

# “The Book of God and My Family Shall Never Part Ways”

گو ہاتھ کو جنبش نہیں آنکھوں میں تو دم ہے  
رہنے دو ابھی ساغر و مینا مرے آگے

Though my hand is lifeless, I can still see;  
So let the chalice and flagon remain before me.

-Ghalib((*Dīvān, ghazal* 208. “Ghalib” is the pen name of Mirzā Asadullāh Khān (d. 1869), one of the greatest poets to have composed verse in Urdu.))

What does Islam say about X? Why do Muslims do Y? These are good questions. A problem, however, arises when one *demand*s an answer in the form of: “The Qur’an says Z.” This demand, what we might call “scripturalism,” is based on at least three presumptions: (1) the Qur’an “says” something; (2) Islam is identical with what the Qur’an says; and (3) what the Qur’an says causes the actions of Muslims. All three presumptions are problematic, but I will only address the first. Muslims devoted to Ali should be suspicious of the idea that the Qur’an “says” something, for Haydar-i Karrar is reported to have said, “This is the silent book of God, and I am the speaking book of God.”((Muḥammad ibn al-Ḥasan al-Ḥurr al-‘Amilī, *Wasā’il al-Shī’ah*, vol. 27 (Beirut: Mu’assassah Ahl al-Bayt li-Iḥyā’ al-Turāth, 1413 A.H.), hadith #33147, p. 34; and Muḥammad Bāqir al-Majlisī, *Biḥār al-Anwār*, vol. 30 (Beirut: Dār Iḥyā’ al-Turāth al-Arabiyyah, 1403 A.H.), p. 546.))

Shi’i scholars debated the value of the Qur’an as a source of information about law. These debates emerged from within broader discussions about the value of hadith—i.e., *akhbār al-āḥād*—for law.((In general, there are two categories of hadith: *mutawātir* and *khbar al-wāḥid* (pl. *āḥād*). *Mutawātir* hadith, like *Ḥadith al-Thaqalayn*, are so widely transmitted that they give rise to certitude. Any hadith that does not give rise to certitude is called *khbar al-wāḥid*. The vast majority of *aḥādīth* (including *ṣaḥīḥ* hadith) are generally regarded as *āḥād*. Because *mutawātir* hadith are beyond the scope of this discussion, I use the familiar term “hadith” in place of the technical term “*akhbār al-āḥād*.” Readers should note that this usage is technically inaccurate.))The use of hadith posed a particular problem for Shi’i jurists because hadith do not give rise to certitude.((Among Shi’i scholars, Ibn Qibah (d. before 319/931) held that God cannot ask humans to use hadith to establish law because that runs contrary to reason (since hadith do not give rise to certitude); everything that runs contrary to reason is repugnant, and God cannot do that

which is repugnant. The argument is based on a principle according to which human reason grasps what is good and evil without the aid of revelation. Even if it is theoretically possible to establish law on the basis of hadith, we may not have any evidence that God actually endorsed this possibility. Al-Sharīf al-Murtaḍā (d. 436/1044) held that there is no evidence that God ever endorsed this theoretical possibility. Abū Ja‘far al-Ṭūsī (d. 459/1067) held that the consensus of the early Shi‘i community is ultimately our best reason to believe that God has in fact endorsed the use of hadith.)) One of the best discussions of this issue is found in *Ma‘ālim al-Uṣūl* by al-Ḥasan b. Zayn al-Dīn al-‘Āmilī (d. 1602-1603), who is known as Ṣāhib al-Ma‘ālim on account of this book. ((*Ma‘ālim al-Uṣūl* (Qum: Dār al-Fikr, 1415), p. 263-76.

*Ma‘ālim al-Uṣūl* was used as a textbook in Shi‘i institutions of learning until modern times. In the 20<sup>th</sup> century, some teachers substituted it with *Uṣūl al-Fiqh* by Muḥammad Riḍā al-Muḥaffar (d. 1964).))

First, Ṣāhib al-Ma‘ālim establishes that the Lawgiver has allowed us to use hadith for law. As evidence of this fact, he cites: (1) Qur’an 9:122, (2) Qur’an 49:6, (3) the common practice of early Imāmīs, and (4) “the closing of the gate of knowledge” (*insidād bāb al-‘ilm*). Of these four pieces of evidence, “the closing of the gate of knowledge” is noteworthy because it was a new argument. According to this argument, the passage of time has made it impossible to obtain certitude about the majority of *shar‘ī* directives (*al-aḥkām al-shar‘iyyah*). What we have left are indications that give rise to supposition. He then proceeds to flesh out his argument by responding to a series of rhetorical objections.

First, one might argue that the well-established Sunnah (as opposed to individual hadith), consensus, the presumption that no obligation exists unless proven otherwise (*aṣālat al-barā’ah*), and the Qur’an provide ways out of the conundrum, since each of these give rise to certitude. Ṣāhib al-Ma‘ālim dismisses each of these arguments: (1) much of the renowned Sunnah is lost; (2) we obtain knowledge of a consensus through reports, which are functionally equivalent to hadith (and therefore not definitive); (3) the presumption of exemption can only produce supposition; and (4) the significance of the Qur’an is suppositional (i.e., the Qur’an is *ẓannī al-dalālah*). Having ruled these out, Ṣāhib al-Ma‘ālim concludes that we have no choice but to rely on supposition; the alternative would be to ignore even supposition and act as if we have no obligations before God, a patently false claim.

From here, Ṣāhib al-Ma‘ālim proceeds to argue that supposition can either be weak or strong, and reason dictates that a strong supposition should be prioritized over a weak one. Although hadith do not give rise to certitude, in many cases they do give rise to a type of supposition that is much stronger than what we can glean from other indicators of law, including the Qur’an. Therefore, there is no basis for prioritizing the text of the Qur’an over hadith. By framing the issue in terms of “evidentiary value” (*ḥujjiyyah*), Ṣāhib al-Ma‘ālim was able to demonstrate that hadith, while problematic in some respects, are often the best evidence available to us.

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To help us think through his argument, Ṣāhib al-Ma‘ālim asks us to consider the law of evidence. In

some cases, *sharī'ah* requires the testimony of two eyewitnesses, and such testimony gives rise to supposition. It is conceivable that, in some cases, the testimony of one eyewitness gives rise to a stronger supposition than the testimony of two eyewitnesses. For example, the testimony of one expert eyewitness may be more credible than the testimony of two eyewitnesses who are not experts. If a strong supposition universally outweighs a weak supposition, then a judge should be allowed to issue his verdict on the basis of the testimony of one eyewitness, but we know that is forbidden. This, then, is a counterexample to the claim that a strong supposition always outweighs a weak one.

In response to this counterargument, Ṣāhib al-Ma'ālim notes that the law of evidence is not in fact based on supposition. Rather, the testimony of two righteous eyewitnesses is itself "dispositive." In other words, the Lawgiver has not asked us to weigh the relative value of testimonies; he has instructed us to follow a specific procedure. Similarly, we do not need to be certain that the sun has reached its zenith to know that it is time for the noon prayer; it is sufficient to rely on certain indications that the sun has reached its zenith. Those indications are dispositive in and of themselves. Cases like this are exceptional precisely because we have been instructed to follow a specific procedure, not weigh levels of certainty.

The next objection he asks us to consider is whether the value of the Qur'an (for the purpose of law) is really comparable to the value of hadith. The false equivalence between the Qur'an and hadith is based on a failure to take an important presumption into account: it is unconscionable for a wise Lawgiver to use expressions that *prima facie* mean one thing while intending something else, without providing some indication that the *prima facie* meaning is not what is intended. In other words, in the absence of evidence to the contrary, a wise Lawgiver means what He says. Although the Qur'an and hadith both give rise to supposition, this presumption distinguishes supposition obtained from the Qur'an. Therefore, while the text of the Qur'an constitutes evidence, hadith do not.

In response to this objection, Ṣāhib al-Ma'ālim notes that all of the Qur'an's directives are "oral speech" (*khiṭāb al-mushāfahah*), and oral speech is only authoritative for its original audience. (For example, consider the following sentence: I only high-five Cubs' fans. If we were to analyze this sentence grammatically, it would mean that you don't hug Cubs' fans or shake their hands, because "only" is an adverb modifying "high-five." In ordinary speech, however, the context makes it clear that you mean you don't high-five Mets' fans or Yankees' fans. The crucial context is normally available to the person with whom you are speaking, but not necessarily to others.) Extending these directives to subsequent generations requires additional evidence. We have two additional pieces of evidence to substantiate the extension: consensus and the principle of "necessity" (*ḍarūrah*). So our ability to cite the text of the Qur'an ultimately rests on two "indications" (*amārāt*) that give rise to strong supposition. But hadith are also indications that give rise to strong supposition, so why would they not constitute evidence too?

In this section of *Ma'ālim al-Uṣūl*, Ṣāhib al-Ma'ālim puts on a clinic of juristic virtuosity (*faqāhah*). One cannot help but feel a degree of admiration for him that is normally reserved for the likes of Salman, Ammar, Miqdad, and Buzarr. What he demonstrates for his reader is the grave consequence of rejecting hadith *in toto*: if you reject hadith because they do not give rise to certitude, then you have no basis to cite the Qur'an. Citing the Qur'an while rejecting hadith entails an arbitrary acceptance of some suppositions. This is an important lesson for Muslim modernists and "reformers" who advocate

scripturalism: if you wish to consider the Qur'an as evidence, you *must* also consider hadith as evidence. They are—as the one from whom “the nightingale learnt its sweet song” said—inseparable. ((Jāmī. *Gul az rukhat āmūkhtah*.))

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Finally, the Qur'an is not simply (or even primarily) a source of information. It presents itself as “guidance for those who are mindful of God: those who believe in the unseen, establish the prayer, and spend out of what we have provided for them.” ((Qur'an, *al-Baqarah* (2):2-3.)) According to some *aḥādīth*, ((See, for example: *al-Kāfī*, vol. 8, hadith #485, p. 311.)) only those whom the Qur'an addresses—i.e., the Prophet and his House—understand it adequately. Based on these *aḥādīth*, a minority of Imami scholars argued that a jurist cannot obtain knowledge of law from the Qur'an. To understand the Qur'an's directives, a jurist must rely on hadith. Even if we were to concede this point, it would not diminish the value of the Qur'an as guidance. For “Though my hand is lifeless, I can still see. So, let the chalice and flagon remain before me.”

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