ*) and more detestable: one may not [attribute] this to God; or
[c] His creation of [these useful acts] was for His own benefit: but this is impossible because neither benefit nor harm can

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[13]229: *maṣlaḥah*; 29 *maṣāliḥ*. For the significance of this root see R. Brunschvig, "Muᶜtazilisme et Optimum (*al-aṣlaḥ*)" *Studia Islamica* 39 (1974) 5-23

[14]It is a given that God cannot act pointlessly.

[15]229 adds "and God most high is far removed from [such things] (*wa-llāh͏ᵘ taᶜālá munazzah͏ᵘⁿ ᶜanh͏ᵘ*).

accrue to (*yalḥaqᵘhᵘ*) Him, the Most High.

[d] Thus it is established[16] that He created them for the beneficial
use of those made-responsible.

(10) Therefore it must be that they are to benefit from them, in any cir-

cumstance in which they are manifested[17], so long as it does not bring

about (*yu'addi*[18]) a harm greater than the benefit by which one is

drawn to it.

(11) An indication of this: When He *created* [these things] by which the

ones made-responsible might make inferences, they [then were able] to

make inferences by means of them. This is [itself] a type of use.[19] Just

so the rest of the aspects (*wujūh*) of usefulness which have been placed

[in this world] for them: It must be possible for them to realize them.

(12) Another indication [229:213b]: Since we find the heavens and earth

and ourselves indicants of God most high (*dalā'il ᶜalá llāh taᶜālá*), and

[since] in [the heavens, the earth, ourselves] there is no indicant of the

prohibition of benefiting from (*intifāᶜ*) these things -- because if there

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[16]229 "Thus it is clear" (*bayānahᵘ*)

[17] *ᶜalá ayyⁱ wajhⁱ ya'tī lahum dhālikᵃ minhā*. For a discussion of the concept of
"*wajh*" see below page chapter five section 3.2

[18]229 has the *rasm y-r-d. yarid* or *yarudd*.

[19]*ḍarb min al-intifāᶜ*. That is, by creating the world such that the process of
inference is a kind of benefiting by creation, God has established that the usage of
the useful things of creation is legitimate.

were an indicant of its Proscription, then the sending of Revelation[20]

with its permittedness could not be (because what the indicators of

God most high require (*mūjab dalā'il allāh*) is not overturned) — then

we know that there is no indicator concerning [the act] [indicating] its

prohibition. If they were Proscribed, He would not have deprived

them of an indicant (*dalīl*) to require their Proscription and [signify

that] their occurrence [seems] detestable. This proves that [the useful

acts] are Permitted, and that there is no consequence for the doer of

them: That for which there is, for a person, a consequence — it may not

be that God deprive him of the establishment of an indication (*dalīl*)

[to the effect] that there is for [doing the act], a consequence [so as] to

deter [him] from it (*li-yantahī ʿanhᵘ*). This is the assessment of the

ʿaql.[21]

(13) Revelation confirmed [29:4A] this understanding (*maʿná*), with God

most high's saying {It was never God's part to send astray a folk after

He had guided them until He had made it clear to them... [what they

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[20]29 *wurūd al-samʿ*; 229 *wurūd al-sharʿ*

[21]A key passage. Jaṣṣāṣ argues first, that we do accept ourselves, the heavens.
the earth, as positive proof of something. The *absence* of indicants ought therefore
to be an indicant also. That absence of an indicant as to the assessment of an act
or thing could suggest *either* that something was/is forbidden (no indicant that
that thing is Permitted) *or* that it was/is Permitted (no indicant that it is forbid-
den). Revelation has confirmed that the things of the earth are Permitted and *His
signs are not repealed or overturned* by Revelation. so we know that the absence of
an indicant that something is forbidden "indicates" that it was/is Permitted.

should avoid.}}[9:115] [Here] He has informed us that so long as nothing indicates [a thing's] forbiddenness, there is no consequence for doing it.

III. Against the "ḥaẓr-position"

(14) Another proof: It is obvious that the things [such as] we have described can only be [either] Permitted (mubāḥ), according to what we have said[22], or Proscribed; and some [portion] of them are Proscribed and some of them Permitted.

(15) One may not say that <u>all</u> of them are Proscribed, because that would require that movement and rest, and getting up, sitting down, and lying down would be Proscribed for human beings. One would be commanded to be deprived (yakhlū) of all of his acts. Since it is realized that this is impossible, we come to know that <u>some</u> [necessary acts] are Permitted.

(16) Now, for the other group [of acts]: It is obvious that [these acts too] are Permitted or Proscribed. Were [all of the rest] Proscribed, it would be necessary that there be [at this point] a indicator by which to distinguish [the Proscribed] from the Permitted [in the first group]. Finding no indication of this, we come to know that this group [too] is

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[22]229: "explained"

equivalent to the Permitted, [23]because of the absence of a proof of its proscription. And what is equivalent to the Permitted in this respect is Permitted. It is therefore established that the whole [of those things] for which there is no [explicit] indicant of its being Proscribed, is Permitted.

(17) Also: In the imposition of the proscription of these things (taklīf[an]) a hardship is introduced [with regard to] one's self. But human beings may not bring harm and distress upon themselves without deriving benefit, and there is no proof in the ʿaql of [a benefit being produced by refraining from the use of useful things]. And to require [self-harm] would bring about detestable consequences.

(18) Furthermore: Charging-with-a-duty (taklīf) is a gracious act by God most high [inasmuch as it is] a holding firm to what the ʿuqūl (pl. of ʿaql) require; for this reason, it is good that they be obligatory[24]. God could not conceivably fail to establish a sign of the necessity (luzūm) of avoiding what is of this sort, if it were Proscribed.[25] This indicates that

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[23]From here to "It is therefore established" missing in 229.

[24] (fa-inn[a] taklīf[a] l-fard[i] lutf[un] min[a] llāh[i] fī l-tamassuk[i] bi-mā fī l-ʿuqūl[i] ījābuhu wa-min ajlih[i] ḥasun[a] ījāb[u]hā). The point of this is not clear to me.

[25]Again somewhat convoluted: Literally: And what is of this sort, it is not permissible that God most high deprive it of the establishment of a sign of the necessity of avoiding it if it were Proscribed.

whatever is like this, [namely, seeming useful to the *ᶜaql*, without an indication that it is Proscribed], as long as no Revelation has been sent down making it Obligatory, or Proscribing it, is Permitted.[26]

(19) Also, in shunning the presumption (*iqdām*) to eat and drink, one's self is damaged, and this is detestable as it does not lead to benefit which is greater than the damage which is attached to it. When we do not know that there is utility in relinquishing something, [29:4B] the relinquishing of it is not Permitted.

IV. No one is harmed by use of the useful act

(20) Objection: [Surely] you do not deny that in the *ᶜaql* there is an indication (*dalālah*) of the proscription of these things before the coming of revelation, namely that these things are the property of God, the Mighty, the Sublime, and in the *ᶜaql* of every *compos mentis* person it is illegitimate (*lā yajūz*) to dispose of (*taṣarruf*) the property of someone else except by his permission.

(21) Reply: It is not the usage[27] of another's property without his permission that is Proscribed, *per se*, (*li-ᶜaynih*) because one may [229:214A]

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[26]This is a very important passage. It shows that part of what is at issue is what assessment may be attributed to an act, *after* revelation when there is no explicit treatment of it in the texts of revelation.

[27]or benefiting *intifāᶜ*.

make use of someone else's property without his permission if there is no damage to him in it; e.g., seeking shade in the shadow of a wall, or sitting in the light of his lamp (*sirāj*) or kindling a lamp for himself from it. Since that is the sort of use of another's property, since it is not detestable [just] because it takes place without the owner's permission, we know that the use of the property of another <u>is</u> possible[28] without his[29] permission. One who seeks to infer the proscription of [the useful thing] from its being the property of another, i.e that it is making use of it without his permission, is in error. This aspect of the problem is disposed of.

(22) And we say further that the assessment (*ḥukm*) of these things, with regard to the permissibility (*jawāz*) of benefiting from it before the coming of Revelation is [exactly equivalent to] the assessment of the use by one of us of the shade of someone's wall, or the light of a lamp, and kindling [of a light for ourselves] from it: This is because God most High is the Owner of these things and He incurs no damage in the use of them by the user. And there is no damage incurred by us [in the using of these things] that is greater than [the benefit] we expect from the use [of it] because, if there were harm to us "in religion"

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[28]29: *lā yajūz*; 229 *qad yakūn*

[29]229 "the owner's"

(*ḍarar fī l-dīn*), God — the Mighty and the Sublime — would not have deprived us of acquaintance with [this fact]. It is necessary, therefore, that "making bold" to use another's property is permissible[30] just as one may benefit from the property of another when there is no damage to [the owner] by [this usage].

(23) As for the use of another's property, as we have explained, it is only forbidden because of the damage which is connected to [its usage] and because [the owner] is in need of it just as we [would] need it.[31] We may not benefit ourselves [and in the process] damage someone else, without thereby bringing him, by means of this, a greater benefit, unless the owner gives permission in return for compensation (*al-aᶜwāḍ*). Here [the owner] is God most High[32].

(24) **Objection:** The difference between what you have mentioned and the things that we have mentioned [29:5A] is that in the undertaking to eat and drink there is *consumption* of the property of someone else, and there is no consumption of anything in seeking the shade of a wall by a person, or by sitting in the light of [a person's] lamp.

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[30]229:the making bold to use another's property is incumbent upon us

[31]*li-annᵃhᵘ (only in 29) yaḥtājᵘ ilayhⁱ kamā 'ḥtajnā naḥnᵘ ilayhⁱ.*

[32]i.e. What compensation does He require? I am following 29. 229 seems to read *an yubīḥᵃhᵘ lī mālikᵘhᵘ wa-mālikᵘ l-aᶜwāḍⁱ kullᵘhᵘmā*: Its owner and its equivalent both permit me..?

(25) **Reply:** The consumption [of the food and drink] does not deprive the owner of them [33]since God most high possesses them, [both] before their consumption and afterwards, for He is capable of returning them to what they were before. Their consumption does not deprive Him[34] of them just as the shade and the lamp are not taken from possession of the owner by someone else's use of it in the manner we have described.

(26) Moreover, there is no difference between the [two cases] in the aspect we discussed, because the principle (*ma*^{c}*nā*) in the permissibility of benefiting from the shade of his wall or sitting in the light of his lamp lies in [the principle that] there is no harm to the owner by [the use]. There is, then, a benefit (*naf*^{c}) in it. This principle is [likewise] present in what we have just mentioned [that God is not harmed by our consumption of "His" food and drink].

(27) With regard to these instances, in as much as it is benefit without harm to the owner, it must follow that their assessment[35] (*ḥukm*) is the same as what we have described [in the case of shade and light].

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[33]this clause to comma not in 229

[34]29 has "deprive" *yukharrij*(?); 229 has "harm" *yuḥrij*?

[35]229: collective assessment

Their differences in a certain respect (*min jihah*) — namely that in one of these examples [food and drink] there is consumption and not in the others — does not prevent their equivalence in all that they have in common, in the aspect we have described.

V. Contra "Neither Permitted nor Proscribed"

(28) As for those who say: I do not say that it is Permitted, nor that it is Proscribed, because "Permitted" implies a permitter and "proscription" implies a proscriber. [Before Revelation there is neither.] Yet, they deny only the application of the *word*, that is "*al-ibāḥah*" and "*al-ḥaẓr*"[36] but they agree with the principle (*maʿná*) when they say "there is no consequence for the doer of it". This is the concept [behind] "the Permitted" namely that one does not deserve reward for the doing of it. It would follow necessarily for them that [they must] deny saying anything is Obligatory, before the coming of Revelation, such as faith in God most high, and thanking the benefactor, and the necessity of equitable action. Moreover, one could not say that ingratitude to God and oppression and falsehood are Proscribed before the coming of the Revelation, [37]because obligation implies an Obligator and Proscribed implies a Proscriber.

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[36]*ḥaẓr* not in 229

[37]From here to "Revelation" not in 229

(29) **Objection:** The One who "makes Obligatory" holding fast to faith'
(*mūjib li-iʿtiqād al-īmān*), and the Proscriber of holding fast to ingrati-
tude (*kufr*) is God most high who established indications of these
[rules].

(30) **Reply:** Why not say the same for those things [Permitted] in the [time]
before] the coming of the Revelation? The Permitter is God, the
Mighty, the Sublime, who created [these things] for [the purpose of
our] obtaining benefit by them. And then, He did not establish the
indicator of their being Proscribed.]

(31) **Objection:** If *mubāḥ* (Permitted) were [merely] that for which there is
no consequence [29:5B] for the doer of it, it would be necessary that
things be "Permitted" for beasts and the insane and the absent-minded.

(32) **Reply:** This does not follow since we have said that the definition of
"the Permitted" is that there is no consequence to the doer <u>from among
the ones made-responsible</u>, and that [the act] <u>takes place intentionally</u>,
deserving no reward for the doing of it, and no reward for its neglect.
This [stipulation] is not present in what you mentioned because [the
beast and the insane] are not "made-responsible," and [in the case of]
absent-minded one, his act does not come about deliberately.

Proof-texts

(33) Abū Bakr [al-Jaṣṣāṣ] says: Everything we have presented [above] is

discourse about the assessment (*ḥukm*) of these things in the *ᶜaql* only

before the coming of revelation. Then Revelation came with *confirma-*

tion of what was in the *ᶜaql* with respect to "Permittedness."

 a) E.g. God most high's saying: {And He has made of service to you whatsoever is in the heavens and on the earth; it is all from him.} [45:13]

 b) And God Most high said {Eat and drink and be not prodigal.} [7:31].

 c) God most high said {Say: Who hath forbidden the adornment of God which He hath brought forth for His bondsmen and the good things of His providing? [7:32].

 d) God most high said {Hast thou not seen how God has made what is on the earth of service to thee, and ships go upon the sea by His command?} [22:65].

 e) He, the Mighty and the Sublime said {..And lofty date palms with ranged clusters provision [made] for men.} [50:10].

 God most high said {Licit for you are good things} [5:4; 5:96][38]

 f) He said {[O People]: Eat of that which is lawful and wholesome in the earth.} [2:168].

 g) He, the most high said {[Say]: My Lord forbids only indecencies, what are apparent of them and what are hidden, and transgressions.[39]} [7:33]

 h) And He, the Mightly and the Sublime, said {So walk on the [earth's] paths and eat of His providence.} [67:15}.

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[38] only in 229

[39] "and transgressions" not in 229

i) And He said {And the fruits and fodder; provision for you and your cattle.} [80:31].

j) He said: {Therewith He causeth crops to grow for you and olives and the date palm and grapes and all kinds of fruit. Lo! Herein is indeed a portent for people who reflect.} [16:11].

k) He said {And the cattle hath He created whence ye have warm clothing and benefits and whereof ye eat.} [16:5].

Other verses [also] imply the permissibility of these things.

With regard to the sunnah

(34)a) There is the *ḥadīth* of Abū Thaᶜlabah al-Khushanī, from the Prophet, "God, the Mighty and Sublime, imposed duties; do not be heedless of them. He defined (*ḥadda*) boundaries (*ḥudūd*); do not transgress them. He forbade [some] things; do not violate them. He was silent on [some] things without forgetting them as a mercy to you, so do not go seeking after them.

b) And there is a *ḥadīth* of al-Zuhrī from ᶜĀmir ibn Saᶜd, from his father from the Prophet. He said "The most criminal of Muslims toward Muslims[40] is the one who asks about a thing which had not been forbidden, and it is therefore forbidden to the Muslims because of his asking about it." He tells [us] that if it was not forbidden, it must be Permitted, fundamentally (*fī al-aṣl*).

c) And a *ḥadīth* of Abū Hurayrah: He said "The Messenger of God preached to us (*khaṭabanā*) saying: 'O People: Verily God has written for you[41] the pilgrimage.' ᶜUkāshah ibn Muḥṣan said 'O Messenger of God, is it [required] every year?' And [Muḥammad] said 'As for me, if I said yes, I would have [then] made it Obligatory; if I made it Obligatory [to do] it, you would neglect it and thus be led astray. [Therefore] be silent to me concerning that [about

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[40]*anna aᶜẓamᵃ l-muslimīn fī l-muslimīn jurmᵃⁿ*. 229 is defective here.

[41]That is, commanded for you in the Book.

which] which I have been silent to you. Those before you were destroyed only from the the multitude of their questionings, and their disagreement about (ᶜalá) their prophets.' God most high sent down {O You who are faithful: Ask not of the things which if they were known to you would trouble you; but if you ask of things when the Qur'ān is being revealed, they will be made known unto you. God pardons for this.} [5:101].

d) From Salmān. He said the Messenger of God was asked about clarified butter, cheese, and wild asses[42] and he said "The legal (ḥalāl) is what God most high permits, and the forbidden is what God the Mighty the sublime forbids in His Book. What He is silent about, is what is forgiven you."

[END OF PASSAGE]

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[42]*Miskhāt*, tr. Robson p. 895.

Commentary on
al-Jaṣṣāṣ's discussion of
Acts before the Coming of the *Shar*

1. Biography

Abū Bakr Aḥmad ibn ʿAlī al-Rāzī al-Jaṣṣāṣ was born in 305/917 and died in 370/980[43]. He traveled from Rayy to Baghdad in 325/936[44], then traveled to Ahwaz, Nishapur, then back to Baghdad in 344/955 where he was recognized as the head of the Ḥanafī school[45].

He wrote a masterly *Aḥkām al-Qur'ān*[46], a *Book of Stages* [of the Hajj?][47], and a book of "replies" to questions put to him[48]. His work seems otherwise largely to have taken the form of commentaries: a gloss on the *Adab al-qāḍī* of al-Khaṣṣāf[49], a commentary on al-Karkhī's fiqh work[50], a

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[43]In general, see GAS I 444-445:23, and *Ta'rīkh Baghdād* (henceforth *TB*) 4:314-5

[44]ibid

[45]*Ṭabaqāt al-Saniyyah* (henceforth *TS*) 1:479

[46]edited Kilisli Rifat, Istanbul 1335-1338. Also Cairo 1347.

[47]*Fihrist* p.261

[48] *TS* p. 480

[49]ed. Farḥāt Ziyādah, Cairo: American University Press 1978

[50]*TU* 1:204

gloss on the *Mukhtaṣar* of al-Ṭaḥāwī, a gloss on the *Jāmiᶜ*[51] of al-Shaybānī, an epitome of Ṭaḥāwī's *Ikhtilāf* work[52], and a gloss on the beautiful names [of God] (*al-asmāʾ al-ḥusnā*)[53].

His most substantial contribution to a field of Islamic thought lies in *uṣūl al-fiqh*. When we compare his work with that of his teacher Abū l-Ḥasan al-Karkhī, it seems probable that it was he who made the transition, at least for the Ḥanafīs, from a significance-of-the-case, or strictly "legal," understanding of *uṣūl*, to the analytical, theological version of the science with which we are familiar[54]. His *uṣūl* work "*al-Fuṣūl*" is the first (to have survived, at any rate) that follows the form that subsequently became standard for such works. The work appears to have been extremely influential: it is, for instance, quoted at length (though without attribution) in the *ᶜUddah*[55] of the Ḥanbalī Abū Yaᶜlá.

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[51]both *Great* and *Lesser*. See *Ṭabaqāt al-Uṣūliyyīn* (henceforth *TU*) 1:204

[52]on which see Saeedullah "Life and Works"

[53] or perhaps this is the title of a work? *TU* 2:204

[54]cf. in particular al-Karkhī's *Taʾsīs al-Naẓar* Cairo n.d. see GAS I 444:22.1 Note also N. Shehaby "*ᶜIlla*" and *Qiyās*" who argues this point. For another understanding of the significance of his *uṣūl* work, see M. Bernand "Ḥanafite *uṣūl al-fiqh*." I am grateful to Mme. Bernand, and to the editor of the Islamics section of JAOS, Jeanette Wakin, who let me see an advance copy of this article.

[55]Intro to edition of the *ᶜUddah*, 1:41-42

1.1. al-Jassas's Mu^ctazilism

There are at least four published Western discussions of al-Jaṣṣāṣ[56],
two of which refer to al-Jaṣṣāṣ as a Mu^ctazilī[57]. The first of these,
Shehaby's article, is a penetrating, though not entirely successful, attempt
to place al-Jaṣṣāṣ and all *uṣul al-fiqh* in the context of Stoic theories of
linguistic inference. In the course of his argument (p.66) Shehaby casually
asserts that "... al-Jaṣṣāṣ belonged to the mu^ctazili (*sic*) school of theol-
ogy...[58]"

More recently, Professor Bernand in her descriptive overview of the
Fuṣūl says that "his Mu^ctazilī affinities are obvious". Descriptions of
al-Jaṣṣāṣ as a Mu^ctazilī are not ungrounded: Bernand, for example, cites the
account of al-Jaṣṣāṣ in Ibn al-Murtaḍá, where al-Jaṣṣāṣ is listed as "a *faqīh*
who spoke of justice (*qāl^a bi-l-^cadl*)(p. 130)," that is, identified himself
with the Mu^ctazilah doctrine of God's justice. But an examination of his

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[56]Marie Bernand, "Hanafite *uṣul al-fiqh* through a manuscript of al-Jaṣṣāṣ;"
Shehaby, "The influence of Stoic logic on al-Jaṣṣāṣ's legal theory"; Saeedullah,
"Life and Works of Abū Bakr al-Rāzī al-Jaṣṣāṣ" *Islamic Studies* 16/2 summer 1977
pp. 131-141; *Principles of Muslim Jurisprudence (Chapters on Qiyās and Ijtihād) of
Abu Bakr Ahmad bin Ali al-Razi al-Jaṣṣāṣ al-Ḥanafī..* "Introduction" by Dr.
Saeedullah Qazi, Lahore: Al-Maktabat-el-Ilmiyyah pp. 1-69.

[57]as does Madelung, "The Spread of Maturidism.." p 112, using as his source,
Ibn al-Murtaḍá. See below.

[58]This by way of an attempt to explain what Jaṣṣāṣ means by the term
"divine writing" (*ibid supra*).

work shows that even this vague description is not to be trusted: Ibn

al-Murtaḍá's chronology is a bit off — al-Jaṣṣāṣ is described as belonging to

the generation of al-Qāḍī ᶜAbdaljabbār (who died 25 years after al-Jaṣṣāṣ)

— and Ibn al-Murtaḍá (and al-Ḥākim al-Jushamī — another Muᶜtazilī

biographer) seem almost randomly to have listed as Muᶜtazilah a number of

scholars including, for example, Ibn al-Surayj (p. 129) and al-Shāfiᶜī (!)

(*ibid*).

It is true that al-Jaṣṣāṣ's <u>teacher</u> debated Abū ᶜAlī al-Jubbā'ī, the

founder of the Baṣran Muᶜtazilī school, and praised his son Abū Hāshim,

but this does not make his teacher or al-Jaṣṣāṣ a Muᶜtazilī any more than

similar evidence proves Ibn Surayj a Ẓāhirī[59]. These later biographers seem

to have appropriated anyone at all whose thought was dubious from an

Ashᶜari point of view, and transformed him into a Muᶜtazilī[60]. As far as

can be seen, the sole legitimate ground for calling al-Jaṣṣāṣ a Muᶜtazilī seems

to be that he gave a more prominent place to *ᶜaql* than was acceptable to

later Ashᶜarī/Ḥanbalī orthodoxy. Yet the Ashᶜaris and everyone else except

the Ẓāhiris had a place for the *ᶜaql*; and many prominent Shāfiᶜīs and

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[59]See Makdisi *Rise* where Ibn Surayj is said to have regularly debated Ibn Dāwūd al-Ẓāhirī.

[60]*Faḍl al-iᶜtizāl* p. 391 For an analogous appropriation, note al-Subkī's transformation of of all Shāfiᶜīs into Ashᶜaris. See Makdisi, "Ashᶜarī and the Ashᶜarites" pp. 62-64.

Ḥanbalīs, as well as Ḥanafīs, viewed it as a legal source[61].

It must be remembered that in the context of the period in which al-Jaṣṣāṣ was active, theological thought meant something essentially Muʿtazilī, since the process of forging a non-Muʿtazilī *kalām* (or *uṣūl al-fiqh* for that matter), was not completed until some time in the 5th century, if then[62]. This was particularly true for the Ḥanafīs, as Massignon has pointed out[63]. So, to think in non-Ashʿarī, non-Ḥanbalī, terms meant perforce to be something that to our rather coarsened vision seems to be Muʿtazilī[64]. It seems there are grounds for rejecting the Muʿtazilism of al-Jaṣṣāṣ, for it is an accusation that <u>none</u> of the non-Muʿtazilī biographical dictionaries makes, not e (who is never one to shrink from defamation).

Furthermore, careful attention to what al-Jaṣṣāṣ *says* and *does not say* allows us to see ways in which, on this question at least, he differs

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[61]see chapter one section 2.2

[62] There is a sense in which all attempts to develop a theology devoid of Muʿtazilī influence failed, which I take to be the point of some of Makdisi's sources in his article "The Juridical Theology of Shāfiʿī..."

[63]*Essai*, p. 264,266. This point may also be inferred from the wide variety of Ḥanafī schools cited by Madelung in "The Spread of Maturidism.." pp. 112-114. See also Watt *Formative Period* 164-65 for the ways in which one could come to be labeled "Muʿtazilite."

[64]It is unfortunate that there are not more printed/extent Ḥanafī/Māturīdī sources.

markedly from the Muʿtazilah. First, and perhaps most notably, al-Jaṣṣāṣ
is not concerned with the issues of *being* (ontology) that are characteristic
of the Muʿtazilah[65]. He has no section on *taḥsīn* and *taqbīḥ*, in the technical
sense, and he does not discuss attributes, accidents, or essences. All that
concerns him is knowing. Indeed, al-Jaṣṣāṣ does not really <u>discuss</u> "good-
ness" and "detestableness" (*al-ḥusan wa-l-qubḥ*) but rather prefers to dis-
cuss "obligatory" and "forbidden," terms of permission and proscription.
In this he is closer to the Shāfiʿī al-Qaffāl than to the Muʿtazilī al-Kaʿbī or
Abū l-Ḥusayn al-Baṣrī. Finally we note that al-Jaṣṣāṣ defines obligatory
and proscribed as connected with punishment and reward, rather than with
blame and praise, and so his definitions of *mubāḥ* and *maḥẓūr* more closely
resemble those of Abū Isḥāq al-Shīrāzī the Shāfiʿī (who was known to be
hostile to *kalām*-theology[66]) than those of any Muʿtazilī whose works sur-
vive.

1.2. Form

The argument of the translated section of al-Jaṣṣāṣ's *Fuṣūl* is straight-
forward[67]: He presents what seems to be an area of scholarly agreement,

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[65]Frank, *Metaphysics* p. 8

[66]Makdisi *Rise* 302

[67]see outline below.

then the problem, followed by three possible positions. He expounds his

own argument, then attacks the alternate positions presented at the begin-

ning of his argument. He closes with proof-texts from *Qur'ān* and *Sunnah*.

Outline of al-Jaṣṣāṣ's Argument

I. Intro
  - A. Mental classification of acts
    B. The Problem of useful acts
II Silence means Permittedness
    A. Purposes of Creation
            1.
Creation for use
        2.
Creation as signs
III. Against the Proscribers
    A. Absurdity of their position
    B. Absence of signs or prohibition
IV No one is harmed by a useful act
    A. God is not harmed
    B. Humans are harmed by refraining from their use
V. Against the no-assessors
    A. No substantial disagreement
    B. Some things *are* obligatory and proscribed
VI. Proof-texts
    A. *Qur'ān*
    B. *Sunnah*

1.3. Contents

In addition to its intrinsic interest, the first translated section [Intro-

duction] is of interest for doxographical reasons as well. He seems to report

(4-7[68]) that the dispute, of which this section was the record, was

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[68]Numbers in parentheses refer to paragraph numbers in the translation.

conducted at two levels. There was one party asserting that the *ᶜaql* was of no use in coming to moral knowledge because *there are no assessments for acts before Revelation*, and there was another that in disagreement about *what those assessments that did in fact exist*, were. At issue then, are two separate questions:

(1) Whether there are signs other than Revelational (usefulness, for instance) that *reveal* the assessment of the act and

(2) What the function of Revelation is. For some, Revelation establishes knowledge; for those who held that acts before Revelation were or could be illicit, Revelation is the legitimizing agency for all human activity.

Thus, for the first issue (are there signs), the dispute is between — on the one side — "permitters" and the "forbidders" who see Revelation as a kind of information-giving event, — over against the "no assessment" people who see Revelation as the initiation of moral assessment (para. 7,28ff). On the second issue (the function of Revelation) alliances shift and it is the "no-assessors" with the "permitters" who together see creation as, at least, licit by its very nature — over against the "forbidders" who see the use of creation without Revelational sanction as illegitimate.

Of interest in the introduction also are al-Jaṣṣāṣ's definitions of *wājib*, *maḥẓūr* and *mubāḥ* (2). He does not invoke the standard Muᶜtazilī defini-

tions (see below) involving blame (*dhamm*) and praise (*madḥ*), but instead uses definitions very close to those of, for instance, Ibn Qudāmah[69], which define status in terms of reward, punishment, and inconsequentiality.

In addition to what there is in al-Jaṣṣāṣ, it is also significant what there is not: as pointed out above, in this text there is no ontology, no real *taqbīḥ wa-taḥsīn* but only a discussion of the grounds of proscription and obligation. It is true that al-Jaṣṣāṣ says that "detestable" things may be proscribed because of the presence in them of "detestability" (4,8b). But al-Jaṣṣāṣ seems not very interested in what was a central Muʿtazilī concern, and perhaps in the early Islamic 300's, the ontological aspect of this problem was not seen to be primary as it later became for the more metaphysically oriented scholars of the 5th and 6th centuries.

2. Commentary

Abū Bakr al-Jaṣṣāṣ argues (sections I and II) that, other than his own, every possible account explaining the existence of useful things in the world, is inadequate. He says that the consistency of status for certain detestables and goods before and after Revelation, and the usefulness of the rest, cannot be explained except by positing a stability between the time after Revelation and that before it (assumed in II, especially 12). For him,

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[69] who was certainly no Muʿtazilī: *Rawḍah* 16

the Islamic understanding of God and Creation implies the benignity of the world (9,10) and its indicativity as well (11,12). Muslims are to learn from the world.

In paragraph 12 (and again in 18) al-Jaṣṣāṣ is at his most subtle. In these two sections he defines the constraints on God and the limitations of the created world that — taken into consideration — require the positions he defends. In (12) he argues that the existence of God - which must be accepted prior to acceptance of Revelation — is known by reference to indicants in creation. Thus Muslims already use creation as a source of knowledge parallel to and in agreement with supernatural Revelation. For al-Jaṣṣāṣ, there are, in effect, two kinds of Revelation — natural (creation) and supernatural (Revelation) — and both are significant for moral knowledge. If this is so, it follows that these two Revelations cannot be in contradiction, since both are of supernatural origin: "What the indicants of God most high compel is not overturned" (para. 12).

The second phase of his argument is the assertion (12,16) that if useful acts were indeed Proscribed, God would have to have provided an indicant of their Proscription. This position is confirmed only *post hoc* — by Revelational information. (13). In this way al-Jaṣṣāṣ establishes the consistency of *natural* and *supernatural* Revelation, and along the way he also establishes the Revelational value of *natural* silence, i.e. non-indication. Finally, he also justifies usefulness as a valid criterion for the assessment of acts as

well. This section is a virtuoso piece of pre-scholastic argumentation.

It will be noted that in these sections there are two concepts al-Jaṣṣāṣ shares with the Muʿtazilah. In sections (10) and (19) al-Jaṣṣāṣ formulates a calculus of moral assessment in which to find the ultimate status of the act: its benefit is weighed against its harm. It goes without saying that such an evaluative procedure is foreign to the thought of Ashʿarīs and Ḥanbalīs. In addition, al-Jaṣṣāṣ uses the term *wajh*, which the Muʿtazilah use as a technical term[70]. There is no evidence that it is here used in that technical and ontological sense.

Al-Jaṣṣāṣ's last three sections (III, IV, V) are devoted to attacking other possible assessments of the pre-Revelational act and the defenses of their proponents[71]. Against the "proscribers" he argues first the absurdity of his opponents' position: It is incredible that inescapable elements of life itself should be proscribed (15 and all of IV). He argues further that God could not fail to provide a sign of a thing's proscription, were it Proscribed.

In section IV al-Jaṣṣāṣ argues that the Proscribers' assertion that the world is God's property, not to be used without His permission (Revelation

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[70]See below chapter five section 3.2

[71] It is noteworthy that al-Jaṣṣāṣ spends more of his time attacking the "proscribed" position than in attacking the "no assessment" position that eventually "won" the argument. This might suggest that it was the former that was the dominant alternative to al-Jaṣṣāṣ's position in the time or in the places that he wrote and debated.

constituting permission), is invalid because it is not mere use, but <u>using-up</u> or consumption of another's property that is impermissible (21-27). His argument rests upon the similarity between our permissible use of something that does not harm the owner (e.g. resting in the shade of his wall), and the harmlessness to God of our using "His" food and water. In later terminology, al-Jaṣṣāṣ makes harmlessness the *ratio* (*ᶜillah*)[72] for the analogy from use of the wall for shade, to use of God's food and drink (26).

Finally, in a relatively brief section (V), Abū Bakr takes on the group that finally "won," the "no-assessment" folk. His argument against them is simple — really too simple in fact to convince. He dismisses their point by saying that "they agree with [our] principle when they say 'there is no consequence for the doer of it'"(28). What he has failed to grasp, however, is that when his opponents say "the Proscriber of the holding fast to ingratitude is God most high, Who established indications of these [rules]" (29), they are pleading that there is a radical discontinuity between the time before and the time after Revelation. These "no-assessors" say that the significance of the *Qur'ān* lies not in the fact that it is <u>a</u> form of Revelation (supernatural) among others, but that it is <u>the</u> moment of communication between the transcendent and the mundane realms. Since in Islamic *heilsgeschichte* it was the *Qur'ān*ic moment that created the Muslim com-

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[72]his term is *maᶜná*

munity, an argument heightening and highlighting the significance of the *Qur'ān* was attractive enough in its own right to require a more substantial refutation than al-Jaṣṣāṣ deigns to give.

He closes with proof texts from *ḥadīth* and *Qur'ān* that establish that *after* Revelation, good things are permitted because of their usefulness and that things about which there is no indication are allowable. The implication is that Revelational silence has <u>always</u> meant permission (see especially 34c).

Whatever the logical or ontological camouflage, the real dispute among the various Ashʿarīs, Ḥanbalīs, Ḥanafīs, Shāfiʿīs, and Muʿtazilīs of the late 4th through 6th Islamic centuries concerned these two issues that, already in the first half of the 4th century, al-Jaṣṣāṣ can discuss with such reflective sophistication: whether it is only through the supernatural that God reveals moral knowledge, and whether Revelation <u>brings knowledge of</u>, or <u>for the first time establishes</u> a possibility of, moral life.

3. Two Assumptions

Below the surface there are two assumptions that undergird his understanding of Revelation and the world.

The first, and most important, is that the world itself is an indicator or sign telling humans something about God's works and ways, in the way

that indicants do[73]. This is certainly a *Qur'ān*ic position,[74] but it is a notion that al-Ghazālī and most subsequent Muslim scholars explicitly repudiated[75].

For al-Jaṣṣāṣ, the Māturīdīs, and the Muʿtazilah, moral knowledge is humanly attainable and there are <u>reasons</u> for the creation of beneficial things (9) and reasons for judging things to be permitted (*passim*). There is also reasoning process — this calculus of relative good and bad, hardship and profit — that allows humans to <u>establish</u> (and thereby grasp) reasons for a thing's permittedness or proscription (8,10,17,19). This reasoning process is only possible because the world, the heavens and ourselves, are indicators — signs that point to assessments; indeed that there be leading to moral assessments seems to be one of God's purposes for creating the world (9d, 11, 12). Much of al-Jaṣṣāṣ's effort is expended applying this argument to prove that if the world contains signs of moral obligation and disapprobation, then consequently <u>the absence of a sign</u> <u>is itself a sign</u> of Permittedness/Neutrality.

In this he is in conflict with another group who argue that the absence of sign indicates lack of permission, that silence effectively amounts to that

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[73]See our last chapter eight section 3

[74]E.g. *Qur'ān* 25:45-50; 16:3-16; 30:8-9,17-27, and of course, passim.

[75]e.g. *Mustasfá* translation paragraph 99

thing's Proscription (6,20,24). It is in response to them (section II) that al-Jaṣṣāṣ deploys his most refined arguments.

He suggests that since there is no sign to indicate the moral status of breathing, and since breathing must be permissible, we know that as a rule the absence of a sign of goodness or detestability is a sign that it is to be otherwise evaluated. Because there is nothing that marks eating an apple is detestable or obligatory, it must belonging to a set of things whose preliminary status arises from these things' usefulness or harm. In this they differ from those acts that immediately display an aspect of detestability, for instance. Once they are placed in the heap of things not immediately detestable or obligatory, they are to be investigated for usefulness or harm, which will then, when the balance between these two elements is totted up, reveal, that is constitute a sign, of its status: useful, in which case it is good and therefore permitted, or on balance harmful, in which case detestable and therefore proscribed.

As we argue elsewhere, it is in the un-willingness to base a positive argument on an analogy between this world and the next that the Ashʿarīs are separated from their opponents. One of the most prominent aspects of al-Jaṣṣāṣ's argument is the high degree of <u>consistency</u> he assumes between moral life before and after Revelation. Acts that the ʿaql knows as wājib before Revelation must be wājib after Revelation (8). of God most high

require is not overturned [by Revelation] (12)." The very definitions of

wājib, *maḥẓūr*, and *mubāḥ* seem for al-Jaṣṣāṣ to be primordial and indepen-

dent of Revelation; thus before and after the Revelation, "*wājib*" means that

"for the doing of which one deserves reward and for its shunning, punish-

ment" (2). If there is only one kind of moral knowledge, and if the world

is a consistent and reliable indicator of that then it follows that analogies

from this world to the next are a reasonable method of knowledge.

Most startling, perhaps, in al-Jaṣṣāṣ's argument is his assignment of the

same status to persons before and after Revelation: before Islam has come,

persons are "made-responsible" (*mukallaf*), just as they are after it

(2,9,11,17,18,32). My what or whom they are made-responsible he does

not say. So sure is he of the obviousness of consistency between the pre-

and post Revelational worlds, that he considers it *prima facie* absurd to

suppose that thanking the benefactor, for example, might ever be other than

obligatory (28). (The primordial applicability of Islamic legal/moral termi-

nology would, of course, be disputed by Ashᶜarīs.)

If for al-Jaṣṣāṣ there is so little difference between moral knowledge

and moral culpability before and after Revelation, what is Revelation? This

question leads to al-Jaṣṣāṣ's *second underlying assumption.*

It seems clear that for this particular 4th century Ḥanafī scholar, Reve-

lation is a source of knowledge, as 34c (quoting *Qur'ān* 5:101) suggests: the

information Revelation brings, while it may be privileged in content, is not privileged in type. For al-Jaṣṣāṣ Revelation augments knowledge by providing information about those things that seem neutral but which turn out to have some other assessment (8); but this Revelational data <u>confirms</u> that other knowledge derived, through the ʿaql, from the world (13,33)[76].

For al-Jaṣṣāṣ the time before Revelation is not different from the time after it: as we have seen, agents are equally made-responsible before and after Revelation, the same terminology of classification applies to acts before and after Revelation (permitted, obligatory, proscribed), and just as is the case <u>after</u> Revelation, silence <u>before</u> Revelation signifies permittedness (II). Given this continuity of moral climate before and after Revelation, it · is not surprising that to justify the use of things before Revelation, al-Jaṣṣāṣ cites Revelation itself (e.g. 33j). His understanding of Revelation must be that the *Qur'ān* constitutes a an addendum to human knowledge, he must hold that the imperfect tense in the *Qur'ān* implies a continuity of knowledge between the Revelational and post-Revelational worlds[77].

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[76]This might explain al-Jaṣṣāṣ's preference for the term *samʿ*, an audited event and moment in human history, to *sharʿ*, rearranging, going into for the first time, beginning, etc.

[77]a usage not at odds with how the *Qur'ān* was understood at the time it appeared, one supposes. It is a difficult matter to document, but it seems plausible that there is in fact more continuity between al-Jaṣṣāṣ's understanding and that of the *Qur'ān* on this matter, than between the the *Qur'ān* and the the Ashʿarī understanding of it, whereby the *Qur'ān* functions as legitimizing agent for every act.

Hourani has made an argument somewhat similar to this ("Ethical Presupposi-

In sum then, al-Jaṣṣāṣ has a minimal or "low" view of Revelation in relation to moral acts. Revelation is one source of knowledge among others, and it is not categorically different from these other sources in either scope or authority. One who seeks moral knowledge has to examine all the sources: not only *Qur'ān* and *sunnah* but likewise the created world and the resources of the *ʿaql*. It is easy to see how, in exploring the implications of arguments such as that of al-Jaṣṣāṣ, the Muʿtazilah moved toward an explanation of moral quality grounded in being, rather than in Revelational knowledge, since being itself is continuous between the world before the *Qur'ān* and the world after it.

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tions"), and I think it is helpful to see the Muʿtazilī position on these and other matters as the archaic position, and the Ashʿarī as being on the whole the novel one.

Chapter V

The Status of Acts:

Ontology and Knowledge:

Some Mu^ctazilī Views

To have moral knowledge, one must determine how to obtain moral
knowledge. In the period beginning in the 4th Islamic century, the question
of the methodology of moral knowledge became one of the central issues for
the Muslim student of law and dialectical theology. For such scholars, the
question was vital, since what was at stake was the very significance of the
Revelation that constituted the Muslim community.

But when we consider how the Mu^ctazilah in particular came to take
the positions on questions of epistemology and ontology that they did, it
must not be forgotten that their concern was not formal and academic only,
but also religious and pietistic[1] .

1. The Status of an Act and its Being

While describing "how to know," Muslim scholars also discovered that
there could be more at issue than epistemology; from the earliest period

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[1] On the origins of the Mu^ctazilah see EI-2 "al-Ḥasan al-Baṣri" (Ritter). For
an instance of this homiletic tone, see his "Epistle on Qadar" edited by Ritter in his
"Studien zur Geschichte der islamischen Frömmigkeit" p.69 ff. See also Frank's in-
troduction to *The Metaphysics of Created Being* and his "Kalām: Art of
Disputation-making.." and EI-2 s.v. "ḵadariyyah"

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from which true *uṣūl* texts survive, the question of moral epistemology is connected with that of moral ontology. For some Muslim scholars the search for knowledge led with troublesome frequency to the question of whether there was a necessary relationship between the status (*ḥukm*) of an act and its being. They thought that what had to be determined was whether the forbiddenness of an act reflected its nature, or simply was the record of divine fiat; for them this problem was best discussed through two related questions: (1) Is there something in the existence of a lie (for instance) that "makes" it detestable, or is it only the extrinsic fact of its being forbidden by Revelation that determines its status? Therefore (2) What is the relationship of "detestability" to "forbiddenness.?" Which of the two is logically prior?

It is not necessarily the case that a discussion of the status of an act would lead to a discussion of its ontology. But the process by which this came to be the case is quite comprehensible.

1.1. An early instance of the relationship of status and being

A passage from al-Muzanī, one of al-Shāfiʿī's students, demonstrates quite clearly how legal and linguistic issues can easily lead to questions about the ontological.

> If God or his Prophet orders something (*amarᵃ bi-amrⁱⁿ*) and names it (*wa-sammāhu*) [by way of specification], then that to which the name ap-

plies, to it applies also the *hukm* in the widest possible sense[2] and as an obligation.

Al-Muzani's point is that the *hukm* is unrestricted and obligatory unless God or His Prophet indicate otherwise. What is worthy of note, however, is his assertion that the name and the *hukm* are linked: if a thing is named and assigned a certain assessment, then where the name is applicable so too is the assessment. Of course al-Muzani would not argue that anything other than the Command informs us of the status of the act, but for him there is an equation between <u>being</u> a certain something, and <u>having a certain moral status</u>[4].

Now the *hukm* is , according to the grammarians[5], a statement of relationship, of predication. Therefore the *hukm* "obligatory" seems to be connected in al-Muzani's mind with whatever is named *salāh*, for instance. Given that for early scholars there was a quasi-identity between the thing

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[2] i.e. as the opposite of *khāss*, "in a restricted sense, or with the command restricted in scope"

[3] reading ...*fa-mā lazimahu ism⁽ᵘ⁾hu lazimahu hukm⁽ᵘ⁾hu ᶜalā l-ᶜumūm wa-l-hatm.* al-Muzani, *Kitāb al-Amr* p. 153, lines 4-5 of the text after the *basmalah.*

[4] I would suppose that naming for al-Muzani would constitute any sort of "judgment" about something. The word *hukm* has an enormous semantic range, and "*hukmuhu*" can mean not only its moral status or value, but any sort of identity between two things as well.

[5] See *EI-2* s.v. "*hukm*"

and its name[6], it is not surprising that later, when scholars define the thing in terms of its ontology, the <u>assessment</u> of the thing should seem to be intrinsic to it also. Later scholars did differentiate between the name and the thing. For the Ash‘ariyyah the name was connected only to the noetic concept of the thing, and for Mu‘tazilī grammarians the name was connected to the thing only by the naming process (*tasmiyah*)[7]. But for earlier scholars the thing itself and its *ḥukm* were clearly connected in a way that led analysts of what constituted the thing to reflect upon those assessments that could be predicated of it and the relationship between the thing and its assessment.

It is not possible to say when *ḥukm* was first used as a technical term to describe ontological attributes of an act[8], but one other factor which may have played a part in forming the belief that being and moral status are connected was the style of *Qur’ān*ic admonition.

When acts are praised or damned in the *Qur’ān* they are seldom qualified; commands seem seldom to reflect what might be called "situation eth-

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[6]Versteegh *Greek Elements* p 153-60. For the identity of "named" and "name" consider Qur’ān (55:78): "Bless your Lord's name" and "Glorify your Lord's name" (56:74, 56:96; 69:52; 87:1).

[7]Versteegh *Greek Elements* p. 156-58

[8]This point had troubled me for some time. A conversation with Professor Richard Frank was helpful to me here.

ics." Humans are commanded to do this, abjure that, for the most part without specification of situation[9], and the rare instance of a circumstantial modification[10] would seem to confirm al-Shāfiʿī's hermeneutic rule that the *ẓāhir* (most obvious) and *ʿammī* (least restricted) meaning of a of a *Qur'ān*ic locution is to be preferred. That something is good because it is "a truth-telling," detestable because it is a "falsehood," and that a useful act, being good, is permitted because good things are permitted: all of these seem to follow in a comprehensible way from 1) the identity of a thing (red fruit) and its name (apple), of its qualities (good, useful) and its name (apple), and 2) from the unrestricted form of *Qur'ān*ic locutions[11]. It is taken for granted that a locution refers to an act as an instance of a category of acts, and when this principle is combined with the hermeneutic rule that al-Muzanī assumes — that a phrase or command is unrestricted unless there is an explicit textual restriction — it becomes a a natural inference that some acts are good without restriction, are always and everywhere good; it may be that detestability is part of that which makes a lie a lie[12].

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[9] examples: {Rise to prayer; pay the poor-tax.. (2:110)}

[10]{God [has ordained] upon humankind pilgrimage to the House [for those] *who are able...* (*Qur'ān*:3:97)}

[11]{We have caused to grow.. edible fruits.. to enjoy. (80:27-31)}

[12]By "categorically" I refer here to the fact that a given act "Z-1" by virtue of belong to the category "Z" belongs also to the category "good" (for instance) to which all "Z" acts are supposed to belong. benefactor" is good; Therefore some

The pre-existence of the notion that acts have a certain indisputable moral status must have shaped the development of what is thought of as characteristically "Mu'tazilī ontology" in ways we lack the sources to document[13].

2. Two early Mu'tazili moral theories

Abū l-Hudhayl, (135/752-3-226/840-1) and al-Ka'bī (d. 319/931) are two early figures who were important in the development of Mu'tazilah ontology. Of both it is recorded that they defended a tight linkage between the being of the act and its moral status. As a result their moral theory has a static quality which cannot account for the dynamic and often ambiguous quality of lived moral experience. In the attempt to account for one fact of moral life — the seeming universality and unqualified value of certain general moral norms — these pious scholars were unable to account for two other facts of moral life: 1) the circumstantial quality of many actual moral evaluations and 2) the significance of the Muslim Revelation. The subsequent criticism of their positions by members of the Baṣran school of the Jubbā'ī's and 'Abdaljabbār reflects a discontent with this static quality,

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particular instance of thanking the benefactor, by virtue of being "thanking the Benefactor," is good.

[13]It seems that the notion of "constant goods" (a lie is always detestable) is prior to any particular ontological theory based upon the fact that arguments for particular ontologies appeal to the idea of "constant" goods for substantiation, rather than the other way around.

and should be seen as attempts to loosen the bonds of ontology by moving the locus of assessment from the being of the act as an instance of a category of acts ("causing harm," for instance) to the more transient aspect of the act: that part of its ontology that resulted from its being a specific act occurring in specific circumstances.

2.1. Abu l-Hudhayl

As the first formulator of many of the problems that were subsequently to occupy Mu^ctazilī thinkers[14], Abū l-Hudhayl (d. 226/840) set the agenda for the discussion of epistemology and ontology in the moral realm[15]. His ontology can be fairly summarized as characterized by a strong dis-inclination to differentiate between those things that make a thing what it is, definitionally or in the abstract ("Man"), and those things that may qualify a being in a particular circumstance ("This particular man, now".)

Specifically, while distinguishing between the substrate (*maḥall*) or atoms (that are the "localization" for the accidents (43[16])), and the

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[14]EI2 s.n. Abū l-Hudhayl

[15]The account presented herein is indebted to the account of Abū l-Hudhayl's thought presented by R. Frank in his *Metaphysics of Created Being*..

[16]References here are to Frank's *Metaphysics*. "atoms" can translate both *juz'* and *jawhar*. See Frank *Metaphysics jawhar* in index; and Peters, *Created Word* p. 119-121.

accidents themselves, Abū l-Hudhayl argues that there is no being for the substrate apart from the accidents that qualify it in time. Because neither accident nor substrate can exist without the other (13) existence and qualification are inseparable (15). The substrate may have reality (43) and permanence, but it is no *more* real than the qualifications that define the specific thing. This inability to differentiate between the compound substrate of a thing that would define it as a type (Man) and its accidents that would specify the terms of its existence (and make it "This particular man at this particular time") is re-inforced by the fact than an accident according to Abū l-Hudhayl, inheres in *all the atoms of the substrate, not* just in the *particular atom of the compound substrate* that might form the plane of existence for a qualifying phenomenon[17]. Therefore there is no being that is "Man," there is only Fred Smith. And if Fred Smith is distinguished (among other things) by having grey hair, it is not the "hair atom" in the compound Fred Smith that is qualified by "grey", but the whole compound substrate.

In the case of the good act, there is no "act" qualified by "good." There is only "this good act, now." More importantly, if a thing is qualified as "good," it is not good in a way different from the other elements that might

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[17]See Frank Metaphysics 16. See also *Farq* 130 where "motion" inheres in all of the atoms of the moving thing, not just in some of them.

define — color, size, shape, duration[18].

From the theory of accident-substrate identity, two important ideas follow: 1) that a "good" being, is "good" in the same way that it is what it is definitionally. It may follow that to imagine a "good lie" is as impossible as to imagine a five-legged horse. 2) That *knowing* whether or not an act is good may be akin to knowing other features of the thing or act: its duration, its color etc.

2.1.1. Abu l-Hudhayl:Knowing

For Abū l-Hudhayl, perception and knowledge of the nature of things in general is an act of the intellect (*qalb*)[19]. Knowledge is conveyed not simply by hearing or being informed (*ta^clim*), but ultimately by God's lodgment of knowledge and perception in the knower or perceiver[20]. "Mind"

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[18]Note that "act" is not constructed differently than a "thing". Both are beings. Thus the act is initiated by the individual, but its effect is generated — perhaps by God. Al-Ash^carī *Maqālāt al-Imslāmiyyīn,* (henceforth *Maq*) 402-3; Frank, *Metaphysics* 29. For the early Mu^ctazilah then, a good act is a good thing generating effect. Note that this preserves a Quranic orientation: Gräf has pointed out that the *Qur'ān* judges only things, never acts. It is wine that is forbidden, not "drinking wine." The distinction may seem unimportant, but the uncertainty of what is to be assessed helps account for the fact that Mu^ctazilī's judged the act, while some non-Mu^ctazilī's judged the actor: see Abu Ya^clá , *al-^cUddah* p191a ff. and al-Shahrastanī *Nihāyah* 370-71.

[19]*Maq* 569.

[20]*Milal* 74.

(al-^{c}aql)[21] is both the underlying *capacity* (*qudrah*) for acquired (*muktasab*) knowledge, and the possession of certain obvious and indisputable facts, such as that the sky is different from the ground, or that the person himself is not a donkey[22].

For Abu l-Hudhayl, therefore, since knowledge comes about by a combination of innate common sense and God's implanting knowledge in the person, it seems to follow that moral knowledge is not restricted to groups favored with certain sorts of information (such as is contained in Revelation): God's intervention in the knowing process is part of the world — common to Muslims and non-Muslims, and common sense is something shared by all mentally sound human beings. Moral knowledge therefore is possible for everyone.

^{c}Abdalqādir al-Baghdādī says[23]

"[Abū l-Hudhayl] based his statement concerning the procession (*mahlah*) of experiential knowledge (*ma^{c}rifah*) [upon his notion of two sorts of knowledge of God: indisputable and acquired]. [In this] he contradicted the rest of the Muslim community. He said concerning an infant that is in the second stage of its self-consciousness (*fī l-ḥali l-thāniyati min ḥali ma^{c}rifatihi bi-nafsihi*) that it must necessarily come to all of the experiential knowledge of the unity [of God] and [His] justice without any lacunae

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[21] for a defense of this translation see below section on ^{c}*aql*.

[22] *Maq* 480

[23] *Farq* 129

(*bilā faṣl*)[24]. Similarly it is incumbent upon him to come — given his knowledge of the unity of God, Glory be to Him! (or More glorious is He than this!), and His justice — to experiential knowledge (*maʿrifah*) of all with which God has charged him to do. If he does not come to all of this knowledge in the "second stage of self-consciousness," and he dies in the "third stage[25]," he has died an ingrate (*kāfir*) and an enemy of God most High, deserving of punishment in the Fire. But as for his knowledge of that which is known only by report of Revelation (*al-samʿ*), he must come to knowledge of this in "the second stage" upon hearing [130] information which constitutes a proof precluding excuses.

Here we see three important aspects of Abū 1-Hudhayl's moral epistemology: *First*, moral knowledge is innate in the human being. It comes about or should come about as part of human development. *Second*, moral knowledge is part of self-consciousness. The self is therefore an indicant of God, his unity and his justice. By self-awareness one becomes aware of God and moral law. There remain, however, some sorts of knowledge (of secondary importance, one feels), that can be known only by Revelation. *Third*, moral responsibility is not dependent upon Revelation but is part of the human condition independently of Revelation. Not to discern God's unity and justice and not to draw the implications of these two facts justifies punishment of one who has been in effect summoned to moral life but has rejected that summons.

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[24]This assertion is connected to the problem of the punishment of the infant/child (*tifl*). See Wensinck, *Muslim Creed* p. 43.

[25]I would suppose that the first stage, the second stage, the third stage, all refer to a schema of cognitive development now lost to us.

An interesting consequence of this moral theory comes in Abū l-Hudhayl's assertion regarding the "obedience" of the non-Muslim[26]

> [Abū l-Hudhayl] alleged that there is no holder of fanciful opinions (ṣāḥib hawāⁿ) nor any zindīq, but that he is obedient to God Most High in many things, even if he disobeys Him as far as his infidelity (kufr) is concerned.

This notion of the "anonymous Muslim" suggests that for Abū l-Hudhayl, right conduct, and indeed perhaps Islam itself, consists of conformity to certain norms, performance of certain acts which *coincide* with the content of Revelation. and therefore virtue come about because of the objective performance of the act, and not because the act constitutes a gesture of obedience on the part of one who has submitted to the Qur'ānic summons. Intentionality (niyyah) falls by the board in such a system, and the radical reorientation of the *Qur'ān*ic kerygma is lost.

From this evidence we can suggest some generalizations about Abū l-Hudhayl, moral quality and moral knowledge.

In Abū l-Hudhayl's view, moral knowledge is, for the most part, available to everyone by virtue of their humanity: Muslims and non-Muslims, pre-Revelational peoples equally with those living after Revelation. One knows therefore the good as good and the repugnant (qabīḥ) as being detestable[27] by being self-conscious and self-reflective; in short, by being human. The world — and the self is part of the world — provides knowledge of the moral quality of acts and things. Moral responsibility follows the acquisition of this knowledge.

The relationship of moral qualities to beings is quite straightforward for Abū l-Hudhayl: A good thing is good in the same manner that it is the thing it is: Telling a falsehood is detestable because it is a falsehood; in the

which is known not to be true[28]. The same conjunction of accidents and substrate that makes a falsehood a falsehood, makes a falsehood detestable. This means that a falsehood is detestable, or thanking the benefactor is good, without the possibility of further qualification: a good falsehood is not only a contradiction in terms, it is ontologically impossible. If this account makes moral ontology somewhat complex, it makes moral epistemology simple: to know a speech act as a falsehood is to know it to be detestable. The process of moral evaluation consists therefore of recognizing the category proper to the particular act or thing, while knowing that to the category belongs a moral judgment or status (*ḥukm*).

This static understanding of acts and status made for incongruities, and a critic had only to point to situations experienced as moral dilemmas to call into question the supposed correspondence between the thing and its status that the Hudhayliyyah proposed[29].

Abū l-Hudhayl's epistemology reflects one aspect of moral experience: the perception that all sane humans share some moral perceptions. Yet it has as a necessary by-product the effect of isolating and subordinating Revelation as a source of knowledge. Never mind that Revelation itself

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[26]*Farq* 125-126

[27]*Milal* 74

seems to point to some sort of pre-existent moral norm[30]; the symbolic significance of the Qur'ān event as the very source of the Muslim existence as a community could not be treated so lightly. Moreover, an epistemology which is empirical, which is even in part derived from the shared experience of separate and mutually antagonistic moral communities (e.g. *kāfirs* and Muslims), must be practically devoid of content and epistemological method. The empirical fact of a common aversion to lying, for instance, must be recognized together with the empirical fact of disagreement as to what this knowledge must imply about knowledge or moral conduct. To know in a general sort of way that all communities reject falsehoods as a general practice is not to know whether or not some falsehoods can be acceptable; it is not to know what the consequences of a falsehood might be and how the teller of falsehoods is to be regarded and treated. Practical disagreement calls into question the significance of this ecumenical moral concord: to know in the abstract that all peoples hold that a falsehood or an act of wrong-doing is wrong, is to know next to nothing at all. These attitudes are of little significance until fitted into a larger context of values and sanctions which remains particular to each community (their *sharā'i^c*).

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[28]See Frank, *Beings*. p143 n46 and sources there cited.

[29]See the translation from al-Ghazālī's *Mustasfá* below.

[31]G. Hourani: Presuppositions of the Qur'ān"

Similarly, to know that lying is everywhere condemned does not establish anything at all about the ontology of the lie because it does not determine why people agree that a falsehood is reprehensible.

2.2. al-Ka°bi's moral ontology

This rigid view of the relation between the being of the act and its ethical status was not peculiar to the followers of Abū l-Hudhayl among the Mu°tazilah. Abū l-Qāsim al-Ka°bī (d. 319/931)[32] and his school also held that the status of an act is inseparable from the act itself, as we learn from Abū Rashīd al-Naysābūrī:

> [Chapter heading] "That no willed [act] that is detestable could conceivably exist being good."
>
> Abū l-Qāsim held that this [shift from good to detestable] was not possible. Thus he says. concerning every accident. 'If it exists and is detestable, it is inconceivable that it should come to exist and then be good[33].'

Abū l-Qāsim evidently held that the detestable act is detestable because of what it is, itself (li-°aynih)[34]: "by what this specific thing is, as itself and as a genus[35]." Abū l-Qāsim held a position that the ḥukm of a thing was part of what the thing itself was, and that the thing or act belonged,

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[32]see EI-2 s.n. "al-Balkhī."

[33] Abū Rashīd. *Masa'il* 356 penult.

[34]ibid 357, top

[35]bi-mā huwa °alayhi tilka al-dhāt fī nafsihā wa-jinsihā.

immutably, to a particular assessment. The "judging" of an act was, there-
fore, at one and the same time, the judgment made for that *specific* act, and
for that genus of acts.

The criticisms appropriate to the moral ontology of Abū l-Hudhayl
apply also to Abū l-Qāsim al-Kaᶜbī. Whatever the formal attractions of a
fixed relationship between being and moral determination (*ḥukm*), and
whatever aspect of moral experience such an argument reflects, such a sys-
tem still could not describe a number of "anomalous" situations which,
though described in the jargon of the theologians, have references in realities
and dilemmas of the lived moral life. The Muᶜtazilah themselves prove
harsh critics of such a position, as the Baṣran Abū Rashīd demonstrates.

First Abū Rashīd argues against the notion of one-to-one correspon-
dence between *an act* and its determination.

> The desire to move by anyone unable to do so, is detestable; if one were
> enabled, it would become possible [to move] by this enabling. If we
> [moved] it would be good, assuming it were excluded from any [other] as-
> pect (*wujūh*) of detestablity[36].

In the case Abū Rashīd cites, the desire to move had been detestable
because, being impossible to move, that desire was futile, and a futile act is
by definition detestable. When the act became possible, the desire to do it,
no longer futile, became good. Thus, Abū Rashīd argues, a good act (willing

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[36]p. 354 to top of 355. For the technical meaning of *wajh wujūh*, see below.

to move) could formerly have been detestable.

Essentially this is an argument for *context* as the factor determining

the status of the act. Abū Rashīd continues:

> If [an act] is detestable by its nature, knowledge of its detestablity would
> have to be a consequence of knowing what the act is, *per se*, as itself and
> as a genus..[T]he detestable thing, were it detestable *per se* would also have
> to be detestable though non-existent.. [Further], it would be necessary that
> all detestable acts be like each other because they share an attribute
> (*sifah*) from among their essential attributes (*sifāt l-dhāt*). It would also
> be impossible that there be two similar acts, one of them good and the
> other detestable[37].

This is an important passage because it contains three objections that

hint to us of the existential problems that would be confronted if one

attempted to live by Abū l-Qāsim's rules, and because these are three prob-

lems also cited by the Ashʿarīs against all the Muʿtazilah[38]. We may para-

phrase his objections thus:

1) We often know what an act *is*, and to what genus it belongs. *We do*

not thereby know its assessment; this is the object of our inquiry[39]. To

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[37]Abū Rashīd, *Masāʾil*, p.357:1-2;4;7-8.

[38]See below chapter 8.

[39]Both Abū al-Rashīd and al-Kaʿbī would defend the notion that there are
some acts which are absolutely good or detestable. But al-Kaʿbī would say that
such an act is detestable or good merely by its nature, as part of its definition, and
Abū Rashīd and the Jubbāʾiyyah would say that the act must first occur, and have
thereby a context, before it can be said to be detestable.

know that slaughtering a cow (to use a frequent Muᶜtazilī example)[40] is "killing" is not necessarily to know whether *that sort* of killing is good or not, though we are aware that it is a "killing" and that "killing, in general," is bad.

2) Something merely conceived of, can have no status in the abstract. To have a determinate status it must be realized, it must have actual existence. Conceiving of an act of wrong-doing (*ẓulm*) is not to oppress anyone, therefore nothing detestable has been done; it cannot be said that the conceiving of an act of wrong-doing has meant a detestable act existed, since it has not taken place. Note that Abū 1-Hudhayl would accept this argument, though for a different reason: Since abstractions (substrates) have no reality, no act-of-wrong-doing can exist in the abstract.

3) We know from experience that a given act in one situation can be detestable, in another it is good: striking a child can be *ẓulm*, striking a child to encourage him to learn is a good[41]. If it were the *nature of the thing* that determined its status or quality, such a situation would be impossible: the ontology of the act, i.e. that which defines it and makes

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[40]See i.a. *al-Baḥr al-Muḥīṭ* 16:4; also Abū Yaᶜlá, *al-ᶜUddah*, p.188b; *Tafsīr al-Nīsābūrī*, 6:33.

[41]M13:__I cannot presently find this reference.

it what it is, is the same in both cases, but the real judgment appropriate to the act is different. From this we come to know that it is the act as realized in a context that informs us of its status.

It seems reasonable to suppose that the position Abū Rashīd presents as that of al-Kaʿbī was a common understanding of how an act's judgment (*ḥukm*) was connected with the act[42]. There are two more positions that Abū Rashīd attacks, and which we must consider before discussing the solution that the Jubbāʾiyyah proposed for the problem.

> Some of the more recent [among the school of al-Kaʿbī] hold, concerning something detestable, that there is that which is detestable in itself (*li-nafsih*) and there is that which is detestable because of "detestability (*qubh*);" and similarly [with] the "good:" [Therefore] they say that a body is good because of the existence of a 'causal determinant' (*maʿnà*) and this is "the good." [Thus,] it is possible that it exist [as good] and then become detestable by a detestable arising (*yaqūm*) in it. And they say Good is one of the accidents and is that which is good in itself. (This is not permissible according to Abū l-Qāsim.)[43]

The later followers of al-Kaʿbī, as Abū Rashīd presents them, were clearly concerned to bring their metaphysics into line with the experience that a thing may be in some cases good and in others detestable. Above we see the compromise that results. Yet it is important to notice that there is also something in moral experience that makes al-Kaʿbī's followers want to

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[42]This is suggested by the fact that the bulk of the argument by the Ashʿariyyah and others against what is conceived to be the Muʿtazilī position presents arguments against just this essentialist sort of moral ontology.

[43]Abū Rashīd, *Masāʾil* page 355; question 139)

defend the notion that *some* things *are* intrinsically detestable. There are others, however in which a *maʿná* (of goodness, for instance) may or may not arise: the essential nature of the thing is detestable, but good may come about in the act because of the addition of "goodness" to the being. The goodness is then said to have arisen, and inheres in the substrate of the act.

For Abū Rashīd and the Jubbā'iyyah, the problem with this description is that the act is assigned a status before its existence: for all Muʿtazilah, a *maʿná* exists, then makes itself known by some manifestation itslef in the thing[44].

As we shall see in greater detail below, the Jubbā'iyyah rejected any explanation of "status" that located the *ḥukm* of the act in the act itself rather than in the intersection of the act with circumstance.

> *That which indicates the invalidity of what they say:* [In the] accounting (*taʿlīl*) for the good of a body (*jism*): if it is possible [to do so] by [reference to] its coming to be in a certain way (*bi-wuqūʿih ʿala wajhin*) then it is not permissible [to do so] by [supposing] the existence of a causal determinant (*maʿná*)

> *Clarification:* the manifestation-in-a-certain-way (*wajh*) is what brings about the attribute (*ṣifah*)['detestablity'], if it acquires sufficient effect [in the thing.] [If this is the case] it is not permissible to locate [the attribute "detestability'] in a compelling causal determinant. If you [did so] then

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[44]See Frank, "Maʿna" p253-254 "When [Muʿammar] observed two bodies at rest..and observed that one had moved.. [the presence of the *maʿná* is known]. The *maʿná* had, however, resided in the substrate anterior to our observation of the movement;" it was a feature of the body which then manifested itself.

the "accounting for" would not be established within a boundary[45], which [ought to be] limited in what it defined[46].

This critique of Abū 1-Qāsim's position is crucial to our entire subsequent presentation of the Jubbā'ī alternative, and so it is important to discuss it in some detail.

It seems to be a supposition at least of the Jubbā'iyyah, a sort of Baṣran Occam's razor, that if we can account for the presence of the quality "detestability" in an act, by reference to "the manner in which that act manifests itself" (wajh), then that simpler explanation is preferable to accounting for the presence of the assessment by reference to an essential (and therefore static and immutable) element in the ontology of the act or thing. It is, in short, context or circumstance that provides a preferable cause (ᶜillah) for the origin of the quality "detestablity," rather than the being of the thing itself.

Abū Rashīd sees the Jubbā'ī position on the question of moral ontology as representing a reasonable mean that avoids the absurdities of al-Kaᶜbī's essentialism. It also avoids the trivial nominalism in which the the attribute "detestability" is located completely outside of the act: This position

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[45]or upon a definition

[46]The last sentence of this passage runs: *wa law waqafᵃ ᶜalá maᶜnᵃⁿ mūjibⁱⁿ maᶜᵃ dhālikᵃ, la-kānᵃ lā yaqifᵘ l-taᶜlīlᵘ ᶜalá ḥaddⁱⁿ yuqtaᶜᵘ ᶜindahᵘ.* (Abū Rashīd, *Masā'il* p. 355:15ff.)

is, as we shall see below, a standard Ashᶜarī/Ḥanbalī one in which it is God's command alone that determines an act's status. His preferred name for such scholars is "the Mujabbirah (fatalists)."

> It is not conceivable that the detestability of a thing be because of a prohibition, because one can know many of the detestable things without knowing of a prohibition either of the act considered generically, or specifically[47].

As he sees it, Abū Rashīd is therefore taking a middle position between al-Kaᶜbī and the Mujabbirah: against the Kaᶜbiyyah he argues that the possibility of change in an act's status by a change of circumstance makes ontological explanation insufficient; against the Mujabbirah he argues that their theory of knowledge is inadequate: a prohibition requires knowledge, that is, an act of communication between the prohibitor and the actor. Yet in the absence of knowledge of a prohibition, we can still know that *some* acts are detestable. This would not be possible if the Mujabbirī thesis were accepted.

We have seen that some Muᶜtazilah tried to explain (1) the experience of a limited moral consensus and (2) the experience of knowing something to be detestable without being informed of the fact by revelation, through positing a knowledge congruent with and arising from the ontology of the act, that is, from the act itself. This attempt was, as we have seen,

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[47] Abu Rashīd. *Masā'il* 356:6f "*min ghayr an yuᶜlamᵃ l-nahyᵘ ᶜalá jumlatⁱⁿ aw tafṣīlⁱⁿ.*"

unsuccessful because of the rigidity which this ontological theory[48] forced

upon them. The fact of the variability of an act's status was impossible for

al-Ka°bī to explain given the perdurance of the being. Rather than

compromise the integrity of the being, the Jubbā'iyyah suggested that the

assessment appropriate to the act is determined by context. This composi-

tion of act and context as the locus of assessment allows the immediate and

necessary comprehension (bi-l-iḍṭirār) of the act's status, while preserving

the possibility of changes of status.

At this point we should consider the positive alternative proposed by

the Jubbā'iyyah as preserved in our sources, °Abdaljabbār and Abū Rashīd.

3. The Jubba'iyyah: What is known about the act"

We are spared an exhaustive inquiry into Baṣran theories of the act's

ontology by the fact that the later Jubbā'iyyah, especially °Abdaljabbār and

Abū Rashīd, sought to disentangle the status of the act from its being. This

they did by calling attention to the "wajh," the manifestation of the act in

time. This approach allowed the *circumstances* of the act's existence, rather

than the being of the act itself, to function as a conditioning agent for the

existence of the assessment (wujūd al-ḥukm). That is, the act is both con-

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[48]developed to explain perdurance of forms in the world (Frank, *Metaphysics*
p.20)

sidered as a being (morally indeterminate), and as being in a particular time and place (having a particular status): the status of the act was then both known and determined by the way in which the act manifests itself to the mind. The innovation of the Jubbā'iyyah was to subordinate the moral assessment to the act's existence in context[49].

In order to understand the significance of this innovation, we need to explore a bit further the terminology of "particular being" used by the Jubbā'iyyah.

For the later Baṣran Muᶜtazilah, including ᶜAbdaljabbār and Abū Rashīd, the atom (jawhar) that forms the substrate (maḥall) for an accident (ᶜaraḍ) is conditioned by these accidents. It is the accidents that make a thing what it particularly is, as something more than pure being. All beings are therefore composites (jumal)[50].

Now these accidents may be considered from different vantage points, inter alia in terms of their effect upon the thing itself, or from the vantage point of our perception of the thing. As the same accident is considered from different angles, it is given different names.

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[49]Abū Rashīd, Masā'il p.357:6-7. This approach is consistent with the language-orientation that Frank notes as being typical of the Jubbā'ī's (Frank, Beings pp. 4, 11-12) Both language and the wajh are real-world manifestations of a hidden metaphysical world and are the only signs that provide knowledge of the ontological and noetic aspects of being.

[50]Frank, Metaphysics 38-40; 46,47.

3.1. Conditioning Accidents

There are four "conditioning accidents" that we need to consider here, because they are all linked in some way to the problem of moral ontology/moral epistemology. But we cannot understand the problem until we understand that some of these terms are equivalent to each other, but are invoked separately depending on whether we are talking about the particular *being* of the thing or our *knowing of its characteristics*. Let us consider the *ma'nâ* (usual translation "causal determinant"), *ḥukm* (usually "judgment"), *ṣifah* ("attribute") and *'illah* ("cause").

The difficult feature of these concepts is that they are related to each other in ways that translation cannot suggest. The *ma'nâ*, for instance, refers to "an accident considered from a certain point of view..[namely], its relation to a quality (*ṣifah*) or judgment (*ḥukm*)[51]. This means that we speak of a certain accident as a "*ma'nâ*" when we wish to refer to the reality behind a certain attribute or characteristic of an act. As I understand it, the *ma'nâ* is the "redness" of an apple's being red, red being an attribute or quality (*ṣifah*) of the apple. The *'illah* is the cause that makes predication proper: the "redness" of the apple is also what makes it proper to say "the apple is red". But the *ma'nâ* too is the cause of that apple-red juxtaposition

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[51]Peters. *Created Word*, p157.

and so "the [ma^{c}ná] is that kind of a cause (^{c}illah) that makes a thing enti-
tled to a ṣifah[52]." The ^{c}illah then, is the ma^{c}ná considered as a cause, the

ma^{c}ná is the ^{c}illah considered as a concept.

As the ma^{c}ná is related to the ^{c}illah, so too is the ṣifah related to the

ḥukm[53]. "Red" an attribute of the apple, is one of its qualities. When we

determine that the apple is in fact red, red is also a ḥukm (assessment) made

of the apple. The ṣifah is the being-red of the apple considered ontologi-

cally, the ḥukm is the realizing-the-redness of the apple, considered

epistemologically. What the Baṣrans emphasize is the priority of the

epistemological over the ontological: nothing can be said about the being of

the thing until we have known it by some means — namely through its

coming-to-be. It is the ḥukm that tells us of the ṣifah, and not the other

way around. It is here that the Jubbā'iyyah and the Ka^{c}biyyah differ[54].

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[52]Peters *Created Word* p. 158

[53]Peters ibid

[54]This and other late Baṣran innovations (see *Milal* p. 122-23 for a discussion
of Abū Hāshim's concept of the ahwāl) have the effect of disengaging, and may be
designed specifically in order to disengage, theological thought from "the airy
realms of metaphysic" and assert the priority of the world as known, over the
"essential character" of the world. (*Milal* 123:5-6). One wonders if a similar im-
pulse is not behind the Sufi metaphysics which re-conceptualized the world in
terms of the degrees and means of knowledge given to the knower (^{c}arif).

3.2. The wajh

It is a feature of Jubbā'ī thought that *knowledge* of a thing, as opposed to mere belief (*i'tiqād*), comes about only from knowledge of a "manifestation" (*wajh*) of the thing; knowing the manifestation guarantees that the "belief" is knowledge[55]. Acts were knowable as good, detestable, and obligatory. A moral evaluation of the act required not belief, but true knowledge. Such knowledge is possible only through contemplation and inquiry (*ta'ammul, nazar*) of the act. Through contemplation one could know whether the act had, in context, any aspects (*wujūh*) of detestable and if so, how great their effect was[56].

At this point, in order to analyze and understand the Basran position we must dissect it into its component parts, arranged in order of actual experience: from the tangible, to the noetic, to the ontological.

To begin with, what is the *wajh?* The root and indeed the very word is a common one, and appears frequently in theological and *usūlī* texts. Here, the image that underlies the usage is of an object which, examined from different perspectives and at different times[57], shows different

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[55] Abū Rashīd: *Masā'il* p. 287

[56] Abū Rashīd, *Masā'il* 356; Peters, *Created Speech* p. 58

[57] I say different times because the *wajh* is explicitly opposed to generic and therefore perduring existence. *'ayn* or *dhāt*. Abū Rashīd, *Masā'il* 287:15-21.

"faces". To establish, for instance, the detestability of a thing, one contemplates it, and considers the effect of the detestability upon the act, considered as a whole[58]. To determine the good of a thing, one determines that the act is free of these "detestable aspects" and has a purpose (*gharaḍ*)[59]. As such, the *wujūh* function as informants of the nature of the act; because the *wujūh* are not part of the essence or perduring definition of the act, they may change from situation to situation[60]. The meaning of the term "*wajh*"becomes clear from the following passage in which Abū Rashīd quotes his fellow-Baṣran and Muᶜtazilite, Abū ᶜAbdallāh[61]:

> One knows that an entity (*dhāt*) if it should have a certain attribute, clearly has another attribute. Subsequently it is known that a specific entity has the [first] attribute. We must then decide that it has the second attribute. This is like the knowledge that wrong-doing (*ẓulm*) is detestable, while we know that this specific thing is [a form of] wrongdoing. At this point we must decide (*nakhtar al-ᶜilm bih*) that [the act] is detestable[62].

A *wajh* then is a manifestation of one aspect of a thing that implies and

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[58]Abū Rashīd: *Masā'il* 356:6

[59]Abū Rashīd, *Masā'il* 356:1

[60]That the *wajh* is not perduring I take also from Abū Rashīd, p. 291:20-21. More importantly, *wujūh* are constantly said to occur, come into being (root w-q-ᶜ), or "the act *occurs* in some aspect (*wajh*) from among the aspects (*wujūh*) of detestableness." for instance (e.g. Abū Rashīd 287:4).

[61]Abū ᶜAbdallāh al-Ḥusayn b. ᶜAlī al-Baṣrī, d. 367. *Ṭabaqāt al-Muᶜtazilah* pp. 105-107. ᶜAbdaljabbār (teacher of Abū Rashīd) is known to have read his works. (ibid. 107)

[62]Abū Rashīd, *Masā'il* 287:17-20

informs us of a second attribute. Knowing that something is an untruth leads us to the knowledge that it is a bad thing because of a common-sense realization that untruths are detestable. The *wajh* is the appearance of the act in a context which informs us that it belongs to the genus "untruth". The *wajh* is the contextual manifestation of the act as "untruth", or "wrong-doing" or some other category that we know to have determined value.

Looked at from the perspective of being, the *wajh* is a feature of the act; it is as ontologically real as the act itself[63]. Therefore while acts exist, we have the knowledge in most cases to make moral judgments concerning their value.

The *wajh* as a source of knowledge is of value not only because it reflects and may in some sense condition the act itself. *It is also unambiguous*. The *wajh*, says ʿAbdaljabbār, cannot be such as to manifest itself in two ways, as both good and repellent. An act can have only one *wajh* at a time, confirming that it is the result of the interaction between the act in the abstract, and the particular circumstance in which it arises. The *wajh* arises along with the act, and with them, the *ḥukm*[64]. This process negates

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[63]Frank, *Metaphysics* 132 and note 45 quoting M6/1:52ff

[64]M8:105:7-8

all other possible *ḥukm*s for the act[65].

It must be repeated that the Jubbā'ian emphasis on the particularistic character of the *wajh* is an attempt to balance two facts of moral experience: that we know the value of some acts in their context[66] without needing Revelation, and that it cannot be said of any category of act that it is always detestable. The Jubbā'ī position is an attempt to preserve innate moral judgments while critiquing early Muᶜtazilī essentialism[67].

It is of some interest to notice that both the Ashᶜariyyah and the Jubbā'iyyah were critiquing the same position on the same grounds[68]. This is not utterly surprising since al-Ashᶜarī was a pupil of Abū ᶜAlī al-Jubbā'ī. The Jubbā'iyyah however were concerned to preserve the notion of human knowing as a part of the moral epistemological process; to esteem human knowing is to imply a continuity of the knowing process between pre- and post-Revelation. The Ashᶜariyyah on the other hand were primarily trying to emphasize God's sovereignty; this necessarily meant a cleavage between

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[65]See M8:101ff

[66]"Every act must be conceivable as coming to be in a certain manner (ᶜalá *wajh*); and then be assessed as [for instance] "good;" what is contrary to this [hypothetical] particular manner of existence (*wajh*) then, is assessed as "detestable." M8:565:18.

[67]"As for [the notion] that we judged any *act* as 'bad' or 'good' [*rather than the manner of its occurrence, wajh*], — no indeed!" M8:564:19; see also 8:566:12.

[68]See chapter seven section 1.2.1 below

the period before God's intervention and afterwards, as we shall see below.

3.3. The ᶜAql

If the particular element in moral knowledge comes about through contemplation of context, let us consider the non-contextual, human element in the knowing process. Here we must discuss the *ᶜaql*.

It is noteworthy that the Jubbā'iyyah base their epistemology on human experience: On the one hand they argue that we know value not in the abstract but in context, and on the other that observation and experience, without augmentation from Revelation, can be sufficient to provide us with moral knowledge. Essentially then the Basran position is an empirical moral epistemology, supplemented by Revelation to be sure, but ultimately grounded in our experience of the act combined with a sort of common sense knowledge. In this view, the *ᶜaql* is crucial because it is at one and the same time the conceptual vindication of both God's justice and man's responsibility[69].

The discussion of the nature of the *ᶜaql* is fairly full in both Arabic heresiographical and Western secondary sources. Confusion on the matter has resulted first of all from a misunderstanding by students, both Muslim and non-Muslim, of what was meant by the term "*ᶜaql*." This

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[69]See especially M 11:372

misunderstanding was surely caused, or was at least conditioned, by the powerful symbolism of such words as "reason" and "intellect" in the 18th and subsequent centuries — both in the West and in Islamdom. Part of the misunderstanding of meaning of "ᶜaql" has arisen also from the imbalance of our sources. The Ashᶜarī heresiographers are not much more accomplished than modern students at grasping the nature of the Muᶜtazilī understanding(s) of the term ᶜaql[70]. For them, as we shall see below, the ᶜaql is quite different from the ᶜaql of the Muᶜtazilites.

Let us begin by considering the definition of the ᶜaql attributed by al-Ashᶜarī to Abū l-Hudhayl[71]:

> [The ᶜaql] is the indubitable knowledge by which a person differentiates between himself and a donkey, between the sky and the earth, and things similar to that; [it is also] the faculty (al-quwwah) by which one acquires (iktasab) knowledge. [Al-Ashᶜarī adds:] They allege [also] that the ᶜaql is a perception, which we call 'the ᶜaql,' in the sense that it "is known by the ᶜaql" [or what is known as reasonable; al-maᶜqūl]. This is what Abū l-Hudhayl says[72].

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[70]A point noted only, so far as I know, by W.C. Smith in his article, "The Concept of Sharīᶜah;" see especially pp. 98-99

[71]These passages are discussed above, chapter three, but in the context of legal maturity.

[72]al-Ashᶜarī, Maqālāt p.480 It is noteworthy that the ᶜaql as an equivalent of al-maᶜqūl is a notion current among at least among the early philologists. See al-Khalīl, Kitāb al-ᶜAyn s.v. "ᶜaql." "What is meant by ᶜaql is al-maᶜqūl."

It is generally difficult to use heresiographical sources to know Mu^ctazilī positions and in such an account as the one above these difficulties are most frequesntly manifested. The definition is attributed to a single figure, presumably the eponym of the "they" mentioned in the descriptive part of the account. Yet one is troubled by the inconsistency of first two parts of the argument with the third part.

The first part (differentiating between oneself and a donkey) seems concrete and specific enough in its imagery to be a plausibly authentic recollection of a tradition. In addition, we know from other sources of the identification of the *^caql* with the *ma^cqūl*. Both seem consonant with the notion that indubitable knowledge is something innate and natural to the human being. Both of these concepts stand in contrast to the notion that *^caql* is a faculty, a capacity and an agent[73]. Moreover, I have not come across a reliable Mu^ctazilī source that so describes the *^caql*. It seems prudent, therefore, to accept that Abū l-Hudhayl regarded the *^caql* as "knowledge by which a human being knows himself to be different from a donkey" and as equivalent to the "knowing of things that are reasonable [or those things known to be reasonable]". These are the two positions that are most plausibly attributed to him.

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[73]See Tahānawī. *Kashshāf.* 1230ff. "*Al-quwwah mabda^u l-fi^cl muṭlaq^{an}*... *al-murād^u bi-l-mabda^{'i} al-sabab^u fi^cliyy^{an} kān^a aw lā.*"

Another Muᶜtazilī understanding of what makes up the ᶜaql is attributed by al-Ashᶜarī to Muḥammad b. ᶜAbdalwahhāb al-Jubbāʾī [Abū ᶜAlī][74].

> [He] says that the ᶜaql is knowledge (ᶜilm)[75]. It is called "ᶜaql" because by it a person restrains[76] himself from that from which an insane person (al-majnūn) does not restrain himself... He alleges that these knowledges (ᶜulūm) are many, and among them is indubitable knowledge (iḍtirār). [..One may attain perfection of the ᶜaql] by testing things and being experiencing them, and inquiry into them. In some of what is contained in the totality of the ᶜaql — such as reflection [tafakkur] by a person, if he sees an elephant, that it cannot enter through the eye of a needle in his presence — one inquires into it and reflects upon it until he knows (ᶜalimᵃ) that [for instance] it is impossible for it to enter through the eye of a needle even if he is not present... [Abu ᶜAlī] denied that the faculty of acquiring knowledge (al-quwwatu ᶜalā iktisāb l-ᶜilm) was [equivalent to] ᶜaql, although.. with the perfection of his ᶜaql one becomes capable of (qawiyyᵃⁿ ᶜalā) acquiring knowledge of God...

For Abū ᶜAlī then, the ᶜaql is things known; perfection of the ᶜaql comes about by testing and reflecting, acquiring knowledges which cumulatively comprise the ᶜaql. There is a congruence between the perfection of the ᶜaql and the capability of acquired learning, but the former is not identical with the latter. It may be the case, as we shall see for ᶜAbdaljabbār, that this congruence comes about because inferential and speculative knowledge rest upon the ᶜaqlī knowledges, but we cannot be certain of this.

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[74]al-Ashᶜarī, Maqālat 480-1

[75]I choose this translation rather than "knowing" because the the word ᶜilm conveys both the sense of a verbal noun, and something more substantial, something equivalent to "the known" (al-maᶜlūm). English has something of both these senses of the word.

[76]"restraining": see Lane 5:2113 "act of withholding, restraining."

It seems that the conception of the ^{c}aql as a knowing/thing-known was a characteristic feature of Mu^{c}tazilī epistemology. ^{c}Abdaljabbār offers no criticism of other Mu^{c}tazilī's and is quite clear in arguing that, for him, the ^{c}aql is neither a body (*jawhar*) nor an instrument (*ālah*), neither a sensing organ (*ḥāssah*) nor a faculty (*quwwah*). It does not perceive, it does not act[77].

Rather it is an agglomeration of "knowledges" (*jumlat^{an} min^a l-^{c}ulūm*)[78] These particular "knowledges" are the basis of things known (*aṣl al-^{c}ulūm*)[79]. It is not, contra Peters, that the ^{c}aql is intuition[80] but rather

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[77]M11:378:15ff; 379:1-2

[78]Peters 82;M 11:375 . Again it is possible that what is meant here is "a collection of knowings" in which case it would be that the ^{c}aql is a set of acts of knowing which would, in the proper circumstances, come to be. That is, it could not be said that in Platonic fashion one inherently possess the knowledge that "one is not a donkey", but if asked the question one would, without reflection, answer that one was not. Without being dogmatic I prefer the more substantial emphasis in understanding this term that clearly includes both meanings. No: only the parallelism between the ambiguous *maṣdar* "^{c}ilm" and the substantial perfect participle "*ma^{c}qūl*" points to this but also the repudiation of any term that would point to action (*quwwah, ḥiss, ālah*) and the fact that the ^{c}aql is the basis of acquired knowledge points, I think, to a substantial nature.

[79]M 11:377

[80]Peters among others uses the word "intuition" to translate ^{c}aql. (See Peters, *Created Word*, 82-83) Without delving into the history of this term or any of its possible alternatives in English (intelligence, reason, etc) it seems that this translation can be rejected on textual grounds. Intuition means intuiting, but ^{c}aql is tuition" is *badāh* and its derivatives. (see al-Baghdādī, *Uṣūl al-Dīn*, pp. 8) The power and relevance of intuition is certainly part of the issue being debated between the Mu^{c}tazilah and their opponents, but the discussion is phrased in terms of knowledge intuited from the ^{c}aql (*al-^{c}ilm bi-badīhati l-^{c}aql*). (See al-Mu'ayyad,

that the *ʿaql* is the basis of that intuition: those things known and also the means to that basic knowing. Hence, both al-Shāmil (19b) and Ibn Ḥazm (1:65) say that one knows by *intuition from the ʿaql* (*bi-badīhati l-ʿaql*). The *ʿaql* is a means (*yatawaṣṣal*)[81] but it consists of "some of the indubitable "knowledges""[82]. To know something by means of the *ʿaql* is not necessarily to know it intuitively, since, indeed, all knowledge is a product of the *ʿaql*[83]. Thus the knowledge described by ʿAbdaljabbār is closer to instinctual than intuitive: "implanted naturally" and "impelled" "moved" rather than "the immediate apprehension of an object by the mind without the intervention of any reasoning process (intuition)[84]. The *ʿaql* then is both substantial and primary — that is, those things known necessarily — and secondary and instrumental — it is the means to acquired knowledge, inferred knowledge, and knowledge that is the product of inquiry[85].

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al-Shāmil p. 12b)

[81]M 11:378

[82]*baʿḍ al-ʿulūm al-ḍarūriyyah*. *Baḥr* 15b:32; *Mughnī* 11:375; Peters *Created Word* 82.

[83]M 11: 380:2-3; also 376:10-14

[84]OED 1451 [352]; ibid 1455 [368].

[85]M 11:378

Since we are concerned with those things that the *caql* knows of itself, without recourse to acquired knowledge (*iktisāb*), speculative knowledge (*naẓar*) or inferential knowledge (*istidlāl*), we should consider the contents of the *caql*, -- the *caql* as seen in its substantial aspect.

cAbdaljabbār says "al-*caql* is an expression for (*cibārah can*) a restricted group of "knowledges" the acquisition of which, when present in a fully responsible person, validates inquiry, inference and the undertaking of that for which he is responsible[86].

If we consider Abū l-Hudhayl's definition of the *caql* ("that by which one knows one is not a donkey") and that attributed to Abū cAlī (?) ("the knowledge that an elephant cannot pass through a needle's eye") and when we consider cAbdaljabbār's insistence that the *caql* is "knowings" (*or* "things known") rather than an instrument for knowing, it becomes clear that what the Muctazilah understood by *caql* was something akin to "common sense" in both our workaday understanding of the term, and in the Stoic sense of the "common notions[87]." These are knowledges that all normal persons know and by virtue of which human beings are fully human beings

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[86]M 11:375

[87]See Reese, *Dictionary of Philosophy and Religion*, p. 98: *koinai ennoiai* used by Stoics: all men have a common set of basic ideas which are the starting point of knowledge, of good and evil and of God's existence."

(neither insane, retarded, nor under aged) and so, charged by God with certain duties and obligations.

3.3.1. The Place of the ᶜAql in Muᶜtazili Moral Epistemology

Although the Muᶜtazilī moral system is intergrated to a degree that makes it difficult to separate one strand from the whole, it is clear that ᶜ*aql* is the pivotal link in the chain that leads from the act to man to God. It is a chain forged of both the epistemological and the ontological, of both human elements and elements belonging to the act proper. It is this combination of elements in interaction, that for the Muᶜtazilah explains how moral knowledge is possible. The attraction of this complex set of notions is that that not only does it describe a process of moral knowing, but also, by it God's justice is joined to humankind's responsibility[88]. God is just. The defense of this principle is the *raison d'etre* of Muᶜtazilī theology, and for them it is unjust either to reward or punish individuals for that over which they have no control because of either incapacity or ignorance. ᶜAbdaljabbār says:

> [Concerning] the responsible person: Just as it must be possible for him to produce the act by a capability (*qudrah*) or instrumentalities, (*al-ālāt*), in order that his being made-responsible for something be valid, similarly he must know the qualities and what distinguishes what he is charged with doing from something else; [in this way] his intention to produce [the act]

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[88]See especially M 11:372

is valid, and his knowledge that he has done that with which he is is charged is valid. If the knowledge [necessary] for that thing be among those things which cannot be except indubitably (*ḍarūriyyᵃⁿ*), it is unavoidable that God must create it in him[89]."

For ᶜAbdaljabbār then, God must have created in human beings that which they could not otherwise have obtained, in order that they be responsible and He be just. Knowledge is a requirement of responsibility[90] because the goal of God's charging mankind is that they worthy of reward[91] and that requires knowledge of what they are charged to do, and of the qualifications of that act[92]. The *ᶜaql* is above all the knowing of the things known indubitably, but not the faculty by which they are known. Indeed ᶜAbdaljabbār, uses the very words "the *ᶜaql* is knowledge, [or knowing][93]" What _sorts_ of knowledge, then, comprise the *ᶜaql*?

First of all (and related to the notion of a *wajh* as a "revealing circumstance), one knows a thing according to what occurs concomitantly with it[94]. These knowledges have certain characteristics but no definite

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[89]M 11:371-72:18-20,1-2.

[90]M 11:372:13-15.

[91]ibid line 14.

[92]ibid lines 16-17.

[93]al-ᶜaql, huwa l-ᶜilm M11:379:1

[94]*Innamā yuᶜlamᵘ bi[l-ᶜaql] al-shay'ᵘ ᶜalá mā huwa bih.* M11:379:2

number[95]. This is because the "aim (*gharaḍ*) of the [concept] "*ʿaql*" is only what leads to the acquisition of knowledges (al-ʿulūm), and the doing (*al-qiyām*) of the acts with which one is charged." ʿAbdaljabbār says we may know those things that are in the *ʿaql* by considering what one is said to need and not need in order to be fully rational[96]. What is it that makes a person "rational" or as Peters says *compos mentis* (*ʿāqil*)?

A rational person knows what he perceives and he knows from his own situation that another person seeing the same thing will similarly know it[97]. Upon perceiving a body, he knows whether it is compound (*mujtamiʿah*) or discrete (*muftariqah*) and of the impossibility that it be in two places at once[98], or be simultaneously pre-existent (*qadīm*) and created (*muḥdath*) or existent and non-existent[99]. He will know whether an attribute is or is not present[100]. More importantly for our purposes, a rational person will know some of the things made detestable (*al-muqabbaḥāt*) and

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[95]ibid lines 14-15.

[96]M 11:379-80 passim

[97]M11:379: 12-13

[98]M11:383:6-7

[99]M11:383:19-20

[100]M11:384:1

the things commended (*muḥassanāt*) and some of the things made obliga-
tory (*muwajjabāt*)[101], and so he will know the detestablity of wrongdoing
(*ẓulm*) or of ingratitude for a benefaction (*kufr al-niᶜmah*) or the lie that is
neither useful nor repels harm. He will know the goodness of the good deed
and the magnanimous act (*al-iḥsān wa-l-tafaḍḍul*), and of the obligation to
thank the benefactor[102], to return a pledge upon demand, and to be equit-
able (*al-inṣāf*). A rational person will also know the goodness of blaming
for detestability, (if there is nothing to prevent that) and the appropriate-
ness of blaming someone for impeding [performance of] an obligation so
long as there are no preventitive circumstances (*al-mawāniᶜ*)[103]. The *compos
mentis* also possesses knowledge concerning many of the possible motiva-
tions to action[104].

A rational person, then, can be described as innately possessing certain
knowledges. These knowledges are determined by asking "what do we
assume of a fully competent person?" What is it, when absent, that excuses
one from being charged by God -- being responsible, as we would say? The
ᶜ*aql* is things known, reasonable things, and it is not an instrument by

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[101]M11:384:12

[102]reading *munᶜim*.

[103] M11:384:13-16

[104]M11:385:1

which moral knowledge is known. It may be a template against which a situation is fitted, but the "fitting" is not the doing of the ^{c}aql. Nonetheless, it is fair to say that by means of the ^{c}aql, certain moral facts can be known in a particular circumstance.

Two problems, then, remain.

3.4. From moral fact to moral action

First, we we have not, so far, described the connection between objective "detestability" when revealed in one of the act's manifestations (wujūh), and the human response — blaming (dhamm)[105]. Secondly, we do not yet know the motivation that moves the human from his state of moral inertia, that drives him to contemplation and valuation of acts and things.

3.5. The human response to moral knowledge: istihqaq

The importance of the first problem, the connection between the wajh that is detestable and the human blaming of the act whose manifestation is so evaluated, is important for formal reasons: it is here, as both Peters and Hourani have observed, that ^{c}Abdaljabbār's system is in most danger of circularity[106]. For it seems at first glance that ^{c}Abdaljabbār is saying that

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[105]See M6/1:7-8:14-17,1-5.

[106]Peters, *Created Word* p.85-86; Hourani, *Rationalism*, pp 44-47. They are

something is detestable because it is blameworthy, and is blamed because it is detestable.

> It is good for one of us to blame one who does something detestable to him or undertakes a serious wrong.. it is good because of "the deserving" (*al-istihqāq*) for what he has done; *this [deserving] becomes the basis for the* "goodness" of the pain that [constitutes] the punishments resulting from (*li-ajl'*) the deserving[107].

Concerning this problem, Hourani writes

> "'Deserves' seems to mean 'has as a fitting sequel'; thus the relation of 'desert' is one of fittingness or appropriateness between two successive events [the doing and the suffering of blame or punishment]. But what does 'fitting' mean? It is very difficult to explain it without making use of words which are admittedly terms of value, such as 'right' 'ought to be' or (in ethical contexts) 'just[108].'

ᶜAbdaljabbār's interlocutor (in a passage noted by Hourani) says

> But your saying of pain that it is good [to administer it] because of its being deserved, is self-contradictory, because the meaning of [saying] that it is deserved is that it is 'good to do it;' when you say [the inflicting of punishment] is good because of this factor (*wajh*) it is as if you are saying, 'it is good because it is good;' this is self-contradictory[109].

ᶜAbdaljabbār's opponent says further "What is it that would be useful as an explanation that would provide a valid cause for [blame's] being good[110]?

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not the first to notice it. See al-Rāzī's criticism of Abū 1-Ḥusayn al-Baṣrī, in *al-Maḥṣūl*, 1:1:134-5

[107]M13:344:4-5,7-8.

[108]Hourani, Rationalism, p 45.

[109]M13:346:1-3.

[110]M13:346:7

In response ʿAbdaljabbār says:

> Its being 'deserved' includes as part of its meaning 'it is good to do it'; it is not that ['it is good to do it'] is useful as an explanation [of *why* it is good to blame for detestability.]

> It is a common-sense sort of knowledge (*qad taqarrarᵃ fī l-ʿuqūl*) that it is right that blame requite detestability[111] and abuse (*al-isāʾah*) in such a manner as it be a recompense for it... When this is established, we express it [by saying] that it is 'deserved.' We make [deserving] to be, as it were, both the ratio (*ʿillah*) — inasmuch as it is good [to blame] if [blame] comes about [as a result of] the thing done (*al-mafʿūl bihi*) — [and also the] co-extensive sign (*sabab*) inasmuch as it is it is proper to this act (*min ḥaqq hādhā ʾl-fiʿl*) to attach to it, as a consequence, recompense[112]. If this is understood, then there is nothing to hinder our making ['deserving'] determinative (*muqtaḍiyᵃⁿ*) of the goodness [of the punishment][113].

In order to understand this difficult passage, we need first to consider

its place in the work from which it is drawn, and secondly to pay careful

attention to how the key words *ḥaqq* and *mustaḥaqq* are used.

The context of the argument is a digression justifying the anomaly of

"useful harm." ʿAbdaljabbār has argued for instance that wrong-doing is

detestable because it is *ẓulm*, and for no other reason[114]. It is not that

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[111]*min ḥaqqⁱ l-dhamm an yakūnᵃ muqābilᵃⁿ li-l-qubḥ*. Hourani has for this passage "It is established by reason that *it is characteristic* of blame to be corresponding to detestability.." which is might be unexceptional, but which in this particular case, as we shall see below, prevents us from grasping the implications of ʿAbdaljabbār's response.

[112]*an yataʿallaqᵃ bihi taʿalluqᵃ l-jazāʾ*.

[113]M13:346:8-9,10-13.

[114]M13:308.

something is detestable because harmful and so, *ẓulm*[115]. Indeed, harm is *good* unless it is wrong–doing (*ẓulm*) or pointless[116]. He then ennumerates a number of ways in which harm may be seen to be beneficial: utility (318), repelling a greater harm (335) and, in our chapter, harm which may be accounted good because of its being "deserved". All of this is of course leading up to the idea that God does no wrong in punishing the wrongdoer (366). The real subject of the argument is therefore the harm done to the wrongdoer for his wrongdoing, not the relation between the two events of doing something detestable and blaming (or punishing). A consideration of context does something to justify ᶜAbdaljabbār's rather evasive description of *istiḥqāq*. Ultimately his interest is in showing that the wrongdoer deserves *punishment, rather than something else.* not that he *deserves*, pain.

Secondly, some of the difficulty with ᶜAbdaljabbār's linkage of recompense and act, lies in our English term "deserve" which is, any more at least, only a valuative term[117]. *Ḥaqq* and *istiḥqāq*, thus, are misunderstood by Hourani as valuative, but it is to reply to just such a misunderstanding that ᶜAbdaljabbār's replies as he does to his questioner in the passage cited

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[115]ibid 309

[116]ibid 316. This is because, for the Baṣran, *qubḥ* is an additional quality that arises in, that is is added to, something. Otherwise that thing is presumed to be good.

[117]American Heritage Dictionary p. 357: to; merit[.]"

above.

Istiḥqāq is not only to be understood as meaning "deserving" or "right," as some sort of abstraction: "right in and of itself". We must recall that *istiḥqāq* in this context also means "having a claim on" "owning" "belonging to" as is shown by the argument between our author and his opponent on page 345 of volume 13.

> Q: Did you not make the basis [of your extrapolation] the "claiming as right" (*istiḥqāq*) the return of a deposit and payment of a debt (345:18).

> R: It is established .. that it is good [to return a deposit] only because it is [the depositor's] claim (*li-annahᵘ mustaḥaqq*); it is not permissible [to say] that it is obligatory (*wājibᵃⁿ*) or recommended (*nadbᵃⁿ*) as in the case of acts of worship. It has been established in [the matter of] repayment of a debt [also]...

In other words, the thing owed, and the deposit, are the property of the creditor and the debtor respectively. It belongs to them. Similarly, in a passage quoted by Frank[118] Ibn Mattawayh says, "this atom has as its property this attribute[119]." It is not that the atom "deserves" this attribute, as a matter of right, but that this attribute[120] belongs to the atom[121]. Similarly blame *belongs to detestability*, detestability is such as to appropriately

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[118]Beings p 56 note 12)

[119]*Inna l-jawhara yastaḥiqqu hādhihi ṣ-ṣifata...*

[120]As Frank suggests, p 54

[121]In his glossary, *istiḥqāq* is "appropriately or necessarily to be such as to have.." *Beings*, 189. C.f. Lane, 2:607 : right."

or necessarily call forth blame. It is part of the innate human moral apparatus symbolized in the word *ᶜaql* (*qad taqarrarᵃ fī l-ᶜuqūl*) that the detestable act calls forth, by virtue of what it is — detestable — the blame of all *compotes mentis*.

Thus I would suggest that in the proper context, blame (*dhamm*) attaches to detestablity (*qubḥ*) in a manner similar to the instantiation of an accident in a substrate: not valuatively but objectively, ontologically as it were, irresistibly and necessarily. Detestability "goes with" blame not because it is blameworthy, but because an detestable act is "blameful." In short, blame is an inevitable human response to detestability; it is a response built into the nature of the perceiving agent confronted with a con- text in which the act, as it has occurred, is perceived to belong to the category of "detestables."

Thus the act is perceived and measured against the inherent knowledge that makes up the *ᶜaql*, and the human knows it to be good or not. The movement from the perception of detestability to the response — blame — is natural and even, we might say, involuntary .

So it is that the locus of the act's value is understood reside in the inter-action between the circumstances of the act (*wujūh*) and that part of the human most characteristic of his/her humanity: the *ᶜaql*. It is not that the *ᶜaql* characterizes (*yaḥkum*) but that God has made the *ᶜaql* such that the

act presents itself before the *ᶜaql* in a form recognizable immediately as good or bad.

3.5.1. The motivations to moral contemplation

Perhaps the key element in the Jubbā'ian system of moral valuation, and one of its most distinctive aspects is their analysis of *why* the *ᶜaql* is moved to seek moral knowledge at all. For the Baṣrans moral knowledge was not a-temporal or static: the entire notion of the circumstantial *wajh* as the domain of moral qualification is a recognition of the fluid and dynamic nature of moral judgment. But the Baṣran Muᶜtazilah, true to their ascetic roots, regarded the problem of moral knowledge not only as the *how to know* the moral status of a being: that problem is dealt with in the general discussion of epistemology, presented above. They wanted also to understand the *motive force* behind the human evaluation of acts. This interest in motivation highlights one of the central differences between the Muᶜtazilah and the "fuqahā'". The Muᶜtazilah felt the obligation to reconcile the rigors of "science" with the facts of interior experience, to which they accorded an epistemological value objectionable to the Ḥanbalī/Ashᶜarī school. These latter felt that epistemology and especially moral epistemology was a straightfoward problem of moving from the certainty of Revelation's content to norms formulated from those contents. To introduce affective

"data" was to make the resulting norms no more than whims or fancies (*ahwā'*).

For the Mu^ctazilah, there is an appreciation of the fact that moral inquiry answers some human need[122]. The question they posed was "what is it *in the human being* (as opposed to the ontology of the act) that links the *^caql* to "forbidding" or "obliging", or, what drives the *^caql* to inquire into the moral status of an act (*ḥasan* or *qabīḥ*) at all? How is it that we move from the general statement "wrong-doing is detestable" to the knowledge that "this particular act as it occurs is wrong-doing and there-fore is detestable?" It cannot be mere *perception* of the nature of the thing that moves us to judge the act, because there is nothing in the ontology of the act per se (*bi-l-dhāt*) that corresponds to the *ḥukm*[123]. The gap in the sequence lies between the recognition of "*qubḥ*" ("this act is detestable") and the response to the act as being something proscribed ("you ought not do this act"). The question is "what links" common sense knowledge to the actual avoidance or performance of acts?

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[122]Which is not a surprising assertion, since as we have seen above they grant considerable status in their epistemological scheme to sources of knowledge that are human rather than distinctively Islamic.

[123]Abū Rashīd. *Masā'il* p. 357

3.6. Fear as Motive

The Baṣran Muᶜtazilah seemed to have despaired of the possibility of a deliberately chosen life of moral examination. Rather, for them it is finally fear (*khawf*) and making fearful (*takhwīf*) that motivates human moral activity. which reflection is laid upon the reflector in both religious life (*dīn*) and worldly affairs (*al-dunyā*) does not differ, and it is that there be produced in him fear[124]." This fear is thought to produce a supposition (*ẓann*)[125] which is an essential part of the process since all knowledge comes about through an initial suspicion[126]. The initial suspicion does not amount to a determination (*ḥukm*), but is only something arising from a void in the supposer (*al-ẓānn*). He must *reflect* upon what he knows in his ᶜ*aql* concerning detestable things, and the relationship between blame and "detestables" as well as what inclines the consciousness (*qalb*) to sorrow (*ghamm*) when it encounters blame[127]." But fear comes about only when there is a sign (*amārah*)[128] One does not suppose something to be

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[124]M12:352

[125]Lane says that *khawf* and *ẓann* are used synonymously 2:823

[126]M12:386:4

[127]M12:386:7-8

[128]ibid 7

fearful..except from a sign, either information (*khabar*) or something else[129].

That sign leading to moral inquiry might be lack of knowledge as to who

one's benefactor is and fear of offending him, it can be being summoned, or

by reading a book[130]. Ultimately, however, there are not enough external

factors to account for the urge to moral knowledge; in trying to account for

this "prudent fear" ᶜAbdaljabbār invokes one of the most interesting of the

concepts peculiar to the Muᶜtazilah.

3.6.1. 'Warners' as motives

In a passage the significance of which has, I believe, been previously

overlooked, Abū Manṣūr al-Baghdādī says in his *Uṣūl al-Dīn*[131]

> The Muᶜtazilah and the Barāhimah disagree among themselves concerning
> the manner of the connection (*wajhu taᶜlīq*) of the obliging (*al-ījāb*) and
> the proscription (*al-ḥaẓr*) to the ᶜuqūl..[They claim that] no rational
> person's heart is devoid of two "warners" (*khāṭirayn*): One of them is
> from God; by means of it [the rational person] is alerted to what his ᶜaql
> obliges him to do, namely to know God, the obligation to thank Him and
> summoning him to reflection and inferential thought about Him by His
> signs and indicators.

> And the second "warner" is from a Satan and by means of it he dissuades
> him from obedience to the *khāṭir* from God[132].

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[129]ibid 10

[130]*al-Muḥīṭ bi-l-Taklīf* pp. 26-27.

[131]p.26

[132]The *khaṭirān* is a fascinating concept to which I hope to devote a separate
article. The only full discussion to date seems to be in H. Wolfson, *The Philoso-*

There seem to be a large number of discussions of this concept of *khātir*
scattered around in the heresiographical literature.

The basic meaning of the term is of course "passing thought" and refers
to to those notions that pop into the conscious mind. The term also takes
its meaning from the other meaning of the root, namely "danger." What is
noteworthy for our purposes is that, aside from the Sufis, this concept was
most elaborated upon by the Muʿtazilah, for the specific purpose noted
above: to provide a link between the cognitive fact of detestability, and the
motivation to regard that act as therefore something to be avoided.

In the twelfth book of the Mughnī, ʿAbdaljabbār devotes a lengthy
discussion to the problem of whether the *khātir* is a true form of speech.
This is by no means an insignificant problem, since even his forebear Abū
ʿAlī, recognizing the danger, argued that the *khātir* must be a speechless
supposition or a conviction (*zann* or *iʿtiqād*) since otherwise God, the source
of the *khātir*, would be honoring every rational person with His discourse, a

phy of the Kalām, pp. 624-644 which is a later revision of his article in *Studies in
Mysticism and Religion Presented to Gershom Scholem* pp. 366-379. I owe this
reference to Wolfhart Heinrichs. The concept is mentioned in passing in Frank,
Metaphysics p.32 note 32 and pages 31 and 33, and Massignon, *The Passion of
al-Ḥallaj*, (see vol. 4, Index; q.v. *khātir*) where it is translated "movements of the
heart." Aside from Muʿtazili theology, the only other place that this doctrine con-
sistently appears, so far as I can find, is in the description of the interior life by
"mystics" (see for instance Abd al-Raziq's Sufi Dictionary (ed. Sprenger) p. 19:59.
See also references in the Wolfson article mentioned above to the descriptions of
the "warners" in al-Muḥāsibī and al-Ghazālī's Iḥyā') as well as a few highly
homiletic *ḥadīth* (e.g. Muslim Ṣalāh 19 Īmān 312).

privilege reserved for the prophets[133]. Nonetheless, ʿAbdaljabbār defends the proposition that the *khātir* is a form of speech, and among the activities of the limbs (*jawāriḥ*), i.e. a physical, as opposed to mental, act[134]. It is then a kind of private and entirely natural Revelation.

The warning (*khātir*) comes from God, potentially to all who are *compos mentis* and who know words (*lughāt*)[135]. As a result, a supposition arises, which in turn leads to an abiding fear attached to the mind (*qalb*)[136]. The *khātir* amounts to a motivation to act, not knowledge obtained by intuition. alerting (*tanbīh*) by a summoner (*dāʿī*) and by a warner (*khātir*)[137]." Thus the *khātir* is a prompt of sorts which, when one reflects upon events and knowledge, motivates towards one or another of the judgments[138]. But more than merely informants, the *khātirān* are the

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[133]M12: 401:3-6. Abū Hāshim, nonetheless, defended the notion that the *khātir* was speech (see :402:21ff)

[134]See bottom lines on :401; (limbs) :404:5ff

[135]This is a disputed point. Abdaljabbār claims that the *khātir* knowledge is the perogative of one who knows words, but Abū Hāshim says that it is knowledge potentially belonging to all who are *compos mentis*, knowing words or not. See :411:6-11

[136]supposition: 407:9f; abiding: ::13; mind: ::16 I translate "*qalb*" as "mind" because according to ʿAbdaljabbār, the *qalb* is the domain of conviction or belief (*iʿtiqād*) and supposition (*zann*).

[137]M12:387:6

[138]It is significant ʿAbdaljabbār calls the *khātir* of disobedience *waswās*, the

motivation toward reflection[139]. Were it not for them, this movement would not take place[140].

The second important fact about the *khāṭir* is that in ꜥAbdaljabbār's system at least, it is a true form of speech[141].

The other example of God's speech is of course the Qur'an. According to ꜥAbdaljabbār there are two kinds of speech: command/prohibition and informative (or verifiable) statements (*khabar*)[142]. Revelation (*samꜥ*) confirms what the *ꜥaql* could already discern, as well as some things, such as cultic practices, about which we would otherwise be insufficiently informed to appraise their value. The *khāṭir* is something that must be confirmed by the *ꜥaql*; yet it is the stimulation in the moral knowledge of the *ꜥaql*; on this view, the *khāṭir* (and God, through it) is the *primum mobile* that sets the entire machinery of moral discernment going.

The trend in the Jubbā'ī's was to move increasingly away from the nature of the act in itself as a residence of moral value, and toward the

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whisperer, M12:412; cf. Qur'an 114

[139]M12:397:16

[140]ibid:17)

[141]M12:401 chapter heading and passim; see also M7:16:5.

[142]M7:182:10-11

psyche as the source of knowledge. They continued to resist the idea that moral knowledge was impossible without Revelation, but were forced to argue that "value" was a human quality, and not a physical property of the act or thing under consideration.

4. Summary

We have seen in this chapter that early Mu‘tazilites, in defense of the notion that moral knowledge did not require Revelation, turned first to a consideration of the nature of the act. To locate value in the act, however, required an unduly rigid moral theory that was unable to account for the variability of the status of acts, arising from differences in context. The Jubbā’ian Mu‘tazilah attempted to solve this problem by proposing that part of the ontology of the act was governed by its context, and that it was this ephemeral aspect of the act that "made" it good or bad.

In order to account for moral knowledge, these same scholars were forced to argue that the ‘aql does not *know*, but is itself a collection of things known or being known. Among these are that certain classes of acts, those are detestable, and perhaps, that it ought therefore to be avoided. A given act presents itself in the aspect of being *ẓulm*, and so is known as detestable (*qabīḥ*). The human being is then prompted by fear, when confronted with this act known to be *ẓulm* and *qabīḥ*, to analyze it as such, and to avoid it.

It can be seen that such an account minimizes the significance of the Event of the Qur'ān, and describes Muslims as in many respects morally indistinguishable from non-Muslims. Such an account further makes moral epistemology a highly subjective process, grounded not in an objective source (of indicants or signs) to be quarried by replicable and comprehensible methods, but rather moral epistemology becomes an act undertaken by an individual for his own profit. Such a position was itself detestable to a large number of Muslim scholars.

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Chapter VI

Translation and Commentary

on a section from

Kitāb Mustaṣfá fī ʿilm al-uṣūl

Abū Ḥāmid al-Ghazālī[1]

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[55] The first axis: the harvest — namely, the *Ḥukm*[2]

(1) Discussion of [the *ḥukm*] is divided into four components (*funūn*): a component about the real nature (*ḥaqīqah*) of the *ḥukm*, a component concerning [the *ḥukm*'s] divisions, a component for its constituent elements (*arkān*), and a component for that which brings [the *ḥukm*] to light.

(2) *First branch: [The ḥukm's]* "real nature," comprising a preface and three controversies.

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 ¹ based upon a reprint of the Bulāq edition, printed by Dār Iḥyā' al-Turāth al-ʿArabī, Beirut n.d. Volume 1. Page numbers are indicated in square brackets.

 ²In al-Ghazālī's organizational scheme this amounts to the first major section after the preliminary material (*muqaddimāt*).

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The Introduction:

I. Definitions[3]

(3) "*Ḥukm*" (for us) represents (*ʿibārah ʿan*) the dictum (*khiṭāb*) of the

sharʿ when [the dictum] is is related to to the acts of those-made-

responsible[4]. Thus, "forbidden" (*ḥarām*) is the declaration (*maqūl*)

concerning [an act]: it". about [an act] "do it and do not shun it".

declaration about [an act], "if you wish, do it; if you wish, shun it". If

there be no such dictum by the Legislator, there *is* no *ḥukm.*

(4) Therefore we say:

(1) The *ʿaql* does not "commend" nor detest[5]
(2) nor does it make "thanking the benefactor" obligatory,
(3) nor is there a *ḥukm* for acts before the arrival (*wurūd*) of the *sharʿ.*

But let us sketch each controversy under its heading.

Controversy [Moral epistemology]

1.A The Muʿtazilī Position

(5) The Muʿtazilah hold that [56] acts are divided into "good" (*ḥasanah*)

and detestable (*qabīḥah*). Some acts are such that they may be

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[3]All numbered section headings are mine.

[4]*al-ḥukmᵘ. . ʿibāratᵘⁿ ʿan khiṭābⁱ l-sharʿ idhā taʿallaqᵃ bi-afʿālⁱ l-mukallafīn.*

[5]*lā yuḥassin, wa-lā yuqabbiḥ*

perceived immediately[6] in the *ᶜaql* (*yudrak bi-ḍarūrat l-ᶜaql*), such as the "goodness" of rescuing drowning persons or persons perishing, and [the goodness of] thanking the benefactor, or knowledge of the good of veracity (*ṣidq*); or as [one knows immediately] the detestability of ingratitude (*kufr*), or of inflicting pain on an innocent, and of a falsehood that has no objective.

(6) [There is also a class of acts such that] they are perceived through rational (*ᶜaqlī*) inquiry (*naẓar al-ᶜaql*), such as the goodness of veracity which is harmful, and the detestability of a falsehood which is useful (*al-ladhī fīhi nafᶜ*).

(7) In addition [there are] those [goods and detestables] that are perceived through Revelation (*al-samᶜ*), such as the good of worship (*ṣalāt*), the pilgrimage to Mecca (*ḥajj*), and the rest of the acts of bondsmanship (*ᶜibādāt*).

(8) [The Muᶜtazilah] allege that [acts of bondsmanship] are distinguished from [other "goods"] with regard to their essence, by the fact that they contain an essential attribute (*bi-ṣifatⁱ dhātⁱhā*), [as a form of] divine

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[6] *ḍarūrī* and its derivatives will be translated according to circumstance as "immediately" "necessarily" "undeniably". The idea underlying the term is that some kinds of knowledge <u>force</u> themselves upon the mind (root meaning of *ḍ-r-r*).

assistance (*lutf*[7]) that impedes [performance of] corrupt acts[8], and that motivates one to obedience.

(9) However, the *ᶜaql* is <u>not</u> self-sufficient in its apprehension [of divine assistance][9].

1.B al-Ghazālī's rebuttal

(10) And so, *we* say: One who says "this is good, this is detestable" has not perceived with understanding of what it means so long as the meaning of "goodness" and "detestability" are not understood. the meaning [of the statement] so long as he does not [yet] understand the meaning of "good " and "detestable".

2.Definitions of 'good' and 'detestable'

(11) The conventions of usage (*istilāḥāt*) for application of the word (*lafẓ*) "goodness" or "detestibility" vary. We must, therefore, summarize them. There are three conventions:

3.A Subjective evaluation

(12) [1st usage] The widely known, general usage: that acts are divided into what accords (*yuwāfiq*) with the objective (*gharaḍ*) of the actor

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[7]Peters. *Created Word* p. 33

[8] *bi-mā fīhā min al-lutf al-māniᶜ min al-faḥshā'*

[9]*lā yastaqill bi-darakihi.*

($fā^cil$), and into what is contrary to that [objective], as well as what neither accords with nor is contrary [to that].

(13) That which is in <u>accord</u> [with the objective] is called "good" and what is <u>contrary</u> is called "detestable"; the third is called "pointless" ($^cabath^{an}$). According to this usage, if the act is agreeable to an individual ($shakhs$) [while] contrary to [the goal of] another, it is "good" with respect to him [to whom] it is agreeable, "detestable" with respect to him to whose [objective] it is contrary.

(14) So that, were a great king killed, [that killing] would be good, with respect to his enemies, and detestable, with respect to his protégés ($awliyā'ihi$). Those [using this usage] would not shrink from detesting [even] an act of God's, if it were contrary to their objective. Therefore they scold[10] Fate ($al-dahr$) or the celestial spheres ($al-falak$), saying "The celestial spheres destroy" and "fate makes wretched," while they know that "the celestial spheres are subservient ($musakhkhar$) [to God][11]," nothing is at all due to [them]. Thus [Muḥammad] said "Do not scold Fate; for God is Fate."

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[10]reading $yasubbūn^a$

[11]Qur'ān 16:12

(15) So, the application of "good" and detestable" to acts is like applying it to shapes (*al-ṣuwar*): one whose nature is favorably disposed to a shape, or an individual's voice (*ṣawt shakhṣ*), asserts his "goodness" (*qaḍá bi-ḥusnih*); one whose nature is averse to a person, deems him detestable. Many a person is loathed by one nature and inclined towards by another: He is therefore good for one nature and detestable for the other. E.g., one group may approve (*yastaḥsin*) of [things] brown and another detest them.

(16) Therefore as far as these [people] are concerned, "good" or "detestable" represents accord or aversion.

(17) ["Good" and "detestable"] are relational [predicates] (*amrān iḍāfiyyān*), not [essential predicates] like "blackness" or "whiteness," since it is inconceivable that a give thing be black as far as Zayd is concerned (*min ḥaqqⁱ Zayd*) and white as far as ᶜAmr is concerned.

" 4. Sharᶜ i evaluations"

(18) (2nd usage). The application (*taᶜbīr*) of "good", to what the *sharᶜ* commends by praising its doer (*fāᶜil*): Thus the act of God will be good in every circumstance whether contrary to [a person's] objective or in accord with it; the thing commanded (*al-ma'mūrah bih*) in the *sharᶜ* (whether as recommended (*nadbᵃⁿ*) or as obligatory (*ījābᵃⁿ*)), will be good. The "permitted" will not be "good."

5.Evaluation by Permissibility

(19) (3rd usage). The application (*ta^{c}bīr*) of "good" to everything that a doer can/may do[12]. Thus the "permitted" will be good, together with things commanded; [in this usage,] the act of God will be good in every circumstance.

6.Summary and Conclusion

(20) All three of these meanings are relational predicates (*awṣāf iḍāfiyyah*), [57] they are reasonable (*ma^{c}qūlah*) and there is nothing to hinder one who uses the word "good" as an expression of any of [these three] things. Thus, there is no problem with the words (*al-alfāẓ*) [themselves].

(21) On this account, if the *shar^c* had not come down (*yarid^u*) no act would have been distinguished from another other than by accord [with one's objectives] or contrariness [to them]. [This distinguishing, however] does <u>differ</u> in relational predicates, but [this ascription] is not an attribute of essence (*ṣifat^{un} li-l-dhāt*).

II.Mu^{c}tazilī moral epistemology and a rebuttal

(22) Objection: We do not dispute with you about these ascriptive predicates, nor concerning these usages as you have posited them. However,

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[12] *^{c}an kull^i mā li-fā^{c}il^{i}h^i an yaf^{c}al^{a}h^u*

we claim that "goodness" or "detestability" <u>is</u> a predicate of essence for
the "good" and "detestable" that the $^c aql$ <u>immediately</u> <u>perceives</u> in
some things[13], such as oppression ($zulm$), falsehood, ingratitude, and
uncouth ignorance. Therefore, we do not deem it possible that any-
thing of these [viz. falsehood etc.] be attributed to God because of their
[essential] detestability; furthermore, we regard them as forbidden to
any *compos mentis* before the coming ($wurūd$) of the $shar^c$, because
[these acts] are detestable in themselves[14]. How can this be denied,
when *compotes mentis*[15] as a whole, agree upon this judgment ($qadā'$)
without ascription of any particular circumstance[16]?

(23) Reply: In what you have mentioned, you are disputing on three

matters:

1) That detestability is an essential predicate.

2) That it is something *compotes mentis* know necessarily (bi-$darūrah$).

3) Your thinking that if *compotes mentis* agree upon it,

this is decisive proof and an indicant of its being

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[13]$nadda^c\bar{i}$ al-$husn$ wa-l-$qubh$ $wasf^{an}$ $dh\bar{a}tiyy^{an}$ li-l-$hasan$ wa-l-$qab\bar{i}h$ $mudrak^{an}$ bi-$dar\bar{u}rat^i$ l-^caql, $f\bar{i}$ ba^cd^i l-$ashy\bar{a}'$.

[14]literally, "because of its essence" li-$dh\bar{a}tih$.

[15]plural of *compos* kindly furnished by Charles Stinson.

[16]min $ghayr^i$ $id\bar{a}fat^i$ $h\bar{a}l^{in}$ $d\bar{u}na$ $h\bar{a}l$. That is, in any and all circumstances a per-
son recognizes the detestability of a lie.

necessary [knowledge).

(24)(One) The allegation that [detestability] is an essential predicate: This

is an arbitrary judgment (*taḥakkum*) based upon what does not make

sense[17].

1.Two examples of acts that vary in quality, but not in essence.

For [the Muʿtazilah], killing is detestable, because of its essence, so long

as[18] it is not preceded by a crime or [so long as] there is not subsequent

compensation, to such an extent that causing pain to <u>beasts</u> and

slaughtering them would be permissible. It would not be detestable on

the part of God, since He rewards it [the beast?] for it in the Next

World[19]. Yet killing, in its essence, has a single real nature (*ḥaqīqah*)

which is invariant, whether preceded by a crime (*jināyah*), or followed

by something pleasurable: [killing does not differ] except with respect

to advantages and objectives being related to it.

(25) Such is the case also with falsehood: How could its detestability be

essential when — if it were to preserve [thereby] the blood of a prophet

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[17]*bi-mā lā yaʿqul*

[18]literally: on the condition *bi-sharṭ*

[19]This seems to be a reference to a Muʿtazilī doctrine of metempsychosis, as is made explicit in the *Mankhūl* p. 10: causing pain to beasts is well known, while for you it is necessarily detestable if he is not able to compensate them. We dispute with you on just this [supposedly indubitable] knowledge, with the conviction that there is no compensation, and that the doctrine of metempsychosis is invalid."

by concealing his location from a tyrant whose aim was to kill [the prophet] — [the falsehood] would be good, indeed Obligatory; one disobeys God by shunning it.

(26) But an essential attribute — how could it be exchanged [for its opposite] through the relation [to the act] of variant circumstances (aḥwāl)?

2. Moral epistemology

(27) (Two) The immediate perception [that something is good or detestable]: How is this conceivable when we dispute with you about it: The immediately [perceived is that about which] there is no dispute by a large group of compotes mentis[20].

(28) You say: You <u>are</u> compelled to knowledge (maʿrifah) and are in accord upon [being compelled]. However, you <u>suppose</u> that the ultimate source of your knowledge is Revelation[21], as al-Kaʿbī supposed that the ultimate source of his knowledge by plurally-transmitted-information was speculative inquiry (naẓar)[22]. [If we Muʿtazilah are correct,] it is not unlikely that there might be confusion about what <u>perceives</u> the knowledge (mudrik al-ʿilm), it is only unlikely that there would be

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[20] wa-l-ḍarūrī lā yunāziʿu fīhi khalqᵘⁿ kathīrᵘⁿ mina l-ʿuqalāʾ.

[21] anna mustanadᵃ maʿrifatikum al-samʿᵘ.

[22] It is often asserted that al-Kaʿbī said that mutawātir traditions are known through inquiry; but most scholars held that mutawattir knowledge was immediate, undeniable, necessary (ḍarūrī).

disagreement about <u>the information itself</u>; and there is no dispute about [this knowledge that infliction of pain, for instance, is detestable][23].

(29) **Reply:** This is ineffectual argument (*kalām fāsid*) since we assert that it is commended (*yaḥsunᵘ*) by God that animals be caused pain; we do not believe it is a crime nor is there compensation for them. This proves we dispute about <u>the knowledge itself</u>.

3. Alternate explanations for accord in moral judgments

(30) (Three) Even if we also conceded the accord of [*compotes mentis*] upon this, [this accord] would still not involve proof, for it [still] would not be conceded that [*compotes mentis*] are forced to [this knowledge]. Rather, it is possible that accord might occur among them on what is not [known] *necessarily*:

(31) E.g., people have agreed on the demonstrability (*ithbāt*) of the Devisor (*al-Ṣāniᶜ*) and the possibility of sending Messengers, such that no one disagrees except the odd person (*shawādhdh*). But even if the exceptions (*shawādhdh*) agreed to support them (*sāᶜadahum*) [in their argu-

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[23] *wa-lā yabᶜudᵘ iltibāsᵘ mudrikⁱ l-ᶜilmⁱ wa-innamā yabᶜudᵘ l-khilāfᵘ fī nafsⁱ l-maᶜrifatⁱ wa lā khilāfᵃ fīhā.* The point here being that one might expect difference about what faculty perceives, the knowledge: that does not disprove that the knowledge is acquired immediately. What proves the case is that there is no disagreement among reasonable people about the content itself of the moral knowledge.

ment], [knowledge of the existence of the Devisor and His sending of Messengers] would [still] not be <u>immediate</u> ($darūriyy^{an}$).

(32) Similarly, the accord of people upon this belief may possibly be [because] some of them [would be judging] from an indication (*dalīl*) of Revelation that indicates the detestability of these things; some of them [would be judging] through indirect knowledge (*taqlīd*) [relying upon] understanding [of [58] those who derive their knowledge] from Revelation; some of them [judge] from specious knowledge (*shubhah*) which occurred to people of error (*ahl al-ḍalāl*). Thus the fact that the agreement is patched together from these various causes does not prove its being indubitable.

(33) Yet such [agreement] does not indicate that [the point on which they are in agreement] is [known] <u>immediately</u> ($darūriyy^{an}$); therefore [common agreement by *compotes mentis*] would not [ordinarily] indicate [that the agreement itself constitutes] a proof, were it not [for the fact] that Revelation (*al-samʿ*) specifically declares the impossibility of error by the whole of this community [acting] collectively (*ʿalá kāffat*). For the agreement of the whole upon an error based upon imitation or by specious knowledge is not [by itself] unlikely (and how so in any case, when, even among atheists (*al-mulḥidah*) there are those who do not believe the detestability of these things, nor their opposites; how then

can one invoke "the agreement of reasonable people?"

4.Mu^ctazilī assertion of innate inclination to good

(34) [The Mu^ctazilah] argue that we know <u>absolutely</u> that one to whom

veracity and falsehood are equally [possible] prefers veracity and

inclines to it if he is *compos mentis* (^cāqil). This [preference, they say]

must be on account of [the act's innate] goodness.

(35) [Even] a mighty king who rules climes, when he sees someone weak

[who is] on the verge of destruction, he is moved to rescue him, even if

he does not hold to the religious principle (aṣl al-dīn), so as to antici-

pate reward, thanks or requital. Further, this [act of rescue may] not

accord with his objective — indeed perhaps he will be bothered by it.

Moreover, *compotes mentis* affirm the superiority (yaḥkum bi-ḥusn) of

enduring the sword, should one be compelled to a statement of infidel-

ity, or to reveal a secret, or to infringe upon an agreement -- though

this is contrary to the objectives of the one compelled. On the whole,

the approval (istiḥsān) of [acts of] good character (makārim al-akhlāq)

and liberality (ifāḍat^u l-ni^cam) is among the things no *compos mentis*

person would deny, except from sheer obstinacy.

(36) **Reply:** We do not deny the widespread [recognition] of these judg-

ments among humankind and their being generally thought praise-

worthy. Yet the ultimate source [of these judgments] is either (a) reli-

gious commitment to revelational stipulations (*tadayyun bi-sharā'i^c*) or

(b) [conformity to one's] objectives (*al-aghrāḍ*).

(37) We deny this [latter] with regard to God only so as to repudiate [the attribution of] objectives to Him. As for people's application of these phrases (*alfāẓ*) to what takes place among them (*yadūr baynahum*) there remain [other] objectives, but objectives may be subtle or hidden and none may be aware of them but those who know the truth (*al-muḥaqqiqūn*).

5. Errors of the Mu^ctazilī position

(38) [Now], let us call attention to the causes (*mathārāt*) of error in [their argument]. There are three causes to which their fancy (*wahm*) has led

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²⁴al-Ghazālī's use of the word *wahm* is problematic throughout. The term itself has two senses, reflected, for instance, in al-Jurjānī's definitions (*Ta^crīfāt* 276). In the first it seems to be a faculty that "perceives particular concepts (*ma^cānī*) connected to things perceived through the senses, such as the courage of Zayd or his generosity". In this sense, the *wahm* seems to be the bridge between the ^c*aql* and corporeal faculties. But the *wahm* is also a deceiver as Jurjānī notes next.

For al-Ghazālī, the word carries both senses also. Jabre, *Lexique* p. 279 defines the word as "préjugé" "illusion"".C'est là pure *illusion*, sans indice aucun, qui la fonde. (Iḥ 2:82 *Hādha wahm mujarrad lā adillat^a ^calayhⁱ*). It is also however "La faculté estimative" the evaluative faculty. It seems to me that "fancy" (especially in the senses 1,2 and 4 in the *OED* s.v. "fancy" n.) captures the sense of *wahm* fairly well.

them[24].

5.A.The 1st error [Subjective evaluation]

(39)(1) Humans apply the word "detestable" to what is contrary to their objectives (*gharaḍ*), even though it may accord with the interests of another, due to the fact that they do not take others into consideration (*yaltafit*). Every nature is enamored of itself and disdains the other. Thus it determines "detestability" absolutely.

(40) Sometimes [humans] ascribe (*yuḍif*) detestability to the essence of the thing (*dhāt al-shay'*) and say [the thing] is, in itself, detestable. [In saying] this they shall have stated three things: they hit the mark in [only] one of them, and that is the basic fact (*aṣl*) of disapproval (*istiqbāḥ*); they have erred in the other two matters:

(a) the ascription (*iḍāfat*) of detestability to [a thing's] essence (*dhāt*) (for they ignore [the fact that] its being detestable is because of its contradiction of their objectives); (b) Their judgment of [an act's] absolute detestability; its origin is lack of regard for anyone else, even the absence of attention to their own [various] circumstances: Thus they may approve in some circumstances the very same (*ᶜayn mā*)

thing of which they <u>disapprove</u> when it contradicts their objective.

5.B 2nd error: Over-generalization

(41)(2) The second error. Their fancy may not draw their attention to

what contradicts their objective in all but a single rare circumstance;

indeed, it may not occur to them at all. Such a one considers [the act

or thing] as contrary [to his objectives] in all situations, so that he

judges it to be detestable <u>absolutely</u> due to the domination in his heart

of the situations of its detestability and the receding of the rare cir-

cumstance from his recollection.

(42) E.g., his judgment about falsehood that it is absolutely detestable, and

his heedlessness to the falsehood that proffers the protection of a

prophet's life or a saint's. If he adjudges [it] to be detestable abso-

lutely, and persists in this for a while, and it is repeated in his [59] ear

and on his tongue, then disapproval (*istiqbāḥ*) is implanted in his soul

(*nafs*), which makes him recoil. Yet if that rare circumstance did occur

[in which the falsehood disapproved of were actually good], then he

finds in his soul the antipathy to [falsehood] [that was there] because

of an entire upbringing (*li-ṭūl nashū'ihi*) in disapproval [of falsehood].

For it has been put to him since his youth, in the course of of training

(*ta'dīb*) and guidance (*irshād*), that falsehood is detestable and no one

ought to do it. But his attention has not been called to its goodness in

some circumstances for fear that his antipathy to falsehood might not

be ingrained, (so that he might do it), since [falsehood] is detestable in most circumstances.

(43) What he has heard as a youth is as it were engraved on stone, so it is implanted in the soul and because of this, he longs to consider it true without qualification; and it is true, but not absolutely, rather, in the majority of circumstances. If he does not recall except [what is the case] in most circumstances, then with regard to him [this "judgment" applies] to every circumstance. Thus, he believes it [to be good or detestable] absolutely.

5.C The Third Error [Errors resulting from associative conditioning]

(44) The immediate cause [of their third error] is the rashness of their fancy [in coming] to [mistaken logical] inversion (al-ʿaks). When what [is seen] is associated with (maqrūn bih) [another] thing, one supposes that the [second] thing is always, without exception, associated with [the first]. One does not know that the more restricted (al-akhaṣṣ) is always (abadᵃⁿ) associated with the more general (al-aʿamm) while the more general is not necessarily associated with the more restricted.

(45) E.g., the aversion of the soul (nafs) of the "sound one[25]" (al-salīm), that is, the one bitten by a snake, to a speckled rope, because he has

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[25]a euphemism for one bitten by a snake

found unpleasantness associated with this [particular] form, and he ,
fancies (*tawahham*) that this form is <u>associated</u> with unpleasantness.
Similarly the aversion of the soul from honey when it is compared to
feces, because there is unpleasantness and [a feeling] of disgust
(*istiqdhār*) associated with brown liquids. So one fancies that "brown
liquid" is associated with [feelings of] disgust: The fancy (*al-wahm*) so
dominates, that eating [honey becomes] difficult, even though the *ᶜaql*
determines (*ḥakam*ᵃ *al-ᶜaql*) the [objective] falsity of the fancy. The
faculties of the soul, however, have been created compliant to fancies
(*awhām*), even if they are false.

(46) Thus one's nature is averse to a beautiful woman (*al-ḥasnā'*) who is
labeled "jewess," for one finds the name [generally] associated with
detestable [people], and they suppose therefore that detestibility is a
necessary consequent of the "name."

(47) For this reason, if some of the laity (*al-ᶜawāmm*) are presented with a
significant intellectual issue (*mas'alah*), and they approve of it, when
[subsequently] You say, "This is an Ashᶜarī or a Ḥanbalī or Muᶜtazilī
doctrine" (*madhhab*), they are averse to it, if they dislike the belief of
him to whom it is attributed. This is a natural characteristic particular
not only to the laity; rather, it is characteristic of the nature of most of
the *compos-mentis* characterized by learning (*ᶜulūm*), save the well-

grounded scholars whom God truly guides to the truth (*al-Ḥaqq*), and whom He strengthens to follow Him.

(48) The faculties of most creatures' appetive souls (*nufūs*) are obedient to their fancy (*al-wahm*) though they know of its falseness. Most of the initiatives and abstentions of creatures are caused by these fancies.

(49) For the fancy is powerfully sovereign over the soul, and thus the nature of humans is averse to spending the night in a house in which there is a dead person, even though one is certain that [the dead person] will not move; still, he fancies (*yatawahham*) his movement or his voice every moment.

If you have attended to these causes, let us return [to the topic].
6. Summary and Elaboration

(50) We say: One prefers rescuing [a drowning man] to indifference -- that is, the one who does not hold to the *sharā'i* -- only so as to defend against the injury (*adhá*) which afflicts (*yalḥaq*) to the man from human sensibility (*riqqat al-jinsiyyah*). [Such empathy] is a natural characteristic (*ṭabᶜ*) inseparable from him. Its cause is that man assesses himself (*yuqaddir nafsahu*) in this distress and imagines someone else abandoning him and his rescue; he detests it from [that imagined other person] as contrary to his objectives, so he re-assesses that disapproval of the one who is witnessing [his] destruction from his

own point of view, and [60] fends off from himself this fancied dete-
stableness.

(51) But, posit a beast, or person for whom he has no sensibility — it is
unlikely he will conceive [this empathy and obligation to act]. If he
conceives it, there remains another matter, namely the seeking of
esteem (thanā') for his beneficence (iḥsān). If it is posited that it is
not [certain to be] known that he is the rescuer, he may [still] antici-
pate that it might be known. This anticipation, therefore, is a motiva-
tion. If we posit a situation in which it is impossible [that his good
deed] be known, there remains the inclination of the soul (nafs), and a
preference which resembles the natural aversion of the snake-bitten
person to "the speckled rope". That is, he sees this image (ṣūrah) [sc.
rescue] associated with esteem and supposes that praise is connected to
it in every case, just as when he sees pain connected to the shape of the
rope, his nature being averse to pain, he is then averse to what is con-
nected with pain: circumstances of pleasure are pleasurable, the cir-
cumstances of the unpleasant are unpleasant.

(52) Indeed if a person has sat with someone whom he loves in a certain
place, and if he [then] comes to it, he will feel in his soul a distinction

between that place and any other. Thus, the poet says:

> I pass by the dwellings, the dwellings of Layla
>> I kiss that wall: that wall:
> It is not those dwellings that fill my heart with passion,
>> But love for the one who dwells in the dwellings.

And Ibn al-Rūmī draws attention to the cause (*sabab*) of love of [one's]

homeland:

> The homelands of men have been made dear to them
>> By wishes that youth has carried out there
> If they make mention of their homelands,
>> [The homelands] remind them of the vows of love
>>> So that they yearn for it.

These are but a few of the many proofs [that might be instanced]. All

this belongs to the category of "fancy."

(53) As for enduring the sword with tranquillity of the soul when being

compelled to a statement of infidelity, not all *compotes mentis* approve

of it. Indeed, were it not for the *sharᶜ*, they would possibly disapprove

of it; but only those approve of [such endurance] who anticipate the

reward for endurance (*ṣabr*), who anticipate praise for courage and

perseverance in religion. How many of the courageous plunge stead-

fastly into danger and rush blindly upon a number larger than their

own while knowing they cannot best them; [still, they] despise what

they receive of suffering for what is offered in exchange, namely fan-

cying (*tawahhum*) acclaim and praise -- even after their death.

(54) Similarly, keeping a secret (*ikhfā' al-sirr*) and keeping a vow: People recommend them for the benefit (*maṣāliḥ*)[26] from them, and they are copious in their acclaim for [these acts]. Who thereby endures harm endures it for the sake of acclaim.

(55) If we postulate that there be no acclaim, there is [nonetheless] still an association [of the act] with acclaim: there remains an inclination of the fancy to what is associated with pleasure, though it be [itself in fact] devoid of it. If it is postulated that this fancy not master him and that he does not anticipate reward and acclaim, then [surely in such a case] he would disapprove of hastening self-destruction for no benefit, and would consider someone who did that an absolute fool. Who would admit that someone like that would prefer perishing over life? [In just this fashion] would run [61] the answer to the lie [problem] and the rest of what they posit.

7. Irrelevance of analogies to human conduct

(56) Then we say: We do not deny that customarily some people (*ahl al-ʿādah*) among themselves disapprove of oppression and falsehood, but discussion is about "the detestable" and "the good" which is only [possible] in relation (*bi-l-iḍāfah*) [to these determinations] to God. Who otherwise determines, his point of departure (*mustanad*) is the

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[26] For a discussion of this term see the Jaṣṣāṣ translation, paragraph (8)

analogy to the hidden from the visible: How can he draw [such] an analogy when a master would be scorned if he left his slaves and slave girls [together] and some of them excited the others and acted immorally while he was aware of it and able to prevent it. But God has done [just] that with his bondsmen, and He is not scorned.

(57) Their assertion that He has left [his slaves alone] so that they might restrain themselves and [thereby] deserve reward is folly, because He knows that they will not restrain themselves: Let Him hold them back forcibly!: How many are kept from immorality [only] by impotence and inability! [But] that is better than enabling them [to commit immorality] because he knows they will not restrain themselves.

III. Controversy

[Thanking the Benefactor (*Shukr al-Mun*^c*im*)]:

(58) Thanking the Benefactor is not obligatory according to the ^c*aql*, contrary to the [assertion of] the Mu^ctazilah. The indication of this is that there is no meaning to "*wajib*" except "what God makes obligatory and commands and threatens punishment for neglecting". If no dictum (*khiṭāb*) has come, what meaning is there to "obligatory"?

(59) Then: the substantiation (*taḥqīq*) of this assertion [of ours] is: that the ^c*aql* must "make [thanking the benefactor] obligatory"

(A) for an advantage (*fā'idah*) or,

(B) not for an advantage.

(B) It is impossible that it make it obligatory "not for an advantage"

for that, is futility (*ᶜabath*) and foolishness.

(A) If it is for an advantage it must be either

        (A.1) connected to the object of worship (*al-maᶜbūd*) —
and this is impossible since He is too sublime and too sanctified for
objectives (*aghrāḍ*) — or

        (A.2) [connected] to the bondsman (*al-ᶜabd*). And, [in
that case] it must either be

        (A.2.a) [an advantage] in the material world
(*al-dunyā*) or

        (A.2.b) in the next life (*al-ākhirah*).

        (A.2.a) There is no advantage (*fā'idah*) to it in this
world, rather, one is wearied by inquiry, reflection, recognition
(*maᶜrifah*), and thanking; by it one is barred from passions and pleas-
ures.

        (A.2.b) There is no advantage (*fā'idah*) to him in the
Next World [either], for reward is gratuitous (*tafaḍḍul*) from God and
is known by His promise and His informing. If one is not informed of
it, whence does he know that he is rewarded for it?

Moral Psychology

(60) **Objection:** It may occur to him (*yakhṭir^u lah^u*) that if he is ungrateful

and disclaims [the benefaction], <u>perhaps</u> he will be punished: the *ᶜaql*

summons one to travel the more secure path.

(61) **Reply:** No. Rather, the *ᶜaql* knows[27] the more secure path, and thereu-

pon a natural characteristic (*al-ṭabᶜ*) impels him to travel it. For every

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[27]Or "makes known". (either *yaᶜrif* or *yuᶜarrif*)

person is fashioned-with-a-propensity-for (*majbūl*) love of himself and a distaste for unpleasantness. You have erred in saying that the *ᶜaql* is a summoner (*dāᶜin*); rather the *ᶜaql* is a guide (*hādin*); inducements and motivations proceed (*tanbaᶜith*) from the soul consequent to the assessment (*ḥukm*) by the *ᶜaql*.

(62) You have erred also in saying that one is rewarded on [choosing the] portion of (*ᶜalá jānib*)[28] thanking and special knowledge, because the point of departure for this warner (*khāṭir*) is fancying [one's] objective to lie with the portion of thanking[29] by which [thanks] is distinguished from ingratitude. Yet both are equal in reference to (*bi-l-iḍāfatin ilá*) the majesty of God.

(63) Indeed, if one opens the door of fancies (*awhām*), it may occur to him that God will <u>punish</u> him if he thanks Him, and inquires into [the matter] -- since He supported him with the means to the good life; perhaps He created him to live at ease and enjoy [himself][30]. [The bondsman's] tiring himself is "usage of His property without His

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[28]al-Ghazālī here is responding to the sort of "Pascal's wager" argument of the Muᶜtazilah that if one has reason to think that it is safer to chose one of two courses, it is irrational to chose the less secure.

[29] *tawahhumᵘ gharadin fī jānibi l-shukr*

[30]reading *li-annahᵘ ᶜammadᵃhᵘ bi-asbābi l-niᶜam, fa-laᶜallᵃhᵘ [llāhᵘ] khalaqᵃhᵘ [al-insānᵃ] li-yataraffᵃhᵃ wa-li-yatamattaᶜ*.

permission."

(64) They have two specious arguments:

1.1st specious argument [the objective futility of 'thanks']

(65) Their assertion that the agreement of *compotes mentis* on the good of thanks-giving and the detestability of ingratitude leaves no way to denial of [their point] [sc. the agreement of *compotes mentis*] — that is granted. However, this is with respect to themselves [*min ḥaqqihim*], because <u>they</u> are affected and gratified by "thanking" and grieved by ingratitude. But the Lord — for him the two matters are equivalent: disobedience and obedience for Him are equal.

(66) As evidence, two examples:

1) The one who would seek intimacy with the sultan (*al-mutaqarrib*[31] *ilá al-sulṭān*) [62] by the movement of his fingertips from the corner of a room in his house, is despicable: [God's] bondsmen's acts of worship (*ʿibādat al-ʿibād*), in relation to the Majesty of God, are even less in rank.

2) One given as alms a morsel of bread by the Sultan in his hunger: he takes it around the city and calls to the chiefs of the notaries with his thanks: This with regard to the king is detestable and a disgrace. Yet

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[31]See Dozy s.v. *q-r-b*

the whole of God's benefactions to His bondsman, in relation to His

capabilities, is far less than the relation [of the morsel of bread] to the

treasuries of the king. For the treasuries of king [could eventually be]

exhausted by the like [of this gift] of a morsel, because of their finite-

ness. But the capabilities of God would not be exhausted by double

what He has conferred upon [His] bondsman.

2.2nd specious argument: Non-necessity of innate moral

knowledge to validate Revelation[32]

(67) The statement [of you Ash^cari's] restricting the means of perceiving

obligation (*madārik al-wujūb*) to the *shar^c* leads to a silencing (*ifḥām*)

of the Messengers: If [the Messengers] manifest miracles, the ones sum-

moned [to Islam] (*al-mad^cuwūna*) say to them: inquiry into your mira-

cles is not obligatory except by the *shar^c*; the *shar^c* is not confirmed

except by our inquiry into your miracle. [The Messengers] confirm our

obligation to inquire so that we might inquire. But we are not able [to

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[32]Reference here is to the natural capacities necessary to validate and commit oneself to the message of the Messenger. The Mu^ctazilah typically begin accounts of how Revelation leads to assent with a discussion of obligation and the obligation of inquiry. See al-Qāḍī ^cAbdaljabbār *Sharḥ* 39-49. Thus Revelation is a kind of <u>knowledge</u> that is validated by inquiry.

The Ash^cari's, on the contrary, prefer to begin with the question of what knowledge is and what compels assent. See al-Baghdādī *Uṣūl* p. 5; given a certain theory of knowledge, and of Messengerhood (*ibid.* p 154) then it is the intellect recognizing the miraculous deeds of the prophet (*ibid.* p. 170) that brings one to Islam. On this view, Revelation is <u>command</u>, and the authority of the one convey-ing the Message is confirmed by the occurance of an otherwise inexplicable event.

know to inquire] so long as we do not inquire. This leads to a vicious circle.

(68) **Reply:** from two aspects: (1) With respect to verification [of the Prophetic Message]: You err in your supposition about us that we say the confirmation of the *shar^c* waits upon (*mawqūf*) the inquiry of the inquirers; on the contrary, when the Messenger is sent and confirmed by his miracle in such a way that, through it, the possibility of knowledge materializes, if a *compos mentis* inquires into it, then the Revelation is already established, and the arrival of the dictum (*khitāb*) has settled (*istaqarr^a*) [the question of it] being obligatory to inquire (*bi-ijāb al-nazar*). For there is no meaning to "obligatory" (*wujūb*) other than "that the doing of which is preferable to its being shunned, to prevent a known (*ma^clūm*) harm or one [merely] fancied (*mawhūm*)." So the meaning of "the obligatory" is [only] the preference of doing over shunning.

(69) The "obliger" is <u>the</u> <u>one</u> <u>expressing</u> <u>the</u> <u>preference</u>. God is the one expressing the preference, and He it is who informed (*^carraf^a*) His Messenger, commanding him to <u>inform</u> the people that ingratitude is fatal poison and disobedience is a malady, while obedience is healing.

(70) Thus, the one expressing the preference is God, the Messenger is the informant (*al-mukhbir*), and the miracle is the proximate cause (*sabab*)

enabling the *compos mentis* to come to knowledge of the expression of

preference (*tarjīḥ*). The *ᶜaql* is the instrument by which [the *compos

mentis*] knows the veracity (*ṣidq*) of the informant of the expression-

of-preference. Natural disposition (*al-ṭabᶜ*) which is disposed against

suffering [resulting] from chastisement [and disposed] toward the

pleasure of reward, is the instigator which motivates to wariness

against harm.

(71) After the arrival[33] of the dictum (*khiṭāb*), the making obligatory

(*ījāb*), that is, the expression of preference, obtains; by the confirma-

tion (*ta'yīd*) through miracles comes the enabling [to know] (*imkān*)

with respect to the *compos mentis* inquirer; by it he is able to know the

preferred.

(72) One's saying "I shall not inquire so long as I do not know, and I shall

not know so long as I do not inquire," is similar to [the case] of a

father saying to his child "Turn around! Behind you is a lion attack-

ing! It is likely that it will attack you if you are heedless of it".

Whereupon the child says to him "I shall not turn around so long as I

do not know the obligation to turn around. To turn around is not

obligatory so long as I am not aware of the lion, and I do not know of

the lion so long as I do not turn around." Then [the father] says to

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[33]or "coming into force" *wurūd*.

him, "surely you shall perish by neglecting to turn around. You are

not exempt since you are capable of turning around and ceasing to be

obstinate; neglecting [to do so] is obstinacy."

(73) Just so the Prophet says:

> Death is behind you, and further, there are agonizing worms[34] and
> painful chastisement if you shun faith and obedience. You know this
> by the merest glance at my miracle. If you inquire and obey, you are
> rescued; if you are heedless and turn away, God has no need of you
> and your deeds-- you have harmed only yourself.

(74) [63] This matter is graspable by the ^{c}aql ($ma^cq\bar{u}l$) and there is nothing

internally contradictory in it.

3.2nd answer: Moral ontology

(75) Using their own arguments against them:

They determine that the ^{c}aql is the obliger. Yet it does not oblige by

its essence (jawhar) as an undeniable obliging ($\bar{\imath}j\bar{a}b^{an}$ $\dar{u}riyy^{an}$) which

no one lacks. For were [it the case that the ^{c}aql obliged by the act's

essence], no compos mentis's ^{c}aql would be without knowledge of the

obligation; but in fact one must contemplate and inquire. If one did

not inquire, he would not know the obligation of inquiry; if he did not

know the obligation to inquire, he would not inquire. That also leads

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[34]Following WPH's suggestion: al-hawāmm al-mu'dhiyah. S.v. **h-w-m** in: Fag-
non: **Hāmat al-yawm**: qui est près de mourir; Wehr: III. doze off, fall asleep; Mun-
jid: al-asad. S.v. (root) **h-m-m**, Wehr: vermin, pest, reptile, (plural of hammah);
plural of al-hāmah, head lice.

to a circle as above.

4. Innate knowledge: the 'Warners'

(76) Objection: No *compos mentis* is without the two warners (*khāṭirān*), one of which warns him that if he inquires and thanks he will be rewarded, and the second that if he shuns inquiry he will be punished. They signal to him of the impending obligation to travel the more secure path.

(77) Reply: How many *compotes mentis* has time (*al-dahr*) claimed without the warning having occurred to him! Rather it [may] have occurred to him that, from God's perspective, the one cannot be distinguished from the other [i.e. the good from the detestable]. "Why should I chastise myself for no advantage (*fā'idah*) to myself nor to the one worshipped?"

(78) Moreover: If the not-being-bereft of the two warners is sufficient knowledge to enable one [to know the good and detestable], when a Prophet is sent, summons one [to Islam], and manifests miracles, then the presence of the warners is all the more likely[35]. Indeed one cannot be separated from this warner after the Prophet's admonishing and his cautioning[36]. We do not deny that when humankind perceives

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[35]?*?aqrab*. The point of this is not clear to me.

[36]The point here seems to be that the "warners" are inseparable from the knowledge the Prophet brings. That, as it were, the conscience is formed by Reve-

something fearful, their natural disposition motivates them to shun the fearful thing. But perception [takes place] only by [means of] reflection (*ta'ammul*) produced by the *ᶜaql*. If someone should call that which <u>discloses</u> the obligation, "the obligator," he is using figurative speech. However, the actual fact (*al-ḥaqq*) which is not figurative, is that God is the obliger, that is, the one expressing preference for the doing [of a particular] act over its avoidance; the prophet is the informant, the *ᶜaql* discloses (*muᶜarrif*), natural disposition (*al-ṭabᶜ*) is the motivation (*bāᶜith*) and the miracle is what enables the disclosure (*taᶜrīf*). But God knows best.

IV. Controversy:

The Status of acts before the *sharᶜ*

(79) A group of the Muᶜtazilah hold that acts before the coming of the *sharᶜ* are "permitted" (*ᶜalá l-ibāḥah*). Some of them say they are "proscribed" (*ᶜalá l-ḥaẓr*). Some of them said "in abeyance" (*ᶜalá l-waqf*).

(80) Perhaps [the "permitters"] mean by this, "concerning those [acts] where the *ᶜaql* does not determine goodness (*taḥsīn*) or detestability (*taqbīḥ*) immediately (*ḍarūratᵃⁿ*) or through inquiry," as we have analyzed

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lation and is not independent.

(*kamā fassalnāhu*) their doctrine (*madhhab*)[37].

(81) These schools, all of them, are invalid (*bātilah*).

1.A contra 'Permitted'

(82) The invalidation of the "permitted" school is that we say: "permitted" (*al-mubāh*) implies (*yastadʿī*) a "permitter (*mubīh*), as knowledge (*ʿilm*) or recollection (*dhikr*) implies a recollector (*dhākir*) and knower (*ʿālim*). The permitter is God, for He gives the choice (*khayyara*) between doing and shunning in His dictum (*bi-khitābih*). Thus, if there is no dictum, there is no "being-given-the-choice," so there is no "permission."

(83) If they mean, by "its being permitted," that there is no harm (*haraj*) in doing it nor in shunning it, they have hit the meaning, though they have erred in its formulation (*akhtaʾū fī l-lafz*). For the act of a beast, a minor, or a madman is not described as being "permitted," though there is no harm in their doing or shunning [that particular act].

(84) Acts, with regard to God (*min haqq illāh*), I mean, what is done by God, are [also] not described as "permitted," though there is [similarly] no harm in [His doing it] or in [His] shunning it. But if one denies the choice-giving by the choice-giver, one has negated the "permission." If

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[37] This "perhaps" is either ingenuous, or reflects al-Ghazālī's ignorance of the history of the discussion. The matter is exactly as he says. See the translation of al-Jassās, section I paragraphs 4 and 8c.

one dares to apply the word "permitted" in an unqualified sense to the acts of God, and one means by this nothing but the negation of harm, he has hit the meaning though his formulation is repulsive[38] (*mustakrah*[an]).

(85) **Objection:** The *caql* is the permitter because it choses between doing [the act] and shunning it, for [the *aql*] forbids the detestable, obliges (*awjab*[a]) the good, and chooses [freely?] among what [64] is neither good nor detestable.

(86) **Reply:** We have falsified [the idea of] "making good by the *caql*" (*tahsīn al-caql*) and the making detestable; this [argument of theirs] is based upon that [prior assertion]. Thus it [too] is falsified.

(87) Further, their naming the *caql* "permitter" is figurative, as is naming it "obliger." For the *caql* [only] discloses the expression-of-preference (*tarjīh*) and the non-preference; the meaning of "its being obligatory" is the preference of his doing it over shunning it; the *caql* discloses this. The meaning of its being "permitted" is non-preference. The *caql* is the discloser (*al-mucarrif*), not the permitter. It is not the expressor-of-preference (*lays*[a] *bi-murajjih*) nor is it what [deems two possibilities] equal; it discloses preference and equivocation.

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[38]or "forced"

(88) Then we say [to those who hold the "*mubāḥ*" position]: By what do
you refute the *aṣḥāb al-waqf* if they dispute the equivalence of doing
and shunning, saying,

There is no act that the *ᶜaql* neither commends nor detests that cannot be
made obligatory by the *sharᶜ*. This therefore indicates [in retrospect] that
[the act] was distinguished by an essential attribute because of which [we
are] graciously, and by way of being prevented from vile deeds, summoned
to bondsmanship. Thus, for this [reason] God obliges it. The *ᶜaql* cannot
independently perceive this. It is [also] conceivable that the *sharᶜ* come
prohibiting [that act] which would indicate that it was distinguished by an
essential attribute because of which [the act] motivates us to vileness that
[likewise] the *ᶜaql* cannot apprehend. God has reserved for Himself this
knowledge. This is their teaching.

(89) Then they say: By what do you [Ashᶜarī's] refute the *aṣḥab al-ḥaẓr*,
for they say "We do not accept the equivalence of doing and shunning;
for truly, usage of the property of another without His permission is
detestable. God is owner and He has not [yet] given consent (*idhan*)."

(90) Objection: If it were detestable He would prohibit it, and Revelation
would arrive with [that prohibition]; therefore the non-arrival of the
sharᶜ indicates negation of [the act's] detestability.

(91) **Reply:** If it were good He would permit it, and the Revelation would arrive with [that permission]; therefore the non-arrival of Revelation [would be] proof of negation of its goodness.

(92) **Objection:** If God informed us that it is useful, and there is no harm in it, He has given permission for it.

(93) **Reply:** Then our notification (*i*^{c}*lām*) by the Owner that His food is useful and there is no harm in it, ought also therefore to be [considered] permission [to eat it].

(94) **Objection:** The owner among us can be harmed, but God cannot be harmed, so use of His creation in relation to Him (*iḍāfat*^{an} *ilayh*^{i}) has the same status (*yajrī majrá*) as a person's use of someone's mirror by glancing into it, [use of] his wall by seeking the shade of it, or a lamp by seeking its light.

1.B Irrelevance of human analogy

(95) **Reply:** If the detestability of the use of another's property were for the damage done to him, and not for the absence of his permission, then [usage] would [still] be detestable though [the owner] had given him permission, so long as [the owner] had been harmed [by the use of his property]. How so when an owner's preventing [use] of the mirror and the shade and seeking light from a lamp is detestable?

(96) Yet God has prevented His bondsmen from [use of] a group of edible things, and that is not detestable. If [He forbade these foods] for some harm [that eating them causes] the bondsman, what act is there of which it cannot be conceived that there is a concealed harm in it which the $^c aql$ cannot perceive, so that there [might] arrive a restraint[39] [through Revelation] forbidding [usage of the thing][40].

(97) Then we say: Your saying that since there is no harm to the Creator (al-Bāri') by our use of it, it is permitted: Why do you say this when, if one moves the mirror of someone else from one place to another — though its owner is not harmed by it — it is [still] forbidden? Only looking [into the mirror] is permitted, because looking is not usufruct (taṣarruf) of the mirror, as looking toward God or toward the sky is not usage of the thing beheld. Nor is seeking shade usufruct of the wall, nor in seeking a light is there usufruct of the lamp. If one were to use these things themselves, it might be that they would be judged forbidden, except when Revelation indicates their permissibility (jawāzahu).

(98) Objection: God's creation of taste in [food] and the faculty of taste is indication that He wants us to use them [65]. He is capable of having

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[39] tawqīf. The word can also mean Revelation.

[40] i.e. before Revelation there is no source of moral knowledge whatsoever.

created it tasteless.

(99) **Reply:** We Ashᶜariyyah and most of the Muᶜtazilah are in absolute

agreement on the impossibility of separating [edibles or anything else]

from the accidents which they can receive (*qābilah lahā*). Therefore

[that argument] does not stand (*lā yastaqīm dhālika*). Yet even if we

granted that, it might be that He created [edibles] not for anyone to

use; perhaps He created the whole world for no cause whatsoever. Or

perhaps He created [edibles] so that the reward of avoiding them be

received, despite one's craving [for it], just as He rewards the shunning

of [other] reprehensible cravings (*al-qabā'iḥ al-mushtahāh*).

2. Contra 'Proscribed'

(100)

As for *aṣḥāb al-ḥaẓr*: [Their argument] is even more obviously invalid:

We don't know [an act's] being proscribed by the ᶜ*aql* undeniably

(*ḍarūratᵃⁿ*), nor by an indicator [of the ᶜ*aql*]. The meaning of "pros-

cribing" is expressing-a-preference for the portion of shunning over the

portion of doing, because of some connection between harm and the

portion (*jānib*) of "doing." But whence does one know this, when

Revelation has not come, and the ᶜ*aql* [cannot] determine it? Perhaps he

will be <u>harmed</u> in this world by shunning the pleasurable: How then

does shunning it come to be prefered to doing it?

(101)

Their saying that this is the usufruct of the property of another

without His permission, which is detestable, is invalid to us: We would

not accept the detestibility of that, were there no forbidding by the

shar^c, nor prohibition (*nahyuhu*) even if custom so determined, (*wa-law*

ḥakama fīhi al-^{c}ādah). [Further, use of property] is detestable with

respect to one who is harmed by use of his property. Indeed, what is

detestable is preventing [the use] of that in which there is no harm.

(102)

We have already made it clear that the reality (*ḥaqīqah*) of the percep-

tion of detestability is grounded in its contradiction of objectives

(*al-gharaḍ*), and that that [supposed detestability] has no reality [in

fact].

3. Contra: 'Abeyance'

(103)

As for the school of *waqf*: If they intend by [the term] that the deter-

mination of assessment (*ḥukm*) is in abeyance (*mawqūf*) until the

arrival of Revelation and there is no [effective] assessment (*ḥukm*) in

this circumstance, then [they] are correct: for the meaning of "determi-

nation" (*ḥukm*) is the dictum (*al-khiṭāb*), and there is no dictum before

the arrival of Revelation. If they intend by it that we hold in

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abeyance (*natawaqqaf*) and do not know [what is in fact the case] —
that [the act] is [in fact] proscribed or permitted — they are wrong.
This is because we <u>do</u> know that there is no proscription, for the mean-
ing of "proscription" is the statement by God "do not do this," and
there is no permitting, for the meaning of "permitting" is His saying
"If you wish do it; if you wish, neglect it" and no such thing has come.

[End]

Commentary

al-Ghazālī on Moral Epistemology and Ontology

1. Introduction

The three centuries between the probable time of origin of the "moral epistemological question" and the flourishing of Abū Ḥāmid al-Ghazālī saw increasing refinement of argument and counter-argument, and the evolution of school positions. By al-Ghazālī's time, it is hard to imagine a Shāfiʿī or Ḥanbalī defending the positions of the honored Ibn Surayj or Ibn Ḥāmid, and it is hard to imagine a Muʿtazilī (Shīʿī or not) defending al-Kaʿbī's ontological rigidity. Yet within the boundaries evolved by the middle of the fifth century, there is still room for innovation in this argument; this is still a good problem to think with. Over the next several centuries, Fakhraddīn al-Rāzī, al-Taftazānī, al-Qarāfī and others will elaborate and "philosophize" this discussion, defending the dogma of al-Ashʿarī, while increasingly using the techniques and metaphysics of the Muʿtazilah and the Aristotelian *faylasūf*s.

Even within the lifetime of al-Ghazālī himself we can see a change in the argument, reflected in the differences of approach between al-Ghazālī's first work, the *Mankhūl*, and his penultimate work, the *Mustasfá*. A section of the latter is translated above.

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The later work, the *Mustasfá*, is perhaps the most lucid and certainly the most striking of the extant anti-Muᶜtazilī discussions. It's argumentation is as good an example of individual genius in a traditional scholastic discipline as one might hope to find, since the *Mustasfá* and the *Mankhūl* so clearly differ in argument and organization from works of al-Ghazālī's predecessors, particularly including his teacher, Imām al-Ḥaramayn al-Juwaynī. In many respects the *Mustasfá* is an elaboration of the arguments in the earlier *Mankhūl* and it is all the more remarkable to find in the first work of a young scholar an argument so subtly formed while so discontinuous with that of his prominent teacher. This part of the *Mankhūl* is in fact *so* original, particularly in its epistemology, that one is justified in supposing that the matter was important to al-Ghazālī in a personal way; its importance for him is perhaps confirmed by the further refinement and labor shown in the *Mustasfá*[41]. It is clear in both works that it is moral epistemology that is the primary issue. More precisely, for al-Ghazālī the question is whether the terms "good" and "detestable" have any objective meaning. For the Muᶜtazilah, this assumption is prior: something is proscribed because it is detestable[42]. Both the young and the mature al-Ghazālī

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[41]Epistemology was clearly a matter of personal concern for him. See *Freedom and Fulfillment (al-Munqidh)* p. 63-67 and notes.

[42]see chapter five section 3.2. Also al-Jaṣṣāṣ translation paragraph 8b.

come to the conclusion that good and detestable are meaningless terms, morally speaking. It follows predictably then that any discussion of how one can know the good or detestable without Revelation is futile.

While it is not to the point here to delve into the *Mankhūl*, it is instructive to note that there are differences in the two works that indicate development in the <u>content</u> rather than merely in the form of the argument[43]. The definitions section has been augmented in the *Mustasfá* in a way that is instructive[44]. However, the most significant difference separating the two works is that while in both the *Mankhūl* and the *Mustasfá* al-Ghazālī takes the polemically bold step of granting his opponents' assertions about the *ʿaql* —— particularly that the *ʿaql* does indeed make judgments —— it is just that they are of no use in coming to moral knowledge. Whereas in the *Mankhūl* he attacks the validity of *ʿaqlī* judgments by a more or less passing reference to "interests" (*aghrāḍ*) that he says provide the motivation for the assessment of the act as "good" or "detestable," in the *Mustasfá* al-Ghazālī has taken this point developed it fully, and made it the centerpiece of his rebuttal. In fact, if there is a single consistent difference between the two works, and indeed between the *Mustasfá* and any-

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[43]For instance, the last two arguments in the *Mankhūl* have withered away. The first section has become in the *Mustasfá* a much longer.

[44]Note the changes in the definition of *ḥukm*.

thing preceding it, it is that the older Sufi aspirant now writes with richer and deeper psychological insight; alone among the Ash°arī discussants with whom I am familiar, he probes the motivations and sensitivities of humans in moral action. By the time of the *Mustasfá*'s writing, al-Ghazālī has arrived at a theory of knowing which, if it does not engage with that of °Abdaljabbār, is its match for subtlety and insight.

2. Structure

Brief outline of the
translated section of the *Mustasfá*

I. Definitions
II. Controversy --- Moral Epistemology
    A. Definitions of *hasan* and *qabīh*
    B. Ontology: ascriptive versus essential attributes
    C. Irrelevance of Collective Agreement
    D. Supposed innate inclinations to good
    E. Three Errors
        1. That *hasan* etc. are not essential but connected to objectives
        2. That there are absolute goods that are always so
        3. That a thing has the same status as that with which it is associated
    F. Alternate sources for what seem to be °*aqlī* assessments.

III. Controversy --- Thanking the Benefactor

IV. Controversy --- The status of acts before the *shar°*

The "moral assessment" section of the *Mustasfá* is structured as definitions of the "true nature (*haqīqah*) of the assessment, and three "controversies" (*mas'alah*). Al-Ghazālī moves from a set of axioms that constitute his definitions, to a discussion of ontology and epistemology. He follows the

theoretical topic of the ontology of assessment with the more "practical"

problems of "thanking the benefactor" and "the status of acts before the

shar^{c45}."

3. Content

As I see it, al-Ghazālī has one overriding purpose in this section of the

Mustasfá, and that is to justify the slogan "the *ḥukm* is the *khiṭāb* of God,

connected[46] to the acts of humankind (3). But the sophisticated rhetorician

of the Niẓāmiyyah college does not baldly argue so; instead he takes as his

two themes for this section

(1) that there is no analogy from the mundane to the transcendent realm

(with the two corollaries that

(a) Revelational knowledge is therefore unique and

(b) that the other sources of knowledge are too fallible to be the basis for

moral knowledge), and

(2) that there are alternative explanations that better account for the

"facts" cited by the Mu^ctazilah in defense of their positions.

We might have expected in a previous work to find the thanking of the benefactor and status of acts first (as in al-Jaṣṣāṣ for instance), and the abstract implications of the discussion worked out later. This arrangement is part of a general trend in *uṣūl* history, to move the science from a discussion of hermeneutic procedures and then their more abstract implications to a discussion of those "implications" considered as fundamentals, matters that must be clear from the beginning <u>before</u> a discussion of practical procedure can take place.

[46] *ta^calluq* not *irtibāṭ* as in the *Mankhūl*.

4. Definitions As we have said, throughout the *Mustasfá* al-Ghazālī argues in *falsafī* fashion from definitions, but these are definitions so blunt-edged as to be more like slogans than nuanced conceptual descriptions[47]. The first of these slogans is, "the determination (*ḥukm*) is the dictum (*khiṭāb*) of *shar*ᶜ, or, in his formulation, "the *ḥukm* (for us) is tantamount to the dictum of the *shar*ᶜ when [the dictum] is applied to the acts of those made-responsible (9)." Al-Ghazālī is saying, in effect, that *ḥukm*, (in the context of *uṣūl al-fiqh*) has no meaning other than a statement about an act reflecting the Revelational imperative.

From this controversial but lawyerly definition all else follows, for if the *ḥukm* is a <u>statement</u> <u>by</u> <u>someone</u> determining the status of <u>the act</u> or <u>actor</u>, (rather than a <u>description</u> of the act) then the epistemological question is "how to find these statements" rather than "what kind of act <u>is</u> this and how can we know its nature?" To restrict "moral knowledge about an act" to knowledge of <u>statements</u> about the act, is the whole of al-Ghazālī's enterprise, and that of his contemporary Ashᶜarī-*uṣūlī*s.

Thus, "Obligatory is the declaration about [an act] 'do it and do not shun it (3),'" and more significantly "Permitted is the declaration about [an act] 'if you wish, do it; if you wish, shun it (3).'" Through definition

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[47]This is in fact the Ashᶜarī enterprise: to take the *jamāᶜī-sunnī* (as Hodgson styles them) slogans and expand and unpack them in the language of the more reflective and analytical scholastics.

al-Ghazālī effectively renders irrelevant the entire Muᶜtazilī argument justi-
fying the position that acts are "permitted (mubāḥ)" before Revelation: how
so if (by definition) there is no significant statement about the act in
existence? Of course mere definition is not sufficient to rebut the alterna-
tive definition of, say, al-Jaṣṣāṣ, who declares "Permitted means that for
which there is neither reward nor punishment (2)." Al-Jaṣṣāṣ's ḥukm is a
statement descriptive of the act; al-Ghazālī's ḥukm is a declarative state-
ment made by someone stipulating the character of the act or actor who
performs it.

Al-Ghazālī follows the same question-begging procedure when he
defines the Muᶜtazilah term ḥasan, good. In paragraphs (12) and (13),
al-Ghazālī asserts that "good" is a subjective term, and as such is shaped
only by individual preference; it is in no way an objective aspect of the act.
This is so because 'good' is not a part of the act (17) but rather a reflection
of individual preference and benefit from the act in question.

It is this definitional part of al-Ghazālī's argument that is most readily
accepted into later uṣūlī scholarship and most frequently passed on, because
it is a sufficient argument, and persuasive, as far as it goes. Yet what
makes the Ghazālian argument brilliant is not his tactics or his engagement
with the opposition, but rather his elaboration of the implications in these
definitions. Al-Ghazālī here produces nothing less than a complete moral

psychology containing a persuasive account of spontaneous moral judgment and a plausible explanation of how mundane knowledge differs from transcendent knowledge.

5. The Irrelevance of Mundane Knowledge

The Mu^ctazilah had what had been in the 3rd and 4th Islamic centuries a persuasive description of Revelation: It was knowledge provided by God about actions, namely, the information that some acts (ritual worship, for example) were beneficial — one would be rewarded for doing them. However, they said, God had also provided other kinds of knowledge, the immediate *^caqlī* knowledge that e.g. lying is detestable, and therefore to be shunned.

Al-Ghazālī recognized that a theory of Revelation-as-knowledge hid a serious threat to the *shar^cī* complex: if Revelation is understood as the transmission of knowledge, then Revelational knowledge might be understood as only one kind of knowledge, among others. The unique status of Revelation, so important symbolically to Ash^carīs and Ḥanbalīs alike, is compromised when Revelation is on a par with, for example, the *^caqlī* knowledge that a falsehood is detestable, or the knowledge that something tastes good, or is brown.

As a result, al-Ghazālī argues both that sources of knowledge other than Revelation are unreliable, and that the knowledge Revelation contains

is privileged: there is no other way to attain it.

When, for instance, he laboriously establishes that his dispute is about knowledge itself and not the bases of knowledge (29), or when, more convincingly he argues that falsehoods to protect a prophet fall into a category of obligatory falsehoods[48], his purpose is to question the validity and reliability of non-Revelational knowledge. If the ^caql can so misunderstand the status of a necessary lie, then it cannot possibly provide reliable knowledge in other matters, and certainly not moral knowledge that is indisputable and immediate ($\underline{d}ar\bar{u}r\bar{i}$). Similarly with other judgments based on usefulness (92) or taste (98) or consensus (30ff): What appears to be consensus knowledge by non-Muslims about the act and its status is either erroneous, covertly based upon the $shar^c$, or a simple coincidence (32). Human beings, in fact, are congenitally unable to think their way to knowledge about acts, since <u>self-interest</u>, whether subtle or gross, constantly shapes the results of moral contemplation (12ff 37ff).

Al-Ghazālī's argument, then, is that it is not knowledge about the thing or act that is morally significant, but knowledge of what God has said about that thing or act (3). He strengthens his case by showing that there can be nothing in the ontic nature of the act itself that could determine its status (17,26). If the act is not "good because of something in the act

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[48]for the Mu^{c}tazilah, an oxymoric concept

itself," it follows that no knowledge of the ontology of the act, however perfect, could ever provide knowledge of its "goodness" or "obligatory" nature.

For al-Ghazālī, it is in the transcendent realm that "assessment" (*ḥukm*) lies, and nothing in this world can indicate what belongs to that other realm (56, 97). This is so because the human and the transcendent realm are entirely separate (55-6): We have objectives, God does not (59); we care whether we are thanked for a benefaction, God does not (65); we cannot respond suitably to God's benefactions(66); and God is not the owner of things in the normal sense of ownership (96). In short, because of their participation in the world, human beings are unable to arrive at reliable moral judgments about acts unaided by knowledge of the divine command.

Having suggested that the *ᶜaql* is an unreliable source of information, al-Ghazālī then must account for the evidence that his opponents offer as proof of their own assertions.

The strongest argument in the Muᶜtazilah arsenal is their appeal to common-sense experience. Human beings do appear to assess acts without the aid of parochial religious information, and there do seem to be assessments held in common across cultural, and denominational lines. Al-Ghazālī then must account for these phenomena in such a way as to

categorically distinguish ordinary assessments from Revelational assessments, and call into question their validity.

He grants that we judge the goodness and detestability of things, but in defining what these terms mean, he severs the common-sense link between these assessments of quality (good and bad) and prescriptive determinations (obligatory and proscribed). Our spontaneous evaluative assessments of a thing, as "good" for instance, arise from association of the thing judged with something else (44f), or our projection of ourselves into an imagined similar situations (50f), or it simply reflects what we were taught (42-43). Primarily, he says, these evaluations of quality correlate to our estimation of the extent to which the act accords with our objectives (12ff, 36ff, 39ff, 41ff, 51ff etc). The more the act is good to us, the more emphatically and objectively "good" it seems.

The power of al-Ghazālī's argument comes from his ability to show that human objectives affect the assessment of acts in ways that go far beyond the most obvious; human objectives can also include subtle psychological satisfactions (36ff) and expectations of praise (53). By so arguing, al-Ghazālī invalidates the Muʿtazilī assertion that humans spontaneously assess acts at all; and if their assessments are not spontaneous they are not the result of innate moral knowledge but self-serving assessments tainted by interest.

The nature of the dispute about moral assessments and what legitimately grounds them requires a disquisition by al-Ghazālī on the grander epistemological question of what the unaided ^{c}aql can know about any transcendental matters (66). His opponents allege that if it is said that if the ^{c}aql is unable to discern transcendent knowledge, then it would be impossible to verify the Messengers' claims, or at least there would be no compulsion to do so. It would follow then that there could be no justifiable punishment for one who is willfully deaf to the Prophetic call[49]. It seems entirely consonant with al-Ghazālī's despair of human intellectual capability and consequent emphasis on the importance of transcendently-given knowledge, that for him it is the miracle of Revelation that compels recognition of the revelational summons: A Muslim knows with certainty of his bondsmanship to God because he has indisputably (*bi-ḍarūrat al-^{c}aql*) been confronted with a supernatural occurrence that then obliges him to respond to the Messenger's call. When the Muslim inquires into the Prophetic miracle, the compelling nature of the miracle asserts itself, and at that point the veracity of the Messenger and hence the Message has "already" been confirmed. The content of the Message, then, affirms and describes the nature

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[49]This is a much discussed issue that cannot be dealt with here. Suffice it to say that Ash^{c}arīs seem generally to have accepted that the ^{c}aql can know of God, His claim to our obedience, and His ability to send messengers, without Revelational knowledge to that effect, indeed as a precondition for the acceptance of Revelation. Al-Baghdādī, *Uṣūl al-Dīn 24ff*.

of bondsmanship, but recognition of that relationship has by that time long since been compelling (67,68ff).

It with this view of "salvation history" that al-Ghazālī is unimpressed, as he is with his opponents' urging that *ᶜaqlī* knowledge must be possible to validate Revelation, and collaterally, to make moral assessments in Revelation's absence. Al-Ghazālī, however, says that before Revelation there are only fancies which, while they might, in Pascalian fashion, accidently lead one to act according to God's will, might also reasonably lead one to act in a contrary manner (62,63)[50].

What is it that Revelation brings? As we shall see in the eighth chapter, it brings the dictum (*khiṭāb*), a slippery yet profoundly important concept. What is worthy of note here is that it is the dictum that lends legitimacy to the promptings of conscience (*khāṭir*); without the confirmation of Revelation, the "two warners" may be no more than fancy (77). After Revelation however, the force of conscience is strengthened and confirmed (78).

Al-Ghazālī's general epistemological overview follows this more particular argument, as if to pull together all possible natural sources of knowledge and harness them to Revelation. For him, the *ᶜaql* evaluates a situation. Yet "knowledge" consists not only of the perceptible knowledge

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[50]An old Ashᶜarī argument going back to al-Ashᶜarī himself (see above chapter three.

of the senses, but also of the information the Prophet has brought, and of the obligations God has imposed. The ^{c}aql knows the obligation to follow the Prophet's guidance because of the miracle that has distinguished Prophetic statements from mere human declarations. The ^{c}aql itself discloses the limitations of its own knowledge, and must turn to other (Revelational) sources to find reliable information with which to reason. The "natural dispositions" then motivate one toward good, fearing harm (78). One's knowledge in the understanding of both the Mu^{c}tazilah and their opponents is divine in origin, but for al-Ghazālī the "background knowledge" of the status of acts and their consequences awaits the historical moment of Revelation, and the commands that it brings. Whereas, for the Mu^{c}tazilah, from the moment of Creation humans have had some knowledge to ground moral action.

Only after defining the terms of the discussion to his satisfaction, and after having dismissed the Relevance of human analogy to divine imperative by using the example of thanking the benefactor, does al-Ghazālī undertake the discussion of acts' assessments before the shar^c. His generation has lost sight of the importance of the concept of utility-as-sign as a part of this discussion. The argument here is the least original of his efforts: "no permitter, no permitted, no proscriber, no proscribed" is the gist of his position (79ff). In paragraph (87) he once more describes moral epistemology in

general, and once more he emphasizes the passive role of the *ʿaql*.

Throughout this entire section of the *Mustasfá* there is a dark and almost nihilistic denial all reasonable moral inference from the world: God might have made the world for no cause whatsoever; He might have created taste to deceive (99); perhaps He would punish us for thanking Him (63), perhaps thanks is an impertinence (66:2).

In this somewhat unsatisfactory way al-Ghazālī's argument trails off, the "proscribers" and "permitters" having supposedly refuted each other.

Just as he has begun with a slogan, that "the *ḥukm* is *khitab al-sharʿ*, he ends with another slogan: "the meaning of "proscription" is the statement by God "do not do this" . . . and the meaning of "permitting" is His saying "If you wish, do it; if you wish, neglect it.." He considers himself to have established what he set out to establish. He has offered an alternative account of "spontaneous" assessment, and established that the *ʿaql* is unreliable. He has defended his maxims against counter arguments, he has removed "good" and "detestable" from the domain of moral value and made them merely assessments of quality in the context of either formal criteria (perfection) or self-interest. He has shown that there are no absolute moral determinations apart from their context. He has defended the *sharʿ* as the sole source of moral determination. He has maintained the closed hermeneutic of *uṣūl*.

APPENDIX:

THE ARGUMENT IN THE *MANKHŪL*

I.Definitions

  A.*Ḥukm* is not essential attribute

  B.*Ḥukm* is a binding of the locution *shar^c* to acts
  (*irtibāṭ khiṭāb al-shar^c*)

    1. Thus individual *ḥukm* such as *wājib* is a speech act *maqūl*

      a. Illustrations:
Prophecy is not essential attribute of prophet

      b. Illustration:
      wine is only a substance; its *use* is forbidden

II.Controversy:
Moral Epistemology

  A.Perception of *ḥasan* and *qabīḥ* impossible by *^caql*; it awaits
  al-shar^c al-manqūl

  B.Definitions: 1.*ḥasan* is only what the *shar^c* commands

    2. Mu^ctazilī definitions:

      a.*ḥasan* is so *per se* (*li-dhātih*)

      b.moral knowledge is either
        (1) pure *^caqlī* or
        (2) *naẓarī ^caqlī*
        (3) what *shar^c* says is good because its ultimate value
          (*maṣlaḥah*) is hidden

  C.1st "Course":
Falsification of Mu^ctazilī Position

    1. Dialectical way

    a.the refusal of a sizable group to accept (*i.a.*)
       that without compensation, killing a beast is wrong,
       proves that such knowledge is not undeniable (*ḍarūrī*) and *ᶜaqlī*

    b. Good is not part of essence (*dhāt*); without *sharᶜ*
      faith/ingratitude are morally indistinguishable

  2. Conceptual way

    a. Falsehood has no fixed value

    (1) Illustration: (a) lying to save a prophet

D.2nd "Course":
Establishing the Position of the "People of Right" (*ahl al-ḥaqq*)

  1. A given act resembles all other acts of the same type
    in form and attributes; without knowing the motive (*mustanad*)
    they can't be told apart

    a. Illustration: killing feloniously and executing a criminal

  2. But things that differ in essential attributes cannot be
    confused with each other or be of the same genus

    a. Granted that licit intercourse and fornication *appear*
      different to *compos mentis*, still the source of the difference in
      assessment is objectives (*aghrāḍ*)

  3. But *real* difference between acts is attributable only to God

    a. Who has no objectives

    b. Who is not harmed/benefitted

    c. In Whose view acts are indistinguishable

    d.so no evaluation "good" can be rightly linked to any (divine) objective

    e. God needn't take human objectives into account

E.Four Specious Arguments of the opponents

1. Agreement on an evaluation proves what is agreed upon is *ḍarūrī* knowledge

   a. No agreement; what seems so derives from assessment of common objectives

2. Why does a mighty king incline to assist a threatened poor man,
if not from *ʿaqlī* assessment?
   a. Habit, or human sensibility

   b. But God has none of these

3. Agreement on assessments of non-Muslims like Brahmins proves
some moral knowledge is independent of Revelation

   a. This has no more force than their *dis*-agreements with Muslims

4. One, all things being equal, prefers veracity to falsehood; the
proximate cause of this is the *ʿaql*

   a. No. Proximate cause is *sharʿ*, or avoiding blame or derivative
knowledge (*taqlīd*)

F. Their Failing: the attempt to express the transcendent by
reference to the immanent

   1. Illustration: slaves left to themselves

III. Controversy:
Thanking the Benefactor

IV. Controversy:
Assessments before the arrival of the *sharʿ*

  A. Only source before *sharʿ* is individual human objectives

V. Controversy:
Non-Muslims (*kuffār*) are addressed in the dicta
pertaining to the statutes (*furūʿ*) of the *sharīʿah*.

VI. Controversy:
Compulsion does not vitiate the dictum [to do something].

The Critique of the Mu^ctazilī Position

1. The Neglect of the Ontological

1.1. General Observations and the argument of Irrelevance

Ontology is irrelevant to the the discussion of this complex of problems. That at least, is a reasonable conclusion to draw from the texts of Mu^ctazilah opponents, for they spend pages and pages attacking Mu^ctazilah ontology and at most a few sentences or no space at all proposing an alternative ontology.

It seems characteristic of non-Mu^ctazilī thought to prefer the epistemological to the ontological, perhaps on the assumption that some knowledge of how-to-know is provided in Revelation[1] , while the "nature-of-being" is not discussed in the *Qur'ān* at all. Hence the subtext of this argument is the incompatibility of an ontologically based system with the epistemologically-oriented system of *sharī^cah*.

The ontological position of the non-Mu^ctazilah, to the that extent there is one, can be summed up in a sentence: *The attribute "good" is relational (iḍāfī), not essential (dhātī or nafsī).* Or, as the *Baḥr* says: "The essence of

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the *ḥukm* is the dictum[2]. There is, for the non-Muᶜtazilah therefore, no *a priori* link between obligation or permittedness and goodness: has force by reference to the actor and not the act[3]. Nothing can be/need be known about the act itself. This assertion seems thin stuff — it is frustrating to read an elaborate description of the Muᶜtazilī argument followed by what seems to be a mere slogan — until one grasps that the true rebuttal to the Muᶜtazilah ontology is seen to be the symbolism of the entire *sharīᶜah* system itself[4].

1.2. Errors in Ontology

Where there is discussion of ontology in the sources, that discussion is almost always an attack on Muᶜtazilī ontology, not a positive assertion of an alternative theory of "being" in relation to morality. In their attacks, the non-Muᶜtazilah concentrate on two sorts of errors: ontological rigidity,

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[2]*al-Baḥr* 14a:31: *ḥaqīqat al-ḥukm al-khiṭāb*.

[3]Abū Yaᶜlá *ᶜUddah* 191a; *Fatḥ al-Ghaffār* 1:12:23-24

[4]See below chapter eight.

and implausible implications.

1.2.1. Rigidity

The Mu^{c}tazilah and especially the Ka^{c}bites held that "goodness" was an essential (*dhātī* or *nafsī*) attribute of the thing so characterized. It is characteristic of essential attributes that they are inextricably bound up with the thing in its existence[5]; it is difficult to see how the thing can exist without being characterized by all its essential elements, that is, it is hard to see how a lie can ever be good, if one of its essential characteristics is detestability[6]. The non-Mu^{c}tazilah pounced on this difficulty, impervious it seems to the critiques and developments of the Baṣran Mu^{c}tazilah designed to solve this problem[7].

The first surviving argument against ontological rigidity seems to be al-Juwaynī's brief remark that

> Forbidding (*taḥrīm*) is not an essential attribute of drinking [wine] for we deem it necessary to drink [wine] in necessity[8].

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[5]Frank, *Beings* 58ff

[6]See al-Baghdādī *Uṣūl* p. 131. al-Āmidī quotes his colleagues as saying "If the detestability of a falsehood were an essential attribute (*waṣf^{an} ḥaqīqiyy^{an}*) how is it that [the detestability] differs with differences in circumstance (*al-awḍā^c*)?

[7]Some later scholars did seem to be aware of the Baṣran position, though it is not clear that they had a persuasive argument against it. See al-Qarāfī p. 90, and the *Baḥr* p. 21b.

As we have seen, al-Ghazālī offers a number of examples of how the lie can be necessary, and truth-telling proscribed (para. 25).

As late as the 6th/12th century, and with so philosophically sophisticated a scholar as al-Āmidī, the argument is still directed at just this outdated and ontologically rigid formulation of the theory of value, albeit in the opaque language of later scholasticism.

> "The word (ism) "good" (ḥasan) [among our colleagues] .... is applied relationally (iḍāfiyyat^{an}) and not essentially (ḥaqīqat^{an})... The application of the word "good" to [something] ... is not essential (dhātiyy^{an}) because of [the act's] different [status according to circumstances] and change-of-status (tabaddul) in relation to the differences of goals (aghrāḍ), by contrast to the characterization of a substrate by "black" or "white".[9]

Refining this point, he goes on to say:

> What may be depended upon in this matter is to say, if a particular act were good or detestable of itself (li-dhātih), then from the concept (mafhūm) [of the act] would [be known] its detestability or goodness; but [goodness/detestability] are not themselves the same as the essence of the act; otherwise, one who knew the true nature (ḥaqīqah) of the act would know its goodness or detestability. But that is not so, as [is proved by] the possibility if knowing the true nature of the act while knowledge of its goodness or detestability awaits inquiry, such as the goodness of a harmful truth-telling, or the detestability of a useful falsehood[10].

To understand the non-Muʿtazilah (or here, especially, the Ashʿarīs) ontol-

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[8] awjabnā l-shurb^a ʿind^a l-ḍarūrah. Burhān 86. This sentence is part of the discussion already underway on whether an interdiction or command applies to the act or the actor.

[9] al-Āmidī, Iḥkām, 1:113-4

[10] al-Āmidī p. 119. For "rigidity" see also Sharḥ al-Muntahá p. 202 margin, and Juwaynī's Burhān p. 90.

ogy and lack of it, it must first be grasped that "wine is forbidden" is not a

description of the wine, it is a kind of contextual knowledge about the wine

in relation to something else — the particular circumstances, the actor, a cer-

tain set of divine commands etc.

Thus, according to al-Shahrastānī, the categorization of the act as

"good" or "detestable" stands in relation to the act as "knowing" to the

"thing known."

> If the *sharᶜ* arrives [with mention of] the goodness or detestability [of an
> act], His saying [so] does not entail an attribute for the act; nor has the act
> the goodness or detestability of which the *sharᶜ* informs [us]. Nor, if [the
> act] is assessed thus is it overlayed with an attribute, so that it would be
> in its essence characterized by it. This is just as knowing (*ᶜilm*) does not
> procure an attribute for a thing known, nor does it thereby have a [partic-
> ular] attribute similar to the *sharᶜī* statement.

> The determinative command does not earn [the act] an attribute, and [the
> act] does not acquire [from the *sharᶜī* statement] a quality. From the
> statement no attribute is acquired by the object to which the statement is
> attached, just as from knowledge arises no attribute for the object to
> which the knowledge pertains[11].

In the language of high Islamic scholasticism, al-Shahrastānī is denying that

the imperative reflects anything in the act, or determines anything within

in. As the *Baḥr* says,

> This is like the one who knows that Zayd is sitting near to him. His
> knowledge and his linking this with Zayd does not change a single thing of
> Zayd's attributes, and nothing [new] has come to exist, as far as attributes
> are concerned, as a consequence of the linkage of knowledge with him[12].

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[11]*Nihāyah* 370. See also Juwaynī, *Burhān* p. 87

Another approach to this question can be found in Fakhraddīn al-Rāzī's
compendious *Maḥṣūl* where he discusses the question of whether something
can be, always and everywhere, good[13]. This is of course approaching the
question of ontological rigidity from the back door: if something that is
sometimes good is not <u>always</u> good, then good is likely not to be an essen-
tial element of that thing, since, essential elements <u>are always present</u> when
the thing exists. In addition to the, by now, standard example of the lie to
protect a prophet, al-Rāzī offers a second instance of the logical incongruity
that follows from his opponents' position, an argument picked up by later
logicians like al-Āmidī and the various commentators on the *Muntahá* of
Ibn al-Ḥājib.

> If one says 'I will kill you tomorrow,' there is no doubt that when he does
> not do this, he has made the informational statement a falsehood. If
> falsehood is detestable, then [not killing] would would necessarily bring
> about something detestable, and that which necessarily brings about some-
> thing detestable is [itself] detestable. It would follow that shunning [kil-
> ling] would be detestable and doing it [viz killing him] would be good ab-
> solutely, but that is indisputably false[14].

By way of summary then: The opponents of the Muᶜtazilah were able
to argue convincingly that to attach an attribute like "good" to the essence
of an act such as "truth-telling" led to insoluble contradictions. The

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[12]*Baḥr 14a:21*

[13]Rāzī, *Maḥṣūl* printed edition, p. 17ff

[14]Rāzī, *Maḥṣūl*, pp 177-178

consequence of these contradictions is that the act cannot be morally charac-
terized, except on an *ad hoc*, that is, non-essentialist basis. The source of an
act's characterization must then lie elsewhere.

1.3. The Relativity of good

It is startling to see that by the middle of the 5th century a consensus
had formed among most Muslims scholars that absolutely nothing is good
for any reason other than that God has commanded it, and His commanding
it is inscrutable in motivation and so from any <u>human</u> perspective, arbi-
trary.

The *locus classicus* of this position is the famous statements of
al-Ash°arī cited elsewhere "if He had esteemed [a falsehood] good, it would
be good, and if He ordered [us] to it, there would be no gainsaying Him[15].
Al-Ghazālī similarly suggests (para 63,56-7) that God might have forbid-
den thanking Him, or that He might have prevented immorality rather than
merely commanding us not to do it. The capricious nature of the °ibādāt
(acts of worship) is admitted even by the Mu°tazilah and their fellow trav-
elers. Many factors enter into this discussion, including whether God is
obligated to do what is most beneficial to man (*al-aṣlaḥ*[16]) whether God

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[15]Luma° sec 170. For another example of this see al-Baghdādī, *Uṣūl al-Dīn*
24-25

[16]See Brunschvig, "Mu°tazilisme et Optimum"

creates acts that are *qabīḥ*[17] etc, and to discuss all these issues would require

a 20 volume *Summa* along the lines of ʿAbdaljabbār's *Mughnī*. However, in

general, any willingness to entertain the possibility that, in moral matters,

God might have commanded other than He did, rests at bottom on an

assumption of the utter relativity of the good and the detestable, the com-

manded and the forbidden.

1.4. Other Ontological Problems

In addition to ontological rigidity, there were other problematic impli-

cations of the notion that the *ḥukm* was a quality of the act or thing so

characterized, and these too were eagerly listed by Muʿtazilah opponents.

Fakhraddīn al-Rāzī, for instance, argued that for the "good" to be

"what is deserving (*istiḥqāq*) of praise" is to define circularly[18]. The ques-

tion rests of course on what "*istiḥqāq*" means. Al-Rāzī says[19]

> As for [the meaning of] *istiḥqāq*, it is said 'the effect requires (*yastaḥiqq*ᵘ)
> an effector,' with the meaning that it is in need of it, for itself[20]. And it is
> said 'The owner is entitled (*yastaḥiqq*ᵘ) to the benefit of his property,'
> meaning that such benefiting by him is good.

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[17]Watt, *Formative Period* p. 238ff.

[18]The Muʿtazilah position is dealt with above Chapter VI

[19]*Maḥṣūl* p. 135

[20]*yaftaqir*ᵃ *ilayh li-dhātih.*

[According to the first usage, the assertion] is obviously false, and the second implies the explanation of 'deserving' by 'goodness,' when he said 'the good is that for which the agent does not deserve blame;' a vicious circle is the consequence. If he means something else by 'deserving,' he must clarify it.

Thus, in the Ashʿarī view the elementary problem of definition is met unsatisfactorily by the Muʿtazilah, in the Ashʿarī view. It makes no sense to speak of something as good such that doing it deserves praise, when the covert assertion is that something is good because it is good to praise one for doing it.

Two similar arguments reported for the Ashʿarīs[21] are likewise critiques of the logic underlying Muʿtazilī arguments[22].

The statment "If I remain another hour I shall have spoken a falsehood" shows that it is impossible for a falsehood to be detestable *per se* (*li-dhātih*), for if he does stay he has, as he said, spoken a falsehood, but in doing so, he has spoken truly.[23]

If false information is detestable[24] *per se*, then the statement "Zayd is in the house," when he is not, is false [and therefore detestable] because
a) of the phrase (*lafẓ*) itself, or
b) because of the absence [of Zayd] or
c) a combination of (a) and (b) or

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[21]al-Āmidī *Iḥkām* p 120. Note that he dismisses these arguments as unsatisfactory.

[22]What follows are paraphrases

[23]The act of remaining another hour is both *good* because it verifies the sentence and *detestable* because it contradicts the illocutionary force of the sentence. Which of the two attributes then is the essential one, and how is it that the act carries a second and contradictory (essential?) attribute?

[24]p. 120

d) something else

(a) Cannot be the case because the same statement is not detestable if Zayd is in the house. (b) would require that absence be the ultimate cause (*ʿillah*) for a matter established. as would (c); both [b and c] are impossible because not-ness cannot effect a positive fact (*amr thubūtī*). If (d) were the case. the analysis would be repeated. which leads to infinite regress (*tasalsul*).

In both these arguments we see the technically proficient late Ashʿarīs examining the Muʿtazilah position and finding untenable implications hidden in the assertion that the quality of the act lies within the nature of the act itself.

Al-Qarāfī, one of the more insightful critics of the Muʿtazilah position, argues that the Muʿtazilah error lies in an over-extension of a truth about knowledge:

> The Muʿtazilah took this idea [of the philosophers. namely that *ʿilm* is praiseworthy in its essence (*li-dhātih*)] which pertained to knowledge and ignorance. and applied it to the rest of acts .. One says to the one who says that they are essential attributes (*ṣifat\u207fuⁿ nafsiyyat\u207fuⁿ*): the essential attribute is what follows the thing itself into existence and non-existence (*fī l-ithbāt wa-l-ʿadam*); this would necessitate the establishment of the good and the detestable primordially (*fī l-qadīm*) and that would necessitate the deserving of blame (*istiḥqāq al-dhamm*) for what has not taken place; and this is absurd[25].

Seldom do the non-Muʿtazilah take the trouble to formulate an alternative ontology of moral qualification, but as they see it, they do not have to, since for them ontology plays no part in the assessment of acts. With this in mind, it is easy to see why what often seems mere criticism and slogan-

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[25]*Baḥr* 17a:17ff

mongering can seem instead to constitute a satisfactory argument: If one's position is that a certain something is irrelevant to something else, one's only obligation is to refute any assertion that might plausibly allow for the inclusion of the disputed factor.

2. Epistemological critiques

If the ontological is peripheral, the epistemological is central to the non-Mu^{c}tazilah position, and accordingly the reader of non-Mu^{c}tazilī sources finds much more elaborate and positive discussions of epistemological matters, even when the task at hand is criticism of the Mu^{c}tazilah.

2.1. Exaggeration of the Powers of the ^{c}Aql

As we have seen, the Mu^{c}tazilah and others such as al-Jaṣṣāṣ argued that the ^{c}aql is to be considered among the sources of indicants from which moral judgments are formed. The recognition by the ^{c}aql of blame as the desert of an act, the recognition by the ^{c}aql of the greater amount of useful-ness than harm in an act, all these were ways to moral knowledge, "signs," for one group of Muslim scholars in the 3rd and 4th centuries.

In this, of course, they were opposed by the non-Mu^{c}tazilah. By far the majority of Ash^{c}arī/Ḥanbalī argumentation is spent indicting the

Mu^ctazilah for exaggerating the role of the ^caql[26]. This has led Western

scholars, for reasons connected with their own intellectual history, to glibly

characterize this debate as one between "reason" and revelation. Yet no

Ḥanbalī and no Ashᶜarī of whom I am aware ever took the maximal posi-

tion of al-Ẓāhirī, for instance, that the ^caql has absolutely no place in moral

knowledge. At ground the dispute is really about the shar^c and its limita-

tions in time and scope, more than about the ^caql.

> We do not deny that the sharī^cah does not esteem good except what ^caqls
> esteem, nor find detestable other than what [^caqls] find detestable; that is
> our very statement. What we deny is only that the ^caql has standing (rut-
> bah) in forbidding a thing or allowing it, in esteeming it or detesting it[27].

The examples of exceptions and improbables cited above had as their

purpose not only the establishment of the "non-essentialist" view of "good-

ness" and "detestability" but also the dis-connection of rational goods and

moral goods[28]. These scholars wish to argue for the unintelligibility not

only of "meaningless acts" such as acts of bondsmanship (the cultus), but

also for acts that might plausibly be assessed either pro or con, such as

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[26]This is less so for the later periods, notably the commentators on the *Mun-
tahá* who focus on the absoluteness of good and its relation to ontology, probably
because by their time the sophisticated metaphysic was seen as the central realm
open to investigation after the *uṣūl* of *uṣūl al-dīn* had been fixed or agreeed upon.

[27]Ibn Ḥazm *Iḥkām* 1:57:11

[28]See for instance the commentary on the *Muntahá* p. 198 bottom.

thanking the benefactor (al-Ghazālī para 63,66). Ibn Ḥazm, for instance,

offers two rather pungent examples to show that the assessment of the *ᶜaql*

is often at odds with what he takes to be *sharᶜī* knowledge: He gives the

example of a Christian monk living in his hermitage,

> who seeks God with all his heart/mind (*qalb*), acknowledging God's unici-
> ty and calling nothing good but God's deeds, and nothing detestable but
> what He eschews.

> However, he lives on the islands of the Shāshīs (? *jazā'ir al-shāshiyīn*[29]) at
> the farthest reaches of the world, where no mention whatsoever is heard
> of Muḥammad from any quarter save that it is followed by lies and odi-
> ous attributes. He dies in this state, uncertain of [Muḥammad's] prophet-
> hood, or considering it false. Is he not bound for all eternity in the fire?

Ibn Ḥazm's second example makes a similar argument, in reverse, since here

is is an odious Christian or Jew, practitioner of every vice, who confounds

reason. This vicious Person of the Book is suddenly convinced of the Pro-

phethood of Muḥammad and the superiority of *al-Islām*. He so confesses

and dies: People of the Garden[30]?" By these two examples, where Ibn Ḥazm

takes what he understands to be to be an indisputable truth for Muslims

and shows it to be contrary to the expectations of the *ᶜaql*; he demonstrates

that the *ᶜaql* is unable to apprehend religio-moral assessments, that it

misleads, and hence is of little value in the process of moral knowing.

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[29]WPH informs me that in Zuhrī's *Georgraphy* p. 295 he describes a certain
Jazīrat al-Sakākīn, which are proverbial for being end of civilization.

[30]*Iḥkām* p. 56

Countless times we find the assertion by the "no assessment" people that "the *ᶜaql* is not an indicant (*dalil*)." As Ibn al-Samᶜānī says, "It is not an indicant that obliges or prevents anything; by it there is only perception (*darak*) of matters, or it is an instrument of cognizance (*al-maᶜārif*)[31]."

Similarly, non-Muᶜtazilī writers are eager to convince that the *ᶜaql* is not the assessor (*ḥākim*), though it is not clear that any Muᶜtazilī ever said it was. assessor is the *ᶜaql* and the *sharᶜ* is the revealer (*kāshif*)[32]." This position is not restricted to the Muᶜtazilah, however. It seems also to have been held by one of the Āl Taymiyyah[33] who also holds the position of al-Jaṣṣāṣ that what seems to the *ᶜaql* to be proscribed cannot be made per-mitted or obligatory by (later) Revelation (ibid).

It is true for these people that *sharᶜ* and *ᶜaql* must agree: for this reason the *sharᶜ* cannot require that a person be in two places at the same time[34], but for the "no assessors" the *ᶜaql* is understood, at least by some, to be as constricting as Kaᶜbian ontology, because "if the *ᶜaql* made something obli-

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[31]*al-Baḥr* 16a:30 quoting Ibn al-Samᶜānī. the printed edition of which is slight-ly different. See *Qawātiᶜ* p. 239

[32]*Sharḥ al-Muntahá* 200.

[33]*Al-Musawwadah* p. 480-81.

[34]Shirāzī. *Wuṣul* para 423e henceforth in the text.

gatory it would not be possible that the *shar^c* come with its opposite (424b);" but things do <u>not</u> have an assigned *^caqlī* assessment (ibid), and so there is variation and flexibility in the assessments assigned to acts.

2.2. Utility is not a sign

For the practicing *faqīh*, the most relevant aspect of this debate is the controversy over whether utility constitutes a sign: if something is, on the whole, useful, is it *prima facie* permitted? Al-Jaṣṣāṣ had argued persuasively to this effect saying that utility constitutes an instance of a sign of the permissibility of a thing, and that assessment does not await Revelation. He cited numerous Revelational texts to this effect (para 33,34).

Not surprisingly, we find his opponents unpersuaded. Abū Isḥāq cleverly argues that while it might seem that creation is intended to be of use[35], there are nonetheless difficulties with this position given that both wine and pork might be considered useful -- according to the Mu^ctazilah line of reasoning — but both are forbidden[36]. Again, Abū Isḥāq argues that the utility of an act might lie in shunning it rather than using it, once more instancing pork as an example[37]. Moreover, even if the point were conceded,

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[35] He is reluctant to do so since this constitutes *ta^clīl*, rationalizing God's acts which the non-Mu^ctazilah reject para 429b

[36] *Wuṣūl paragraph 429c*

[37] paragraphs f and g on the same page.

it is not certain that "creation for use" establishes <u>for</u> <u>whom</u> the utility is intended.

> It is not self-evident that we are those [for whose use God has created things]. It is possible that He created it for us, and it is possible that He created it for a people other than we, providing it for them in another time, making for them a path. If [this] is possible, it is vain to say He created them for use. And there remains no counter argument[38].

The discussion of utility as a sign is part of the more general inquiry into the possibility of signs outside of the *shar*, and the dispute essentially follows party discipline. The opponents of the Mu'tazilah saw it as essential to the Islamic summons that the possible corpus of signs be restricted. They simply could not grant that there were indicants other than those contained in the reliable supernatural Revelation.

2.3. Superfluity of the Shar^c

For the "no-assessors" perhaps the single most troublesome implication of the Mu'tazilī position was that, taken to what appeared to be its logical conclusion, there was the potential to depict the *shar* as supernatent on some more fundamental structure of morality, to render the *shar*, if not irrelevant, still something less than absolutely indispensable. For if there is "natural" Revelation which is complemented by supernatural Revelation, the corpus of indicants is opened up and made as inclusive as nature itself.

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[38]429d

As MacIntyre says "if we possess.. a standard of moral judgment indepen-
dent of God's commandments.. the commandments of God will be redun-
dant[39]." Although I believe this fear underlies the entire non-Mu'tazilī
attack on their opponents, it is seldom made explicit. It is only here and
there that we can catch a glimpse of the issue, and of the emotions it stirred
up.

Al-Āmidī is concerned with the implicit continuity of pre-*shar'ī*
assessments. He alleges that

> the Mu'tazilah say "permitted" has no meaning other than the negation of
> harm for doing it. and that is established (*thābit*) before the arrival of
> *shar'* and continues after it. so that [permitted] is not a *shar'ī* assess-
> ment[40].

Thus, for al-Āmidī, not only is the uniqueness of the *shar'* removed by his
opponents but a whole category of assessments is moved outside the *shar'ī*
domain.

Another problem posed by considering the *'aql* a source alongside the
shar' is that, among other things, it restricts the operation of the *shar'*, and
so, restricts God, at least in His determinative capacity.

> If the *'aql* makes obligatory a particular assessment for specific acts. then
> it may not be that the *shar'* come with what is contrary to that[41].

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[39]MacIntyre. *After Virtue* p. 43

[40]*Iḥkām* 1:176. See also *Sharḥ al-Muntahā* 2:6:8

While this is a straightforward exposition of a "permitter" position[42], in context it seems presented as an implausible implication rather than simply an argument.

The discomfort the Mu‘tazilah position produced in committed Ash‘arīs is clear in the shrill language used by al-Shahrastānī to describe the position of the two Jubbā’īs

> They established an *‘aqlī sharī‘ah* and relegated the prophetic *sharī‘ah* to a few assessments: times of cultic acts (*‘ibādāt*) to which the *‘aql* had no access nor for which reflection provided guidance: [for them] it is by the determination of the *‘aql* and [human] wisdom that the Judge must reward the obedient and punish the rebellious. save for punctuality and neglect which are known by the *sam‘*[43].

From the outrage with which the Mu‘tazilah position was received by their opponents, it is clear that a nerve had been touched. That nerve was sensitive to any threat to a *shar‘ī*-dominant understanding of moral epistemology; the dangers the non-Mu‘tazilah envision, while not insurmountable, would have appeared as formidable contradictions to many. The surest way to recognize the uniquely salvific efficacy of Revelation is to grant its exclusive status in that enterprise. Thus, for the no-assessors, if

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[41]al-Shīrāzī. *al-Tabṣirah* p. 533

[42]see al-Jaṣṣāṣ para. 8

[43]*Milal* (Badrān) 120: *wa-bi-muqtaḍá l-‘aqlī wa-l-ḥikmah yajibu ‘alá l-ḥākimī thawābu al-muṭī‘ī wa-‘iqābi l-‘āṣī illā anna l-ta'qīt wa-l-takhliyah fīh yu‘rafu bi-l-sam‘.*

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there is no *shar^c*, there <u>can</u> <u>be</u> no assessment and *^caqlī* caprices are of no moral significance.

Chapter VIII

Shari^cah Epistemology

1. Introduction

In this chapter we will discuss what we see as the alternative to the ontological morality of the Mu^ctazilah, the *shari^cah* system. To describe the Mu^ctazilī ontological system as an *alternative* to the *shari^cah* system may seem to require some justification; after all, the same Mu^ctazilah who defended the ontological morality <u>also</u> participated in the *shari^cah* system, writing books, functioning as *qāḍī*s and *muftī*s, and teaching *shari^cah* subjects. Although it is tempting to agree with the Mu^ctazilah and see their work as an undergirding metaphysic to go with Islamic moral epistemology, I find myself agreeing with their opponents, who held that the two systems could not successfully co-exist. A justification for this position will form part of the conclusion below, but in anticipation we can say that the *shari^cah* system as it was developed, particularly in the 4th and 5th Islamic centuries was formed in answer to the same problems that shaped Mu^ctazilah thought on moral ontology. The two systems could not both at the same time describe moral knowledge and moral being, at least not without a radical revision of the *shari^cah* system as we have it now.

Further, to speak of the *sharī͑ah* as a <u>system</u> may also seem to require some justification. After all, to speak of "systems" is to risk concentrating on scholastic frameworks and to lose track of the urgency of moral concerns particularly for members of the Islamic faith. Yet we hope to show below the systemic aspect of *sharī͑ah* knowledge, and in so doing to confirm a point made by W.C. Smith, that "in the Islamic case, the whole system is symbolic[1] ." And this is, I think, the case. The totalism of the developed thought about the *sharī͑ah* reflects the order of the moral universe itself; the connectedness of every element, each with the other, parallels a view of the world in which no act is separable from the domain of the moral.

The characteristic feature of the *sharī͑ah* , considered as a <u>system</u> is that its practitioners move by abduction from the particular (and individually insufficient) data of Revelation, to the specific problem at hand, without recourse to eisigesis or general moral principles other than hermeneutic ones. That is to say that by means of the *sharī͑ah* epistemology/methodology a Muslim scholar trained in the *sharī͑ah*-sciences could hope to find the assessment for an act or more precisely an actor in a particular situation, that was in accord with God's assessment of that act.

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[1] Quoted in Baird ed., *Methodological Issues* p. 97. "[The *sharī͑ah*] provides a *Weltanschauung*, a coherent frame through which one looks at the world...But what we've not yet done, .. is to come to terms with a total system that operates symbolically. Not one of which the individual parts are symbolic, but the whole thing." (ibid 97-98)

That assessment of the act/actor is called the *ḥukm*.

2. The Hukm

To understand the concept *ḥukm* one must begin with the fact that it is one of the most powerful of terms in Arabic epistemic vocabulary[2]. Initially we should note that the *ḥukm* is the "thing about which one infers[3]." It is, simply, "putting a thing in its place[4]." In general the term signifies various sorts of assessment. Comprehension and translation of the term are difficult because, even within the *sharīʿah*-sciences, the word can mean different things. All of which is to say that "*ḥukm*" signifies (at least) four ideas, depending upon context. (1) the commonplace sense of the word, (2) the sense in logic (3) the *fiqh* or *qiyās* meaning, (4) and the *uṣūl al-fiqh* meaning[5].

(1) The commonplace sense of the word is "the linking of one thing with another" and by this we might understand that *any* predication is an

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[2] Anawati and Gardet, *Introduction* 257-58: N'est-il pas caractéristique d'ailleurs que ce même mot *ḥukm* désigne à la fois cet état juridique et l'acte du jugement en tant que deuxième opération de l'esprit?.. See also Lane s.v. "*ḥ-k-m*" and EI-2 "*ḥukm*" (incomplete); also L. Gauthier "La Racine" and Anawati and Gardet *Introduction* 381-82.

[3] *Al-mustadall ʿalayhi huwa al-ḥukm.* al-Bājī, *al-Ḥudūd* p. 17

[4] *al-Taʿrīfāt.* p. 97

[5] *Fatḥ al-Ghaffār* 1:12

assessment or judgment about that thing[6].

(2) The meaning of the word for logicians is best conveyed by some English word like "determine": the *ḥukm* is the recognition and assent to qualities linking two things: it is a categorization, and the appropriateness of the *ḥukm* transcends the question of whether that *ḥukm* is known or not since the relation between the two things is real, not conceptual. That "this sheet of paper is white" does not depend upon my recognition of the fact; it would seem also to be the case that "dogs are mammals" is also true regardless of whether any observer says so. In this sense the *ḥukm* is a reflection of reality[7], but it is also the predicational relationship itself. The perception of this relationship is called *taṣdīq* and conceiving of it is *taṣawwur*. Thus, in this sense, the *ḥukm reflects* reality, and does not make it[8].

(3) The *fiqh* meaning is that a certain act is *effectively* A or B. Thus, that Aḥmad stole 500 dirhams, or that the law pertaining to theft applies to Aḥmad in this case is a *ḥukm* also. Here the word means "judging" or "judgement". The *ḥukm* is a determination of fact: "Aḥmad stole it,"

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[6]Tahānawī. *Kashshāf.* Cairo 2:134. *Qawāṭiᶜ* p. 242: *ḥukm*s are relational/predicational (*muḍafah*) to the acts.

[7]*Fatḥ al-Ghaffār* 1:12

[8]*Kashshāf* 382ff/Cairo 134-144

and a categorization of an act:

(4) Finally, the *uṣūl al-fiqh* sense, with which we are here primarily concerned[9]. Here the term means the categorization of the act in relation to the actor by reference to another source of information; it is not, in the *sharīᶜah* system, a categorization of the act *per se*, as we have seen above. Rather it is saying 'if/when Aḥmad might do such-and-such, it is obligatory to do/not do it because here God's statement X applies.' The *ḥukm* is the saying "this is obligatory;" it is also God's saying "Let this be obligatory" that makes doing such and such obligatory. The *ḥukm*, for the *uṣūlī*s, is the <u>dictation</u> <u>of</u> <u>status</u>. This <u>thing</u> is <u>good</u>, is a predication, or assessment, and belongs to the "logical" sense of the word *ḥukm*. The <u>statement</u> "This thing is good" can also be considered a *ḥukm*, which means here something like a verdict. "Henceforth let this thing be considered good" is also a *ḥukm*, of the performative type, a determination.

What these *fiqh* and *uṣūl* usages have in common is that the *ḥukm* is a

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[9]Here we are considering the *ḥukm taklīfī*, the assessment of one's duty with regard to performance of an act: killing one's father, in most contexts is *maḥẓūr*, proscribed. The term *ḥukm* is also applied to acts judged by their results: invalid efficacious etc. The situational *aḥkām* (*aḥkām waḍᶜiyyah*) are verdicts on what brings an act onto the horizon of regard and dictates action: to find that the setting of the sun is an occasion for the *maghrib* prayer, is a *ḥukm waḍᶜī*. See Reinhart "Islamic Law," p. 192-196.

statement[10]. As Fakhraddīn al-Rāzī says, there is no meaning to "[the act] is licit other than the mere fact that it is said of it [so]..The *ḥukm* of God is His statement (*qawlih*)[11]." Or, from another direction: assessment requires an assessor — and it is God — not the *ᶜaql*[12]."

The dispute between the Muᶜtazilah and non-Muᶜtazilah is is at base over whether the *ḥukm* is a reflection of reality or a dictation of status; though this discussion is about where the sign indicating the *ḥukm* is to be found, at bottom what is at issue is: what is the *aṣl*, the source or ground for the *ḥukm*. For the Muᶜtazilah it was the real relation of the two things linked, the reality of which the *ᶜaql* perceived[13]. For the non-Muᶜtazilah the *aṣl* — here clearly source — of the *ḥukm* was God's speech *khiṭāb allāh*; For the Muᶜtazilah it was the aspect of good/detestibility (*wajh al-ḥusn/qubḥ*) present in the act.

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[10]It is of course said that *wājib* for instance, is a *ḥukm*, but as al-Samarqandī says, (*Mīzān* 5B-6A). "This is only a figurative substitution of the noun (*fiᶜl*) for the passive participle (*mafᶜūl*): *wājib* is not the *ḥukm* from the point of view of the *uṣūlī*, *but the judgment (maḥkūm)*.

[11]*al-Maḥṣūl* 110

[12]Ṣadr al-sharīᶜah al-Thānī, p. 11.

[13]*al-Dharīᶜah* 801: Every kind of *ḥukm* of acts must have an immediately perceivable ground (*ḥukm ḍarūrī*) in the *ᶜaql*."

If the goal of the sharia method then is a *ḥukm*, the question remains — how is it to be found? For the *Ahl al-Sunnah* it would not do to examine the act and let the *ᶜaql* provide guidance as to its status. Their aspiration was to locate every assessment in the approved corpus of Revelational signs. The two major problems of assigning assessments to acts according to circumstance, and of finding assessments for matters not covered in Revelation was solved in a manner that allowed for the direct movement from Revelation to assessment with no intermediary acts on the part of the human assessor. "Assessing" was done by conceiving of Revelation as the normative collection not of rules, but of indicants or moral knowledge.

3. Signs

> The foundations (*qawāᶜid*) of Islam are four: the **indicator** (*dāll*), the **indicant** (*dalīl*), the **clarifier** (*al-mubayyin*), and the **inferer** (*mustadill*). The indicator is God most High, the indicant the *Qur'ān*, the clarifier the Messenger .(*s*) — God most High said {to clarify to the people what was sent down to them (Naḥl 44)} — and the inferer those of penetration and of knowledge on whose guidance the Muslims agree; inference is not accepted from any but those of this quality[14].

This, in a nutshell, is the *sharīᶜah* process and the *sharīᶜah* vision. God <u>indicates</u> in the *Qur'ān*, which is seen to consist of indicants — as it were — clarified by the Prophet, and scholars infer from the indicants God's will[15].

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[14]Aḥmad b. Ḥanbal quoted in Abū Yaᶜlá. *al-ᶜUddah* 1:135.

[15] "We infer through knowledge of [the *khiṭāb*] His will (*murādᵃh*)." Ṭusī. *al-ᶜUddah* p. 17.

The *dalīl*[16] is at the heart of the *sharīʿah* process. The original definition may be "encouraging, leading on[17]," and the personification of this notion is the *dalīl*, the person or thing that guides[18].

A straightforward definition of the technical sense of this term is hard to come by; definitions tend to be circular: "an indicant is what indicates" etc. Abū Yaʿlá says, for instance, that the *dalīl* is the guide (*murshid*) to the thing sought (*al-matlūb*)[19]. Al-Bājī offers several definitions, all similarly elusive:

> [The *dalīl* is] what is sound to guide [one] to the thing sought, which is hidden from the senses[20]... "an indication (*dalālah*) of proof (*burhān*[21]).

It is "a grounds for argument (*ḥujjah*) and the efficacious force[22] [of something?]." "The indicant is a guide," says another source, "it is the thing that

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[16]for definitions of this word, see Lane, 2:617. Note that the two plurals, *dalāʾil* and *adillah* are supposed to reflect different degrees of certainty. If *dalīl* refers to a person, the plural is *adillāʾ*.

[17]al-Azharī, *Tahdhīb* 14:65-67

[18]*ibid* p. 66. It does not in this context mean "logical proof" contra Rosenthal, *Knowledge* p. 217

[19]p. 131

[20]*al-Ḥudūd* p. 38

[21]There seems to be some confusion of terms; *ḥujjah*, *burhān* and *dalīl* seem to be equivalent terms for Abū Yaʿlá, for instance. See *al-ʿUddah*, p. 131.

[22]*al-Ḥudūd*, p.36: *Al-dalīl huwa l-dalālatᵘ ʿalá l-burhān. Wa-huwa l-ḥujjatᵘ wa-l-sulṭānᵘ*.

makes known to him who reflects, what the indication is for his knowledge[23]. Finally, somewhat more poetically, the *dalīl* is "the knowledge such that one who "travels" according to it arrives [by means of it] at his goal and his intention[24]."

For Muslim scholars, the world is, at first, unmarked, trackless, and devoid of meaning. But upon reflection, certain features stand out as signs, indicants, landmarks (*āyah, dalīl, amārah*). These signs point to things more general or more profound than themselves, or to knowledge which is otherwise inaccessible. Using signs then, one finds in the explicit the implicit, from the denoted is derived the connoted[25]. This notion of knowledge acquired from signs is found frequently in the *Qur'ān*.

The *Qur'ān* in fact describes the world as full of signs (*āyāt*)[26]; and, in places the *Qur'ān* seems to describe itself as a sign[27]. As with most

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[23]Samarqandī, *al-Mīzān* [from al-Māturīdī]: [*Al-dalīl*] *huwa al-hādī, wa-huwa al-muᶜarrif li-man ta'ammal mā huwa dalālat maᶜrifat'h.* page 22b

[24]*ibid*

[25]*al-Tahrīr* p. 25. "'Indication' (*al-dalālah*) is that when something is understood, something other than it is understood [also]." See also *al-Taᶜrifāt,* p. 109

[26]Though the root d-l-l is surprisingly rare in the *Qur'ān* — only seven usages, with *dalīl* used only once, and *ishārah* (signpost; landmark etc) not used at all, *āyah* is used in its various forms approximately 300 times in the *Qur'ān*.

[27] E.g.: {[After a long series of injunctions preceded by "Say"] These are the signs (*āayāt*) of God; we recite them to you with Truth, [since] God does not desire wrong for the Worlds. (3:108)}

technical terms, various definitions of *dalil* have been proposed. Al-Bājī offers a minimal definition first: essence, is the act of the indicator; thus one says: One inferred [who the thieves were] by a thieves trace (*athar*)[28]." Or again, "What is sound to guide [one] to the thing sought, which is hidden from the senses[29]." An indicant is "what leads sound inquiry by means of it, to knowledge (or "knowing")[30];" that process of inference, is called *istidlāl*[31]. An indicant is "the guide; and it is the thing that makes known to one who contemplates, of what its knowledge is indication[32].

To see the world, or parts of it, or the *Qur'ān*, as sign(s), means that something already "known" is not merely or even primarily what it seems to be in itself, but rather it signifies by pointing to something else. In order to know, it is incumbent on humans to recognize these phenomena as signs of something[32].

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[28]al-Bājī. *al-Ḥudūd*. 36.

[29]*ibid* p. 38

[30]al-Bājī. *al-Ḥudūd*. p. 41ff.

[31]Ibn al-Samʿānī. *Qawāṭiʿ* p. 238

[32] E.g. the *ḥadīth* reporting the Prophet's prohibition of taking interest on gold, silver, wheat, barley, dates and raisins is taken by the Ẓāhiris as a "rule": Do not take interest on these five substances. The other legal schools however see this *ḥadīth* as a "sign" signifying that interest is not to be taken whatsoever. See Goldziher *The Ẓāhiris* page 40ff.

The *fiqh* process itself is the process of *istidlāl*, or inference[33]. "Inference is seeking a *dalīl*, and the "inferer" is its seeker[34]," so "doing *fiqh*" is looking for indicants. Note that in this system, the inference process is limited by the sources in which one may search for signs, and by prior hermeneutic techniques — the outward sense of the text is to be assumed unless there is an indicant suggesting some less obvious sense, commands are taken in their widest possible sense unless there is an indication that there operation is restricted etc. Unlike the Muʿtazilah however, practitioners of this science are not to read the *Qur'ān* through a lens of prior dogmas[35]. This humility before the text seems entirely consistent with the exalted status of the *Qur'ān* ascribed to it by the *ahl al-sunnah* and indeed, all Muslims, and the priority it has in the legal process reflects that privileged position.

So in context, the *dalīl* is part of an epistemological chain that links two otherwise separate phenomena, namely, a particular actor performing particular acts at a particular time, and transcendent wishes and commands,

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[33]Samʿānī, *Qawātiʿ*, p. 238.

[34]Abū Yaʿlá, *al-ʿUddah*, p. 132

[35]I think it is significant to note in this context that for the Muʿtazilah the term "five principles (*usūl*)" meant the dogmatic rules informing theology and *Qur'ānic* exegesis: the promise and the threat, unity, justice, the intermediate position, commanding the right and prohibiting the reprehensible. For the *ahl al-sunnah* the *usūl* were *Qur'an ḥadīth* consensus and analogy.

recorded in a Book that appeared between 610 and 632 C.E. Al-Izmīrī offers the following demonstration.

> An example of an indicant is "Rise to prayer" (*Aqim al-salāh*). The thing indicated (*al-madlūl*) is the obligation [to worship], and the indication (*dalālah*) is the connectedness of these two things. The aspect of indication (*wajh al-dalālah*) is that the indicant is an imperative with no modifying context (*qarīnah*) [indicating] recommededness (*nadb*) or abrogation (*naskh*)[36].

What is it that makes a sign a sign? What links the sign to the signified, what grounds it? the answer seems to be that some things indicate others, and this relationship of sign to signified is part of Reality. As Abū Ya'lá says

> God arranged the normal course of things (*al-ʿādah*) [such that] one obtains knowledge by inquiry (*nazar*) and inference (*istidlāl* [literally, seeking indicants]) as He arranged the normal course of things [such that] one obtains taste (*taʿm*) as a consequence of tasting (*aqib al-dhawq*), and hearing as a consequence of listening. It is inconceivable to say that taste is obtained without tasting, or hearing without listening[37].

Al-Izmīrī says[38] that "there must be something in the indicant (*dalīl*) that connects it to the thing sought; were it not so, the intellect would not move from [the indicant] to the thing sought." Thus it is part of the structure of

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[36]*Mir'āt* 1:80 Note that for Shaykh al-Ṭā'ifah al-Ṭūsī, the *madlūl* is the *mukallaf*: he for whom the indication was established. The thing indicated (*al-madlūl ʿalayhi*) is what leads the inquiry into indication to knowledge. *al-ʿUddah* p. 8. I am not sure whether this is only a lexical dispute or has real significance.

[37]p. 183A:11

[38]al-Mir'āt 1:80

the world that some things indicate other things.

Nonetheless, what establishes the link between the *dalīl* and its signifi-
cation is more elusive. Abū Yaʿlá does not see a categorical difference
between the various kinds of indicants, and says some are grounded (*lahu
aṣlᵘⁿ fī) in the sharīʿah*, some in custom, and some in *ʿaql*[39]. It would seem
then that relations between sign and signified are sometimes conventional,
some are transcendentally established, and some are logical or commonsensi-
cal. The relationship between indicant and indicated is not always the
same: many scholars believe there are different kinds of signs that signify
with different degrees of certainty the reality behind them For these scho-
lars it is important to use different terms to refer to the indicant, according
to how sure the inferer can be of what it is the indicant indicates[40]. What-
ever the amount of certainty, however, the process is still the same: the
application of an assessment to a situation, according to the information
conveyed by the relevant indicants.

The model for the *sharīʿah*-epistemology is speech and its interpreta-
tion. This is true *a fortiori* for the *dalīl*. Al-Sarakhsi says that in "the
sharīʿah [the *dalīl*] is the name for the evidence (*ḥujjah*) of speech (*manṭiq*),

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[39]Abū Yaʿlá, *al-ʿUddah* 1:135-6. Also 133. This is different from the notion
that the *ʿaql* itself has indicative power (fī 1-ʿaql *dalīl*). Sharīf al-Murtaḍá,
al-Dharīʿah, p. 702.

[40]al-Dabūsi 2b; cf. Abū Yaʿlá, *al-ʿUddah* p. 135-6.

by which what was hidden is made manifest[41]."

*Dalīl*s indicate derivatively, as it were, since though they are called are indicators, the real indicator is God; it is God "who established (*nāṣib*) the indicants in the *ʿaql* and in the *sharʿ*[42]." Al-Bājī concurs[43]: "The indicant is literally, the act of the indicator; thus one says 'One inferred [who the thieves were] by a thieves trace (*athar*).'" The ambiguity of the term *ḥukm*, given that God was the sole indicator, led to certain problems. Abū Yaʿlá for instance, has to differentiate between two kinds of indicants, primordial (*qadīm*) and temporal (*muḥdath*), "for the *Qur'ān* is the speech of God most high, and is not created — yet it is an indicant of determinations *aḥkām*); the statement (*qawl*) of the Messenger of God is [similarly] an indicant of determinations and [that statement] is temporal and created[44]. What matters is that in using the *Qur'ān* as an indicant, the *sharʿī* scholar is able to use transcendent perhaps primordial "data" to assess present moral problems.

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[41]Sarakhsī, p. 1:278

[42]Abū Yaʿlá p. 133.

[43]al-Bājī, *al-Ḥudūd*, p 36 and also quoted above.

[44]Abū Yaʿlá, *al-ʿUddah* 1:131

4. Qur'an and Sunnah

There was, as this entire dissertation suggests, considerable dispute among Muslim scholars about where signs could be found. Yet no Muslim scholar would deny that the Book, at least, was a reliable repository of moral knowledge. The Book, and also the Reports of the Prophet's acts and sayings, were central to all Islamic thought and both have been used by various groups in a myriad of ways. We are concerned here with their use by legal scholars, which has been for many Muslims the normative method for practical <u>application</u> of the Islamic summons.

To understand how legists used the Book, it is useful to look at their definitions of the Book itself, to see what constituted the Book in their view.

Among the most revealing descriptions of the Book is Ibn al-Sam'ānī's, who says it is "the prototype (umm) of all indicants, and in it is clarification (bayān) for all assessments (aḥkām)". He goes on to add that, "it is the source (aṣl) of all indicants; sunnah is derived from it, analogy [too] is derived from the Book and the sunnah, and consensus is derived from the Book, the sunnah and analogy[45]. From this definition, one understands that for the legists the Book is not stories or exhortations, not narrative or threat so much as it is a collection, indeed <u>the</u> collection of indicants, of signs. It is

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[45]Qawāṭiʿ 252-3.

clear too that at least some of *Qur'an*'s signs authorize other sources of knowledge also: *sunnah*, consensus, analogy[46]. Further, for the *uṣūlī*, "every word, indeed every sound (*ḥarf*) of the *Qur'ān* is a *Qur'ān*[47]." Each one is a *dalīl*. And each *Qur'ān*ic utterance can be considered, *in potentia* as a clarification (*bayān*) for another[48]. It is important to note that the *Qur'ān* is the one independently certain, self-validating *dalīl* in the *sharᶜī* epistemic system, and its certainty arises from the event of Revelation itself, and the method of transmission[49], as Ibn al-Samᶜāni points out.

> The Book of God most high is what is transmitted to us by the method of plural transmission (*tawātur*) in a manner that compels unequivocal certain-knowledge (*ᶜilm*), [knowledge] that is not occluded by doubt or uncertainty; [the Book] is what is ensconced between the two covers.

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[46]It seems to me not fully appreciated by Western scholars that the *Qur'ān* has several different kinds of signs, some constitute "data" for legal rulings, but other signs are methodological. I have argued elsewhere ("From Rule to Sign") that the *uṣūl* enterprise consists of using what is understood to be a *Qur'ān*ic methodology, one that the *Qur'ān* itself uses, to understand the *Qur'ān*. A major part of Shāfiᶜī's *Risālah* is his demonstration of the existence of a legal method in the *Qur'ān*. This is not an act merely of justification, but also to show that *Qur'ān* invokes and assumes this method.

[47]*Ghāyah* 34

[48]That each unit of meaning must be taken in conjunction with all other relevant units of meaning seems to be so much taken for granted that I am unable to find it asserted. It seems, however, to be the entire point of Shāfiᶜī's section on *bayān* (sections 73-257: "Chapter: What is the Nature of the Bayan") and indeed of the discussions found in every *uṣūl* work on the various kinds of *Qur'ān*ic prose: decisive, ambiguous, etc.

[49]As I believe Aron Zysow has pointed out in his dissertation "Economy of Certainty". In any case, the importance of this point first occured to me in conversation with him.

> Now all who were eyewitnesses to the messenger of God .. obtained certain-knowledge from him by audition (samā^c)[50], which is that one heard the messenger of God .. [say] 'this is the Qur'ān that God most high has sent down, His speech and His inspiration (wahy).' But who was not an eye-witness to the Messenger obtains certain-knowledge from him by plural transmission subsequent to (khalaf^{an} ^{c}an) the forefathers (salaf)...[51]

The Qur'ān, then, is understood to be a set of certain or reliable indicants, reliably transmitted from the Prophet, who bore witness that they are God's speech, His indicants.

According to another set of definitions, the Qur'ān is validated by the historical event (of Revelation) and by its canonical reception by Muslims[52].

> The Book is the Qur'ān, the utterances (lafẓ) send down via Muḥammad.. no sūrah of which is imitable, which is devotionally recited (al-muta^{c}abbid bi-tilāwatih).

We see in both Ibn al-Sam^{c}ānī's and Anṣārī's definitions a linkage of the historical — which provides validation of ascription of these words to the Author — with the canonical — which restricts the contents of the Book, if not necessarily Revelation, to what is recited devotionally, "from the first of the Opener to the last of The People[53]". The connection of the historical

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[50]Although I am as of yet unable to document it, it would seem that the term sam^c was an early term to designate both Qur'ān and Prophetic hadīth. Thus "Coming of Revelation" in al-Jaṣṣāṣ is majī' l-sam^c; in other sources the usual term is majī' al-shar^c or wurūd al-shar^c. It is interesting to reflect on what must have been different emphases between the arrival of al-sam^c and the arrival of al-shar^c, the former being perhaps information, the latter ordination.

[51]Qawāti^c p. 253

[52]e.g. Ghāyah p. 33

and the canonical to provide a definition of the Book is of early date; it exists at least from the time of al-Shaybānī (d. 189/805):

> [Al-Shaybānī] — God be content with him — said: Know that the Book is the *Qur'an* sent down to the Messenger of God, written on leaves of books (*fī daffat al-maṣāḥif*), transmitted to us according to the seven well-known vowelings, transmitted plurally (*mutawātir*ᵃⁿ), (since what is other than plurally [transmitted] does not attain the status of "eyewitness-certainty" (al-ᶜiyān))..[54].

That the text was transmitted in a certain way is of interest, but note that "written on leaves" seems to be a historical note restricting the corpus of the Book to that which was written on leaves at the time of the Prophet, excluding other things not so preserved. Note too that "eye-witness certainty" also implies a kind of historiographical validation, by reference to those present at the Revelational event[55]. It follows for al-Sarakhsī from the fact that this text is part of the historical Revelation event that it is morally compelling.

When in this manner it is established that [a text] is the speech of God

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[53]*Ghāyah* 33 See also *Fath al-Ghaffār* 1:10:17

[54]*Uṣūl al-Sarakhsī* 1:279-80

[55]It is of interest that here and below Shaybānī and Sarakhsī avoid restricting *Revelation* to what is contained in *Qur'an*. What they are saying is that the only Revelation that counts as this particular kind of source is what is actually in the Book. This excludes for instance the Divine *ḥadīth* (*Taḥrīr* 297). There are other quasi Revelational sources of signs: verses whose recitation is abrogated (so they are not in the Book) but whose *ḥukm* remains in effect (Burton *Collection* p. 88-94; and see the index "*naskh al-tilāwa duna al ḥukm*"), and *ḥadīth* which are non-*Qur'an*ic reports of the speech of God (see Graham *Divine Word*.. passim and especially p. 32ff)

most high, it is established with certainty that it is a compelling proof (*ḥujjah mūjibah*) of certain-knowledge (*li-ᶜilm*) because of our certain knowledge that the speech of God cannot be other than Truth[56].

Though the *Qur'ān* is not the only source of signs, it is privileged among them: "the foremost *dalīl* is the Book," says al-Shāṭibī[57]; "the *Qur'ān* is the source (*aṣl*) of all determinations," says Ibn al-Ḥājib[57]. Another aspect of the *Qur'ān* as historically and canonically validated corpus of signs is the *sharᶜī* scholars' emphasis on the *Qur'ān* as *speech*, rather than ideas "The assessments .. in the view of the *uṣūli*, are enunciated in vocable speech, not the timeless (*azalī*) [aspect of speech][59]. Again, the *Qur'ān* is not what Gabriel brought, but only what is enunciated[60].

4.1.1. Reports

We have already seen that the use of the *sunnah* of the Prophet is dependent upon the authorization to do so in the Book. The usual argument is that the *Qur'ān* itself has said that Revelation is of two parts: *Qur'ān* and

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[56]*Uṣūl al-Sarakhsī* 279-80

[57]*Muwāfaqāt* 3:346

[58]*al-Muntahá* p. 43.

[59]Fatḥ al-Ghaffār 1:10:12. See also *Kulliyāt* 4:34.

[60] *Muntahá* 33; See also *Mustasfá* 1: 100: the speech [of God] from God most high, nor from Gabriel; the Book appears to us via the speech of the Messenger."

Wisdom (ḥikmah) or Qur'ān and criterion (mīzān)[61]. The Reports record the sunnah, and as such their use as signs is dependent upon Qur'ānic sanction; functionally, however, they are indistinguishable from Revelation. An almost startling confirmation of this comes in the Qawāṭiʿ[62] where Ibn al-Samʿānī uses a word usually associated with God when he defines sunnah as "an expression for everything that the messenger ordained (sharaʿahu[63]) for this community, by statement or deed." There are many descriptions of sunnah that make it clear that these two sources are equivalent. Al-Ghazālī for instance says[64]

> If we look for the appearance of a ḥukm, from our perspective, nothing appears except via the statement of the Messenger of God, because we do not hear speech from God most high nor from Gabriel; the Book appears to us via the statement of the Messenger[65].

He goes on to say that in one sense a statement is the statement of the Messenger; but when one refers to the compulsive force [of either Qur'ān or sunnah] it is one: namely that it is a ḥukm of God[66]. More striking still:

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[61]Qur'ān: ḥikmah: 4:113 mīzān: 42:17.

[62]p 256

[63]the verb that in its noun forms is sharʿ or sharīʿah.

[64]in a passage part of which was quoted above

[65]Mustaṣfá 1:100

[66]Mustaṣfá 1:100

> Some of Revelation (*wahy*) is recited (*yutlá*) and is called The Book and some of it is not recited, and it is *sunnah*[67].

The Reports of Prophetic *sunnah* are not just a source parallel to the Book, and authorized by it, but as every *uṣul* work makes clear, the Reports stand in various kinds of <u>complementary</u> relationships to the Book, and are necessary to understand the Book properly. As types of discourse, it is clear that the Prophet's utterances and acts are understood as *bayán*, clarifications, a term also used for *Qur'án*ic utterances themselves. By chosing this term (dating at least to al-Shāfiʿī) scholars are effectively describing the Reports as fitted into Revelational context, as augmenting *Qur'án*, rather than standing beside it. Ibn Qayyim al-Jawziyyah, for instance, in his categorizing *bayáns*[68] includes Prophetic commentary upon a *Qur'án*ic Revelation (the second category) and Revelational response to a question (the 4th category) as well as acts or sayings of the Prophet that are independent of *Qur'án* in the subject they address (3rd 6th 8th 7th 9th category).

In sum, the indicants with which a legal scholar works are to be found in two closed sources, the *Qur'án* and the Reports. Within both bodies of indicants, each indicant is considered atomically, is de-contextualized from its immediate environment; each of these indicants is considered an act of

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[67]*Mustasfá* 1:129

[68]*Iʿlám* 2:314-15

speech, and analyzed and understood as such.

As we have seen, the *Qur'ān* and the *ḥadīth* are considered as collections of indicants[69], and to see the *Qur'ān* and *sunnah* as a collection of indicants leads to an understanding of *Qur'ān* that is not generally taken into account by students of the Islamic Scripture: that the *Qur'ān* and *ḥadīth* are not themselves determinative, do not themselves constitute rulings (*aḥkām*), but point toward rulings. statement of the messenger of God are collections of indicants pointing to the the assessments (*aḥkām*)[70]."

When the Book and *sunnah* are taken as indicants, susceptible of combination and recombination to arrive at the *ḥukm*, the Book seems something livelier than if it is a "record of God's words". The *Qur'ān* in this understanding is translucent, for "the sources of *fiqh* are the indicants of *fiqh*, and if we speak of these indicants, we have spoken of what they determine

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[69]cf. *al-Baḥr* 54B: "the *Qur'ān* is the *urquell* (*umm*) of indicants".

[70]I can not presently locate the source of this quotation.

[71]al-Ṭūsī, *al-ʿUddah* p. 3. *Uṣūl al-fiqh adillat al-fiqh. Fa-idhā takallamnā fī hādhihi l-adillah, fa-qad natakallam (sic) fimā yaqtaḍīhi min ījāb wa-nadb...*

— obliging, recommending[71].."

4.2. The Khitab

The hardest thing to do, in reading *uṣūl* and *fiqh* texts is to take them literally. Nonetheless, sometimes that is the only course to follow if one is to understand.

In the case of the *ḥukm* and the *khiṭāb* one must begin with the slogan, "the *ḥukm* is the *khiṭāb al-sharᶜ* connected with the acts of of those-made-responsible[72]."

Perhaps the most puzzling element in the *sharᶜī* epistemic process is the *khiṭāb*. Why does it exist at all? Why not simply say that in the *Qur'ān* are *dalīl*s of the *ḥukm*[73]?

The root kh-ṭ-b refers to speech *directed at someone*, particularly in the 3rd form of the verb whose verbal noun is *khiṭāb*; it is that "he talked, spoke, conversed, or discoursed <u>with</u> <u>someone</u>... he spoke to him or addressed him, face to face." *Kh-ṭ-b* is also, therefore, "judging... or passing

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[72]*Mustasfá* translation para. 3.

[73]the use of the term in *uṣūl* is difficult to date. The earliest substantial discussion of the term I have found is in the *uṣūl* work of al-Jaṣṣāṣ, and then again in the work of b. Fūrak, which, if these are the earliest contemporary discussions, date the term to the middle 300's. I would guess it is earlier, however. No doubt a thorough understanding of the development of this term would require research in the history of the Islamicate study of language and rhetoric.

sentence[74]." In the technical usage of the students of *uṣūl*, *khiṭāb* refers also to a kind of discourse — discourse's types are commands, prohibitions, information conveyance and seeking information — which includes commands and prohibitions; it differs from the other two sorts in that they are not efficacious in themselves[75]. Also implied is inclusiveness (*taḍmīn*) and an intention that the one spoken-to understand[76].

If definitions are not easy to come by, function is even more elusive. It is very difficult to extract from the *uṣūl* sources exactly what a *khiṭāb* does: like the term *sharīʿah* , *khiṭāb* is so much taken for granted as a concept that it seems to have aroused little of the controversy that leads to lengthy expositions and precise definitions. However, what is assumed by these scholars seems to be the following: each *dalīl* or indicant is, considered as a simple element of discourse, also called a *bayān*[77]. A *bayān* in turn is "a means by which clearness [of speech] is achieved; 'whatever lifts the veil from a concealed idea, *maʿná*, so it comes to be understood and accepted by the mind, *ʿaql*, is *bayān*[78].'"

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[74]Lane 2:762

[75]Baghdādī, *Uṣūl al-Dīn* p. 215.

[76]*Kuliyyāt* 2:285

[77]*dalīl* is *bayān* see Ibn Qudāmah *Rawḍah* 95.

[78]EI2 1:1114ff. The latter quotation is from Abū Ṭāhir al-Baghdādī *Qanūn*

When all of the relevant *bayān* are brought together, the act of communication which results, in which the idea intended is adequately conveyed to the "listener," is *khiṭāb*, discourse[79].

As examples, Ibn Qudāmah shows[80] that, for instance, the *Qur'ān* says {Rise to prayer(2:43)} and Gabriel explained the intent [of that phrase, i.e. how to perform ritual prayer] to the Prophet in two days (?? *fī yawmayn*).

A particular *bayān* is <u>part</u> of the *khiṭāb*[81], and when all of the relevant *bayān* are together assembled, the result is the *khiṭāb*, what may be considered a "supralocutionary" utterance: it is constituted of one or more than one particular locution, and includes everything that generally speaking can be considered context: temporal order of the particular *dalīl*s, that one *dalīl* is obscure and another is precise, that one is general and another constitutes and exception etc[82].

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al-Balāghah in *Rasā'il al-Bulaghā'*.

[79]A useful section from which this sort of material may be inferred, is the section of *uṣūl* works that discusses whether postponing a *bayān* (*ta'khīr al-bayān*) is possible. In the *Rawḍah*, for instance, pp. 96ff. Here, the author argues that only useful phrases constitute *bayān*s, and that these cannot be arbitrary but must be rooted in common discourse; thus, both the nonsense phrase "abjad hawwaz" cannot "mean" "prayer is obligatory", and second, the *bayān* cannot be in a foreign language, which is as good as a nonsense phrase to the monoglot. Finally one cannot use a word in other than its normal sense: one cannot mean by "camel" "cow."

[80]p. *Rawḍah* 97

[81]p. 96 *al-khiṭāb yurād^u [al-bayān] li-fā'idat'h.*

[82]Kulliyyāt: 1:395. "[A bayān is] the *dalālah* or anything else by which [some-

We cannot here set forth all of the *uṣūlī* hermeneutic. What matters for our purposes is that a particular *Qur'ānic* phrase, "rise to prayer" is a *bayān* when considered as part of the group of data that together constitute the supralocutionary or complex utterance --- the *khiṭāb*; when considered as part of the elements that incline one toward a certain assessment, that same simple utterance --- "rise to prayer" --- is also called an indicant, a sign.

Again then, we return to the question: why bother? Why is not the older terminology of *dalīl* and *ḥukm*, indicant and assessment, sufficient to describe moral knowledge?

The answer to such a question is necessarily speculative, but we are on firm ground when we consider what the term "*khiṭāb*" expresses. The action of *khiṭāb* is not solitary, it is interactive, and it is not static, but dynamic. The difference between a *ḥukm* and a *khiṭāb* is that the former <u>can</u> be a property of the act of thing, as when we say that "elephants are large" or "elephants are grey". These are assessments and are generally true of elephants. But a *khiṭāb* is <u>saying</u> something <u>to someone</u> about the elephant: or "it is walking," for instance. The *khiṭāb* is necessarily more immediate, more to the point, and psychologically more compelling because the authority of the statement takes its force from the relations among the

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thing] is clarified."

speaker, the spoken-to, and the circumstance. The *khitāb* provides an image more amenable to variation according to context too, since speech arises and is understood naturally in its context[83]. For the *usūlī*, the right context is when all of the relevant *dalīl*s, functioning as *bayān*s, are in their right order, so that together they speak to one with the authority that Revelation has, but without the inflexibility of a mere Book recording what was enunciated by the Prophet between 12 b.h. and 10 a.h. (610-632 c.e.), and which has afterwards been "recited."

To try to understand the role of the *khitāb* then, is to go to the heart of the *sharīcah* symbolism, for the *sharīcah* is both timeless and timely: to speak of the *hukm* as *khitāb* is a way of describing the timeliness:

> [In a definition of *khitāb*]: God addresses each people according to their time, whether earlier or later. For example, if you sent Zayd to cAmr, you would write in your message to him 'I have sent Zayd to you,' although when you write it, the sending has not been realized; you take notice of the circumstances of the person addressed... There is no doubt that this past, present and future are only in relation to the particular real time of this person addressed, not in relation to the time of the speaker. Who wishes to understand the reality of this concept, let him abstract himself from Time[84].

The implications of the understanding here proposed are considerable. On this view, God's speech remains for Muslims transcendent while being at

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[83]a fact recognized by al-Shāficī. See intro to section on *bayān*. Page 21ff; sections 53ff.

[84]*Kulliyyāt*. 2:286-87

the same time strikingly immanent[85]: God speaks ongoingly[85].

It is only when we understand the entire process of *shar^c* knowledge that it makes sense to us for Ibn al-Qayyim al-Jawziyyah to instruct the would-be *mufti*:

> Do not speak until He speaks; do not command until He commands; do not produce a *fatwá* until He has produced a *fatwá*, do not pronounce a command until/unless He has assessed it and has produced it[87].

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[85]There is a considerable and unresolved discussion of whether the *khitāb* is transcendent/primordial (*qadīm*). For some of the discussion see *Kuliyyāt 2:286; Qarāfī Tanqīh* 67, al-Rāzī, *Mahsūl* 109-110; *Risālah* of ibn ^cArabī pp. 32-33.

[86]*Bahr* 15a:23 : The basis (*asl*) of [the *khitāb*] is that the Legislator (al-Shāri^c) says: have made this obligatory" or "I have forbidden this to you."

[87]*I^clām*, 1:51

Conclusion

In the first chapter we saw that Muslim scholars began in the late 3rd century to ask themselves a seemingly pointless question: What is the status of a useful act before Revelation? The question seems pointless because it is *post*-Revelational Muslims who are asking; of what *practical* interest could this question be? Still more surprising is the furious participation in this debate by scholars of the 4th, 5th, and 6th Islamic centuries.

As we have seen, there were four answers to the question that these scholars were prepared to defend:

(1) That these (irrelevant, or hypothetical) acts were *permitted*, because the *ʿaql* could discern detestibility in an act, and, and if it did not, the act was "good" and so "permitted."

(2) That acts before Revelation *may* have had one assessment or another, but what it was could not have been determined, since Revelation is the only source of such information.

(3) One group asserted that useful acts were *proscribed* until Revelation, since only Revelation could permit acts. Like the permitters," the "proscribers" believed that the *ʿaql* could assess acts, but they believed that abstinence is required until permission arrives from the Legislator. (The *prima facie* unreasonablness of this position guides us to the conclusion that it was not the putative topic of this debate that was truly at issue, but

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something else, something of real and present concern to those engaged in this controversy.)

(4) Finally, the party that seems to have "won," in that by the 6th and 7th Islamic centuries few disageed with their general conclusions, was the party holding that a useful act before the *shar^c* has no assessment attached to it, since the only source of valid moral knowledge was Revelation. Therefore there is no moral life before Revelation.

The question seems first to have been posed by a speculative wing of the Shāfi'ī legal school in the late 3rd and early 4tth Islamic centuries. These scholars sought to confirm a place in the legal methodology of their school for extra-Scriptural knowledge. In common cause with them, though using different argumentation, is the oldest school of the Mu^ctazilah, the Basrans, who well into the 5th century continued defending this position.

Ranged against them were not only the standard Ash^carī pantheon of al-Ash^carī, al-Bāqillānī, al-Juwaynī et al., but also a a group of "proscribers" made up of a rigorist branch of the Mu^ctazilah, the Baghdādī's, led by al-Ka^cbī, and what might be termed a speculative wing of the Ḥanbalīs, led by Ibn Ḥāmid. It is apparent that these proscribers were not a fringe movement but one representing the sophisticated intellectual vanguard of their legal schools, who were attempting use the new systematic language of the *kalām* to describe an untrustworthy world in which only by vigilance

could Muslims hope to have the book given to them in their right hands on Judgment Day.

However, in in trying to keep a place for extra-Scriptural knowledge within legal methodology, both the Proscribers and the Permitters were fighting the tide of Islamic triumphalism. In every science that we can see, the direction of movement at the time was toward closure of the corpus of Islamic signs — Ibn Surayj, Ibn Ḥāmid, and their ilk, however personally rigorous, were seen as keeping a wedge in the epistemic door through which who-knows-what caprices and fancies might press in.

When arguments, as opposed to positions, are examined, it becomes clear that there are certain assumptions particular to each of these groups. The permitters characteristically see Revelation as a source of knowledge and as such not categorically different form other kinds of knowledge. It follows that the permitters see moral life before Revelation as similar if less informed than moral life after Revelation; al-Jaṣṣāṣ even uses the same terminology for the moral agent before and after Revelation — *mukallaf* — a person charged with the responsibilities of moral life. If we ask "charged by whom or by what" it is answered, in effect, "charged by God through a different kind of Revelation," a natural Revelation in which the *ᶜaql* interprets signs in nature signifying the moral value of the act or thing. Thus a useless lie reveals itself to be detestable and so must be proscribed: its

immediately perceptible detestibility is a sign or indicant of its moral status: proscription.

It follows then that for the permitters, the *Qur'ān* and *sunnah* are Revelation (*kāshif*) in the literal sense of the word: a lifting of the veil to disclose a kind of knowledge otherwise unknowable. On this view, what distinguishes a Muslim is that s/he is better informed than a Christian or a Jew.

For their opponents, both proscribers and no-assessors, *Qur'ān* and *sunnah* are ordination (*sharᶜ*), historical events that make human moral life possible. Though we have used the word Revelation throughout to translate *sharᶜ* and *samᶜ*, for these two groups the two approved revelational works might better be called "ordination" or "stipulation," both words capturing aspects of the word *sharᶜ*.

The proscribers' vision of the hypothetical *sharᶜ*-less past differs from that of the no-assessors, however. For proscribers, the pre-Revelational man, if he was given to reflection at all, would have acted as little as possible, fearing (rightly as it turn out) that anything not essential to life was forbidden by the Devisor, of whose existence he could also know by intellectual inquiry.

The no-assessor, on the other hand, would have happily led an amoral life in the literal sense — s/he would have drunk wine, eaten pork, and

defied creditors, content in the supposition that s/he *could not* know the moral quality of acts — even acts such as the obligation to thank a benefactor.

A literalist hermeneutic of the *Qur'ān* and *sunnah* was inadequate to extend the scope of *Islamic* moral thought as far as many Muslims wished, and desire to apply Islamic knowledge as far as possible was the leitmotif echoing in all the major intellectual controversies of early Islamic history: the *hadīth* controversies of the 2nd and 3rd centuries, the controversies over the infallible imamate, and the development of what we now know as the science of principles of jurisprudence, all these and many other matters besides arise from a desire to find an *Islamic* assessment for every possible act. In their attempts to make an Islamic determination for acts not specifically dealt with in Revelation, Muslims attempted various strategies, some of which were eventually rejected: They appealed to other Scriptuaries's books, to the pre-Islamic past, and incohately to a theoretical understanding of the nature of the *hukm*. All of these "sources" are extra-Scriptural; only the last of these can be grounded in a Scriptural source of indicants, and it should not surprise us that the extension of previous assessments was the only method of act assessment accepted by Muslims as a source of moral knowledge.

Thanking the Benefactor is the earliest part of this controversy of which we have recorded discussion. Already in the late 3rd and early 4th

centuries it was being argued that thanks-giving (particularly thanking God) was a duty only because of Revelational information that it is obligatory. In this debate over thanking the benefactor the development of legal thought can be seen against its social background, since the principle being discussed was not a hypothetical, ivory tower "what if" kind of issue but one of the fundamental social principles holding Arab and Islamicate society together. If even the obligation to thank the benefactor could dissolve in the corrosive environment of rigorous academic consideration, then we must recognize that something notable took place in Islamic scholarly and to some extent religious life at this time: In the crucible of Islamic theological and legal debate one generation after another skimmed the anthropomorphic and social dross from their *understanding* of the divine; what was left by the 4th century was only the purely transcendent, the most abstract characterizations of God. All human similitudes and every image of reciprocity and social bond between God and man was gradually eliminated; by the time of al-Ghazālī even the term "thanks" when the object of thanks was God, was unconsciously assumed to refer to the acts of the cultus rather than the sort of reciprocal displays of favor and obligation that were otherwise at the heart of the idea of "thanking the benefactor" in Islamic and Islamicate life.

Yet as we have also seen, the relevance of this conceptual Puritanism for *lived* religious life was limited. Thanks-giving remained a central image for pious Muslims -- even those authors who in different contexts took the

hardest line against any taken-for-granted obligation to thank the Benefactor, wrote books commending the practice of thanking and urging their readers to cultivate a feeling of gratitude toward God.

The reason for this hypertrophic rigor in the Islamic academy is clearly a desire to limit "the sources of knowledge," the sources of signs, to the Revelational corpus. To imagine that an alleged continuity between the mundane and the transcendent, between pre and post Revelational epochs could be a source of knowledge was to permit an epistemic pluralism that for the no-assessors was simply incompatible with an accurate understanding of the majesty of God and the trans-historical significance of the *Qur'an* and the *Qur'an* event.

The 5th and 7th chapters contain the primary source material that documents the conceptual shift from "the world as a perpetual sign for moral knowledge," to a vision of "the world made morally significant only by the events of the period between 610-632." Al-Jaṣṣāṣ sees humans as morally responsible (*mukallaf*) before the *sam^c*, just as they are afterwards. Usefulness in an act that exceeds its harm is a perduring sign of the permissibility of a thing, unless by chance Revelation later comes to proscribe it, for God only knows what reason. As we have argued, this unreflective naturalism amounts to an argument that there are two Revelations: the natural one and the supernatural one; both are reliable, though the latter

source is sovereign in the case of conflict between them, as in the forbidding of pork, one supposes. Those made-responsible are to use *both* Revelations as they strive to live the moral life ordained by God.

Al-Ghazālī's argument is classical *kalām* argumentation at is most accomplished: a stinging analysis of the flaws in Muᶜtazilī ontology and moral epistemology. Where he excels is in showing how shaky it is to build moral assessments on the scree of mental judgments. Things we take for granted as morally certain are not, things implausible to the ᶜ*aql* are commanded by God, and above all what appear to be axiomatic principles of assessment are in fact affective projections and self-serving calculations of interest. No sign then is as reliable as (supernatural) Revelation and certainly none has its moral force. Buried beneath al-Ghazālī's dialectician's exercise is a belief that moral life is life lived in accord with *command*, and no bloodless analysis of mundane factors has the moral clout of an imperative from the Creator of the Universe. Where al-Jaṣṣāṣ would live in harmony with an orderly and, on the whole, beneficent world, al-Ghazālī, living in an unsteady world of Hobbesian struggle and conflict would cling to the commands of his powerful sovereign. For al-Jaṣṣāṣ God is above all Devisor (*Ṣāniᶜ*), for al-Ghazālī he is above all the Judge, (*Ḥakim*).

The sixth and eighth chapters contain a discussion of an attempt at moral ontology. We saw first the attempt of Abū l-Hudhayl and al-Kaᶜbī

to assert that the quality of an act (its goodness or detestability) lies in its essence, the very nature of its being. As a consequence, Abū l-Hudhayl seemed to argue, anyone can have moral knowledge, if not perfect moral knowledge: humans acquire knowledge of God, of goodness and detestability, together with certain other facts, simply in the process of growing up.

This position was criticized fiercely by the Baṣran Muꜥtazilah using the same arguments that the *jamāꜥi-sunnī*s used: that their result is a theory of knowledge that is simply too rigid: it cannot account for an act being in some circumstances good and in others detestable, and it cannot account for changes in the status of a thing: a futile and therefore detestable act becoming possible, and — all other things being equal — good, for instance. What the Baṣrans propose as an alternative is the more flexible "manifest-aspect" theory of moral ontology and epistemology. They argued that when the act comes into being, it manifests itself in a certain manner, and that "manner" manifests the status of the act so that one can know immediately the thing's assessment. From a historical perspective we can see this as a last gasp effort to preserve a theory of spontaneous moral knowledge and even — in the theory of the two warners, a theory of personal Revelation.

As we have seen, the non-Muꜥtazilah critiques focussed upon the unreliability of the *ꜥaql* and upon implausible implications of their method. Theirs is largely a negative argument and if it is not by itself persuasive, it

is still raises questions that cannot be ignored by anyone defending the idea that there is a source of moral knowledge other than Revelation.

What the non-Muᶜtazilah proposed instead was an epistemology with no ontology at all, one based upon a closed corpus of signs or indicants, interpreted according to a particular method: the *sharᶜi* method. In this understanding, the *Qur'ān* and *ḥadīth* are analyzed as individual atoms of information, which are combined to form what we might think of as a molecule of moral knowledge, the *khiṭāb*, that amounts to the *Qur'ān* or *sunnah* speaking directly to the situation at hand.

It is difficult to grasp all the implications of this theory of moral knowledge, but among other things it has the effect of making the *Qur'ān* overtly sacramental and dynamic. Since the process of indication is flexible and kinetic, the *Qur'ān* continues "speaking" long after it has first been recited. The *Qur'ān* and *ḥadīth*, in this view, become links between human life and divine speaking, and since human life is in flux, the speech that addresses human life is likewise not fixed: the same linguistic form cloaks different indications, depending on the circumstance addressed. This dynamic understanding of the indicants in the *Qur'ān* is already present in the *Risālah* of al-Shāfiᶜī , where he makes clear from the very beginning that any particular "source" is not presumed to be sufficient in itself, but to signify correctly only in the context of all its potentially modifying indi-

cants.

Thus the *Qur'ān* is transformed from locution to supra-locution: A *Qur'ān*ic phrase provides the *motive* for determination/assessment, but *it is not that assessment itself*; rather it is God who makes the assessment transcendentally, and it is not done <u>then</u> but <u>now</u>. The *ḥukm*, in this understanding is not the application of a particular rule, but the sum of relevant indicants, the "thick" indicant, to use Geertz's by now hoary adjective. This understanding of the *ḥukm* and of moral epistemology becomes the characteristic feature of Islamic moral thought and continues to be so into the 19th century.

It will be noted finally that the structure of *sharʿi*-epistemology is similar to Baṣran moral epistemology. In the one case the interaction of knowledge and circumstance "selects" or "generates" the *khitāb*; for the Baṣrans the essence of the act together with its circumstance produces the manifested-aspect (*wajh*): both the *khitāb* and the *wajh* determine the moral assessment to be made of the act. In both visions the circumstance of the act is the pivotal aspect of the knowing process, and the circumstance, in both, produces a variable factor that governs the act's assessment of the act.

Although there was not space or time to document this assertion, I am inclined to see the root *sh-r-ʿ* as referring to the source of moral knowledge (God's stipulation), to the content of that knowledge (all of the various

specific stipulations), and, developing somewhat later, to the method of knowing that stipulation (what I have elsewhere called the *fiqh*-process).

In the earliest usage of the plural of *sharī'ah*, *sharā'i'*, the term seems to have referred to the cultic rules of the community — *ṣalāh* and the like. It is the achievement of the Muslim intellectuals of the 2nd and 3rd Islamic centuries to have expanded the understanding of Muslims that *all* proper human action becomes an act of cultus, of bondsmanship (*'ibādah*), provided it is grounded in the ongoing guidance of Revelation.

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