



## Scholarly Consensus: *Ijmā'*

*Between Use & Misuse*

By Abdullah bin Hamid Ali

### SCHOLARLY COMMENDATIONS

"Ustadh Abdullah Ali is to be commended for a provocative, timely and critical examination of *Ijma'*. This work asks serious questions and demands serious, well-considered answers. Hopefully, it will be the start of a deep and fruitful conversation that will enrich all involved."

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"Historically, within every generation of Muslims there is a group of courageous scholars who rise to the responsibility of internalizing Islam's rich legal tradition; not to be imprisoned by traditionalism, but in order to distill what is non-negotiable from Islam's vast jurisprudential canon, build upon it, and make it relevant to the needs of their particular time, place, and people—Muslim and non-Muslim alike. Shaykh Abdullah (may Allah preserve him) has risen to this responsibility in his scholarly delineation of the history, role, definitions, and parameters of scholarly consensus (*ijmā'*). This critical study demonstrates his mastery of the principles and subtleties of Islamic Legal Methodology (*usul al-fiqh*) and is indispensable reading for the scholar and non-scholar who seek to be intellectually liberated by the classical legal tradition of Islam and not straitjacketed by it."

Ustath Muhammad Adeyinka Mendes  
*Instructor of Arabic and Islamic Studies, The Risala Institute, Atlanta, Georgia*

Knowledge of the legal foundations (*usul*) is the keystone of the jurist and student of law. And it is the methodology of research employed by scholars in legislative deliberations, because it guards against error and aimless chatter. I have reviewed what our brother, Shaykh Abdullah bin Hamid Ali—may Allah grant him success—has written about this matter of foundational legal import, and I have found him to have probed its depths and mastered its every nuance; a thing that bears testimony to his broad grasp and mastery of the legal sciences. May Allah, the Exalted, grant him success in the service of the Sunna and those who uphold it; and may He transfer benefit through him and his knowledge to people everywhere."

Shaykh Muhammad bin Yahya al-Ninowy,  
*Scholar and Imam of Al-Madina Masjid, Norcross, GA*

## Scholarly Consensus: *Ijmā'*

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The desire for a reified religion has marked the pursuits of all proselytizing faiths throughout history, and Islam is no exception in this respect. Efforts to standardize religious teachings and practices started early in Islamic history inaugurated by campaigns aimed at preserving the purity of Arabic from the classical period, the documentation and canonization of the hadith literature, the systemization of jurisprudence, the catechization of dogmatic theology, and the development of unified standards for hadith authentication. One should not understand these efforts to circumscribe the boundaries of acceptable legal and theological interaction to be lacking an undergirding in practical wisdom and purpose. On the contrary, the aim of unifying the commonality upon certain seemingly objective moral criteria is important in ensuring the forward progression of any community or society. Thus, scholars tended to promote and support efforts of standardization in light of the ease that it conferred upon the average person, just as this consensus building method aided in quelling any violently noticeable nonconformance with widely acknowledged standards.<sup>1</sup> While one could argue that a number of

<sup>1</sup> What supports this claim is the fact that a number of scholars had been persecuted because of their personal beliefs in Islamic history by the rulers backed by the efforts of the scholarly community who usually were employees of the government. Imam Ahmad b. Hanbal (865/251) was imprisoned and lashed for refusing to profess that the Qur'an was created. Some scholars were killed for this refusal, and all of this was made possible because the governors served the interests of the Mutazilite sect. The famous Sufi declared heretic, Hallaj, was executed for public pronouncements that were interpreted as necessitating apostasy. Ibn Taymiya (1327/728) was opposed by the Ash'arites and Sufis of his time who interrogated him for writing his *Al-'Aqida Al-Wasitiya* wherein he introduces doctrines that were atypical of the earlier manuals, like the *'Aqida* of Imam

factors contributed to this condition, it should not be thought that state-sanction of the schools of Islamic law played a marginal role in their perpetuation and survival.<sup>2</sup> That being so, both positive and negative are the consequences of ideological standardization and claims of unanimous consensus. Among the positives are the maintenance of ideological uniformity, the preservation of societal order, and the repression of violent dissent. On the other hand, while a dissent that threatens the peace and tranquility of any society is of prominent concern, what the manufacture of consensus sacrifices is the right to legitimate dispute, critique, and the prerogative of voices silenced under the oppressive regimes of "normativeness" to project themselves when needed.

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Tahawi. Ibn Taymiya's theological controversies and their concomitant interrogations would eventually lead to long termed imprisonments.

<sup>2</sup> The late Shaykh Muhammad Abu Zahra (1974/1394), after objecting to Ibn Khaldun's suggestion that the reason for low membership in the Hanbali school was due to a lack of significant effort in the area of *ijtihad*, attributes the decline and unpopularity of the school to four basic reasons: i) their lack of or low participation in government offices compared to the wide participation of other schools; ii) tribal fanaticism (*ta'assub*); iii) harshness, and intolerance with other schools and with the perceived flaws of the general masses of people; and iv) the late crystallization of the school, which led to the unsuccessful attempts at overturning the influence of the other three well-established schools. (Abu Zahra, Muhammad. *Ibn Hanbal: Hayatuhu wa 'asruhu - atharuhu wa fiqhuhu*, Cairo: Dar al-Fikr al-'Arabi, 1367/1947, p. 349-357). Qadi 'Ayyad (1149/544) states that both Abu Ja'far al-Mansur (775/158) and al-Mahdi (785/169) desired to impose the views of Malik in his *Muwatta'* upon the populace ('Ayyad, Qadi Abu al-Fadl. *Tartib al-Madarik wa Taqrib al-Masalik li M'arifat A'lam Madhhab Malik*. Beirut: Dar al-Kutub al-'Ilmiya, 1418/1998, p. 101-102). There are also reports that Harun al-Rashid (809/193) had a similar desire, though Imam Malik (809/193) objected (*Kashf al-Khafa'*: I/64-74).

This study aims to examine unanimous consensus (ijma') from the Sunni paradigm while searching for a truly objective criterion for discerning authentic and original teachings of faith in the Islamic tradition. The unfortunate reality is that while unanimous consensus can serve as a unifying factor, it can and has been used constantly as a tool to suppress dissenting opinion even when that dissenting view has been, at times, legitimate.<sup>3</sup> The

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<sup>3</sup> The suggestion here is not that arbitrary interpretative criteria should be acknowledged as having equal strength and validity as those determined by the Imams of the Four Schools and extrapolated by their students and followers. The argument is that occasional departures by scholars from the normative rulings in one's school (mashhur) based on a considerable interest that he/she sees has traditionally been viewed as a type of departure that the non-specialist is not allowed to follow that particular scholar in. Such departures are viewed by some today to be unIslamic since they contravene the dominant views of one's school or because it is not a dominant opinion in any of the mainstream Sunni schools. Quite often, the views of such scholars have been highlighted as unacceptable aberrations and irregularities that make them worthy of being discarded. A prime example of the use of claims of consensus to silence scholars can be found in the many allegations made against Shaykh Ibn Taymiya (1327/728) in, for instance, his fatwa that three pronouncements of divorce in one sitting counts as only one divorce. Scholars opposed to Ibn Taymiya's views in creed have listed this issue among a great many other issues wherein Ibn Taymiya is alleged to have contravened unanimous consensus; an allegation that subjected him to accusations of unbelief. While the contravention of consensus in areas of praxis are the least significant reason for Ibn Taymiya being ascribed to unbelief by some scholars, it should be acknowledged that his contravention of perceived consensus compounded the arguments against him; thus further facilitating his imprisonment and presenting him as an ideological threat to the public order. To have a view of some of the areas where Shaykh Ibn Taymiya is accused of contravening consensus see Al-Harari, Abdullah. *Al-Maqalat Al-Saniya fi Kashf Dalalat Ahmad b. Taymiya*. Beirut, Dar al-Mashari', 1417/1996, p. 12-13; as well as some of Al-Harari's (2008/1428) other works.

suggestion, here, is not that every lay Muslim should feel free to follow any aberrant or minority opinion he/she discovers exists. Rather, it is merely that some minority views are valid, and critical scholars of our time have been given the capacity to determine how and when it is appropriate to adopt those opinions. Laypeople, however, should allow conscience and humility to direct their decisions to adopt or avoid minority views so as to safeguard one's faith from being steered by personal fancy. One should also be sure to suspend definitive judgment on any point of dispute even if it is something that one inclines toward, particularly to avoid violent dispute with others whose convictions may be just as strong. Despite that, it is important to understand that if claims of unanimous consensus are suspect, it is quite possible for a Muslim to invent in his/her mind an understanding of Islam located in a realm of imagination and fantasy. On the other hand, if claims of unanimous consensus are valid and authoritative, the one who casts aspersions on such claims may be in danger of violating universal teachings of the religion of Islam. So, how should one deal with claims of unanimous consensus? What authority do such claims have? If unanimous consensus is a fictitious principle, what means do Muslims have at their disposal to identify the unshakable bedrocks of Islam?

It must be understood concretely before proceeding that the aim of this study is not to deemphasize or devalue the importance and place of the doctrine of unanimous consensus (ijma'). The aim is, rather, to address its meaning and role, and to assess our understanding of it for the sake of greater unity. Too often in recent times, those advocating the doctrine of consensus attempt to browbeat some of the learned and unlearned into conformance with tendentious interpretations of "genuine" Islamic "tradition." This study commences upon the thesis that most historical claims of unanimous consensus are subjective and circumscribed by the parameters within which claimants define this concept. It

further proceeds upon the belief that the only decisively confirmable precepts of the Islamic tradition are found in its self-evident teachings known as *'al-ma'ruf min al-din bi al-darura'* (i.e. matters known by immediate necessity). To be clear, this means that what is often ascribed to "Islam" is nothing more than "dominant" interpretation, while Islam and the Shariah are what the Prophet Muhammad ﷺ delivered to us prior to the appearance and development of the various schools of law and theology. Those schools, while basing their doctrines on references from the Qur'an and prophetic tradition, represent nevertheless interpretations of the revelation; not the revelation itself. What we are not claiming is that unanimous consensus is a 'theoretical' impossibility nor that it is impermissible for one to claim unanimous consensus on a particular issue. It is merely that most claims of unanimous consensus lack the authority to make them religiously binding upon Muslims to accept; whereas the soundness of one's faith is not mortally threatened by the contravention of those claims.

## Defining Consensus

The literal meaning of the word *Ijma'* (trans. consensus) is 'to resolve firmly to do something' (al-'azm 'ala shay'). Scholars have differed about its legal definition, although the most commonly accepted definition is the one mentioned by the Shafi'i jurist, Sayf al-Din al-Amidi (1233/631),

"Consensus (*Ijma'*) is an expression of the agreement of the generality of those qualified to loosen and bind from the community of Muhammad in a particular age upon the ruling of a particular occurrence."<sup>4</sup>

<sup>4</sup> Al-Amidi, Sayf al-Din 'Ali. *Al-Ihkam fi Usul al-Ahkam*. Beirut: Dar al-Kutub al-'Ilmiya, 1/168

A few things need to be highlighted about this definition given by Imam Al-Amidi. Firstly, it takes into consideration the agreement of those scholars who are members of aberrant sects whose beliefs are not considered apostasy. Secondly, this definition excludes the opinion and agreement of non-scholars (i.e. non-mujtahids) from consideration who are counted as members of the laity. Some scholars, however, include the non-mujtahid scholar's agreement to be necessary before it is possible to claim a consensus on a particular matter. The popular 20<sup>th</sup> century Hanafi legal theorist, 'Abd Al-Wahhab Khallaf (1956/1375), says in his definition of consensus,

"It is the agreement of all of the mujtahids of the Muslims in a particular age coming after the death of the Messenger upon a scriptural ruling regarding a particular occurrence."<sup>5</sup>

By specifying the agreement of *all* Muslim *mujtahids*, this would mean that the agreement of Shiite factions whose beliefs do not lead to apostasy by Sunni standards would be necessary before a genuine consensus can be convened.<sup>6</sup> In spite of this fact, we find historically that many scholars have claimed consensus on a number of matters upon which consensus as defined above never did actually happen. The leading cause for this was that scholars defined consensus in different ways, and anytime its prerequisites in the view of those particular scholars were fulfilled they found nothing barring them from making such claims. For example, Imam Taj al-Din 'Abd Al-Wahhab b. al-Subki (1311/711) says,

"One group [of scholars] gives consideration to the agreement of lay scholars ('awamm)

<sup>5</sup> Khallaf, 'Abd Al-Wahhab. *'Ilm Usul al-Fiqh*. Kuwait: Dar al-Qalam, 1406/1986, p. 45

<sup>6</sup> It was the view of Khallaf (1956/1375) that the views of the *mujtahids* among the Shiites must be considered prior to any claim of unanimous consensus (*Ibid*, p. 46).

under all circumstances; Another faction [only includes lay scholars] in matters of moderate complexity (mashhur), meaning [their agreement is necessary] in order to claim that the entire community (umma) has convened a consensus, not that they are needed in order to establish the authoritativeness [of the claim; a view that] opposes that of Al-Amidi; Others [have included the necessary agreement of] the legal theorists (usuli) in secondary rulings [of practice; The agreement as stated in the definition is also restricted] to the Muslims, such that those we ascribe to unbelief are not included [in the definition of consensus]; [Likewise, the agreement is restricted] to those who are upright for those who deem uprightness to be an integral [for legitimate *ijtihad*], but it (uprightness) is not [important to others] whereas it is not considered [an integral]; a third [view] concerning the shameless sinner (fasiq) is that [his agreement] is considered with respect to himself [only]; and a fourth [statement is that it is only considered] if he expresses the basis of his view. Agreement must also be secured from *everyone* as is the view of the overwhelming majority [of scholars]. A second view is that [the disagreement of] two [as opposed to one] harms [a consensus]. A third view is that [no fewer than] three [harms it]; A fourth is that [only a number that] reaches the number [required] for [determining] indisputable authenticity (tawatur)[harms the claim of consensus]; A fifth view is that [the disagreement of a scholar is considerable] if the matter [under dispute] related to his view is open to legal debate (ijtihad); A sixth view is that [such a disagreement is considerable if it happens] in the fundamentals of faith (usul al-din); and a seventh view is that such [a claim of agreement wherein there is some dispute] is not a consensus (ijma'), although it has authoritative import (hujja)."<sup>7</sup>

<sup>7</sup> Al-Banani, Mustafa. *Hashiyat al-'Allama al-Banani 'ala Sharh Matn Jam' al-Jawami'*. Beirut: Dar al-Fikr, 1415/1995, 2/178-179

What is most significant about this citation is that it reveals that many scholars did not consider it necessary to ascertain that all *mujtahids* or other significant parties were consulted before making a claim that a consensus had convened on a particular subject. This might explain why some scholars, like 'Abd Al-Wahhab Khallaf (1956/1375), have claimed that unanimous scholarly consensus as defined by the overwhelming majority of scholars has never occurred in Islamic history. In other words, Khallaf questions claims of technically defined consensus, while conceding to consensus resulting from conciliar legislation (shura).

Imam al-Baji (1081/474 AH) says,

"...The *Umma* (community) is of two types: the elect and the commoners. The views of both the elect and the commoners must be considered concerning the judgment that of which both the elect and the commoners have been burdened to have knowledge. As for what governors and jurists have special knowledge of concerning the rulings of divorce, marriage, transactions, manumission...(in its various forms), crimes, mortgages, and other rulings that commoners have no knowledge of, the opposition of commoners in such topics is inconsiderable. This is the view of the overwhelming majority. Qadi Abu Bakr [al-Baqillani] said, however, that the views of the commoners in those matters are also to be considered [but the claim of a unanimous consensus can be made]."<sup>8</sup>

## Proofs for the Authority of Consensus

The common approach among Muslims for resolving intra-religious conflict is to take recourse to the sacred sources. While the doctrine of consensus had no operative value during the period of divine revelation, scholars faced with

<sup>8</sup> Al-Baji, Abu al-Walid Sulayman b. Khalf. *Al-Irshadat fi Usul al-Fiqh al-Maliki*. Beirut: Dar Ibn Hazm, 1421/2000, p. 88

unprecedented challenges after the Prophet's demise sought inspiration through the Qur'an and prophetic traditions in confronting these new tests whose answers were not clearly defined in Islamic scripture. Consequently, the school which would later be referred to as *Ahl al-Sunna wa al-Jama'a* or Sunnis introduced the doctrine of scholarly consensus. While there are more than just a few scriptural proofs that imply the authoritativeness of consensus, the most decisive of them are two: one from the Qur'an itself. The other is from the Prophetic tradition. As for the Qur'anic proof, it is Allah's saying in *Surat al-Nisa'*: 115 *"Whoever splits with the Messenger after guidance has become clear to him and then follows other than the way of the believers, We shall leave him in the path he has chosen and enter him into Hell. How horrid is such a destination!"* The point of concern in the verse is the statement, *"...and follows other than the way of the believers..."* This implies that it is not merely the contravention of the prophetic way that leads to Hell. It includes pursuing a path and approach to God that differs from the way of the commonality of religiously committed Muslims. This verse for scholars serves as the greatest proof for the authority of scholarly consensus in spite of the slight ambiguity that remains concerning the integrals that make up a sound consensus. In other words, is the way of the believers a reference to the way of "all" believers—both scholars and laity alike—in a particular time? Or does it only give consideration to the scholars who are those who represent the pious and learned views of the masses? If it is a reference to all the believers, does that imply that such a consensus can only be reviewed after the demise of every believer on the planet until the end of human history; a very unpopular and unreliable view that some did hold in the past?<sup>9</sup> Furthermore, the verse actually gives the impression that the views of the generality of Muslims during the Prophet's lifetime ﷺ had legal authority alongside the Prophet himself, even though those who

<sup>9</sup> See the quote associated with footnote #8.

support the doctrine of consensus expressly declare that the Prophet was the sole legislator during his lifetime. The theoretical plausibility of the legal views of the Prophet's companions being worth consideration is all the doubt that one needs to belie the ostensible lack of ambiguity claimed about this verse which would serve the objectives of the advocates for the blatant evidentiary authoritativeness of consensus. Imam al-Haramayn al-Juwayni (1085/478), who supports the doctrine of consensus but holds that the verse is not decisive proof of the authoritativeness of scholarly consensus, had the following to say about it,

"...I will present a single objection that will invalidate the use of this verse as proof. I say that the Lord, the Exalted, directed this address to those who desire unbelief, who attribute falsehood to the Chosen One ﷺ, and [desire] to swerve away from the traditions of truth. So the proper ordering of the meaning of the verse is, *"And whoever splits with the Messenger and follows other than the way of the believers who emulate him, We shall leave him in the path he has chosen..."* If the apparentness of that [interpretation] is flawless, then it is such. Otherwise, it is a looming probability in interpretation and a clear course of action in what is conceivable. So there remains nothing more than a pseudo-explicit phrase subject to interpretation for the one who clings to the verse; while it is not permissible to cling firmly to probabilities in areas where certainty is sought. The opponent, on the other hand, merely needs to present a single conceivable probability. The advocate, however, in such a case has no answer to give if he is fair."<sup>10</sup>

As for the most commonly cited hadith in support of the doctrine of scholarly consensus, it is the statement attributed to the Messenger ﷺ *"My nation will not convene upon misguidance."* Al-

<sup>10</sup> Al-Juwayni, Abu al-Ma'ali 'Abd al-Malik. *Al-Burhan fi Usul al-Fiqh*. Beirut: Dar al-Kutub al-'Ilmiya, 1418/1998, p. 262

Juwayni, as with the aforementioned verse, objects to the presumed decisiveness of this report firstly, because the hadith is reported with variant wordings (*bi alfaz mukhtalifa*). Secondly, he objects because it is an uncorroborated tradition (*khbar wahid*) which is not fit to establish an authoritative source of law. For this reason, he says, “So it is impermissible to cling to them in matters that demand certainty (*qat’iyat*).”<sup>11</sup> He further says,

“It is possible to say that his statement ﷺ, “My nation will not convene upon misguidance,” is word of good tidings from him and a revelation of something unseen with respect to a future time; an announcement that his nation ﷺ will not apostatize until the Hour.”<sup>12</sup>

While such statements weaken the decisiveness of such proofs, it is not the intention of Al-Juwayni (1085/478) to argue that there is no basis for claims of consensus. His aim is merely to highlight that as a source of immutable Islamic teachings, if there is hope for *Ijma’* to have the compelling authoritativeness that scholars afford it, its legality must be justified by standards that are beyond reproach. For this reason, he argues that the source of the authority of consensus is empirical and experiential; not self-evidently scriptural. In other words, the theoretical possibility of all qualified scholars on the planet issuing the same ruling regarding a particular issue, and the custom of people of accusing those contravening universally accepted understandings and cultural norms to be deviant, perverse, and misguided for violating shared authoritative scholarly opinions provide the desired comfort one seeks from scriptural texts. Since the traditional conception of consensus is not to be understood as an agreement of a number of individual scholars who express their “fanciful” views on a particular topic, it is a condition that each of their views be based upon a validly

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

acknowledged legal proof (*mustanad*). It may happen in such cases that the textual or scriptural basis for the consensus may be forgotten. But, the absence of the text is inconsequential in the view of Al-Juwayni.<sup>13</sup> So, custom as an empirical tool along with sensory perception itself is regarded as the most decisive source for the authority of scholarly consensus.<sup>14</sup>

For this same reason, Imam Razi (1209/606) says,

“It is astonishing that the jurists have confirmed scholarly consensus on the basis of the generalities of Qur’anic verses and prophetic traditions. Then they agreed that the one who denies what these generalities suggest are not guilty of unbelief nor are they to be declared shameless sinners whenever the denial is a result of an interpretation (*ta’wil*). They, then, say that the ruling that scholarly consensus points to is decisive, and the one who contravenes it is an unbeliever or a shameless sinner. So, it is as if they considered the branch to be stronger than the root. And that is a significant error.”<sup>15</sup>

## Types of consensus

<sup>13</sup> This rationale accords with the view of early Malikite scholars who considered the common practices of the scholars of Medina as constituting a binding consensus even if there was no sound text corroborating those practices.

<sup>14</sup> *Ibid.* p. 263. Al-Juwayni’s argument—which he explains further in his *Burhan*—is that the kind of consensus (*Ijma’*) that has indisputable authority cannot itself be reliant upon an independently valid source of law, like the Qur’an or the Sunna. Consensus itself, rather, needs to be completely independent from reliance upon a primary source, since its efficacy is being raised to the status of an independent source.

<sup>15</sup> Al-Razi, Fakhr al-Din Muhammad b. ‘Umar. *Al-Mahsul fi ‘Ilm Usul al-Fiqh*. Beirut: Mu’assasat al-Risala, 1412/1992, 4/50

Scholarly consensus has a number of nuances and facets, but the broadest of those considerations are of two types: i) explicit consensus (*ijma' sarih*); and ii) implicit consensus (*ijma' sukuti*). Explicit consensus is when all *mujtahids* openly declare their opinion regarding a particular occurrence either in word or action after it has been ascertained that they have been consulted to give fatwa on the matter. Implicit consensus is when some *mujtahids* offer their view on the subject, while others remain silent about it even though it is confirmed that they were privy to the inquiry. The difference between the two is that the proponents of *Ijma'* hold that once the former (*ijma' sarih*) has been convened, the agreed upon ruling that results becomes an essential and binding teaching of Islam. Furthermore, were a Muslim to contravene that agreement thereafter and in any age, he/she will be considered as having committed an act of apostasy. As for the latter form (*ijma' sukuti*), to contravene it after it is convened does not mortally impact the condition of one's faith, although one can be accused of being a heretic (*mubtadi'*) or shameless sinner (*fasiq*) if rejected without a sound scholarly justification.

Ibn Hazm Al-Zahiri (1064/456) says in his *Maratib al-Ijma'*,

“Some people included in consensus (*ijma'*) things that are not from it, and others considered the statement of the majority to constitute a consensus. Some considered points where no disagreement is known to constitute consensus even if they were uncertain whether or not there was really disagreement about it. One faction regarded as a consensus the popular views of a well-known Companion if they did not know of any other Companion who opposed him even if disagreement was known among the Successors and those after them. Some people considered the view of the people of Medina

to be a consensus.<sup>16</sup> Some considered the view of the people of *Kufa* to be a consensus. Some considered the agreement of a prior generation upon one of two or more statements held by those of the generation preceding them to be a consensus. Each of these opinions is invalid, although this is not the place to prove their invalidity. However, it is sufficient proof of their invalidity that we find them abandoning in many issues the same things they mentioned to be a point of consensus. In other words, they designated those things we made reference to as consensus out of personal stubbornness and wrangling when faced with being overwhelmed by the [opposing] evidence and proofs to then adopt their corrupt preferences. In addition, they do not ascribe those who oppose them in these views to unbelief, even though a condition for a sound consensus is that for the one who opposes it to be rendered an unbeliever; a view about which none of the Muslims disagree. Therefore, if the matter under debate had in fact been a consensus, those who oppose them would be guilty of unbelief. Nay! They would even declare them to be unbelievers, because they contravene them quite often.”<sup>17</sup>

Other than discovering the limited way that scholars have applied the term “consensus” (*ijma'*), what is most significant about Ibn Hazm's words is that they serve as a reminder that the one area of agreement among proponents of consensus is the belief that one becomes an unbeliever for contravening it. The fact that they often avoid ascribing unbelief to people who contravene claims of consensus alludes to weakness of those claims. What this means is that there is hardly a compelling reason to surrender to the average claim unless the matter falls under the self-evident foundations of

<sup>16</sup> Al-Qassar, Umar b. *Al-Muqaddima fi al-Usul*. Beirut: Dar al-Gharb al-Islami, 1996, p. 75

<sup>17</sup> 'Ibn Hazm, Ali b. Ahmad b. Sa'id. *Maratib al-Ijma'*. Beirut: Dar Ibn Hazm, 1419/1998, p. 26



Islam (al-ma'lum min al-din bi al-darura). Imam Mahalli says in defining those self-evident foundations referred to as what is 'known from the religion by immediate necessity',

"It is knowledge of which both the elect and commoners share; wherein doubt cannot be produced [about its integral connection to Islam]. Thus, it joins matters of immediate necessity, like the obligation of Salat, fasting [of Ramadan], the prohibition of illicit intercourse, and [the drinking of] wine."<sup>18</sup>

Shaykh Nuh b. Sulayman al-Qudat says,

"Faith is the affirmation of all that God's Messenger, Muhammad ﷺ, has brought and has reached us through an unquestionable medium to which doubt does not reach. It is what both Muslim scholars and religiously committed commoners know to be from the Islamic faith. That is like the obligation of Salat, fasting, obligatory alms (Zakat), the impermissibility of illicit intercourse, the drinking of wine, and the obligation of believing in the Afterlife, resurrection after death, Heaven, and Hell."<sup>19</sup>

What distinguishes 'matters known by immediate necessity' from those that result from unanimous consensus is that the former gains its authority by being established by an "unquestionable medium." That is, matters known by immediate necessity result from decisively transmitted (mutawatir) and unambiguous scriptural pronouncements (qat'i al-dalala). Consequently, they give the impression of being the result of unanimous consensus even though they are not. They are undeniable in that

<sup>18</sup> Al-Banani, Mustafa. *Hashiyat al-'Allama al-Banani 'ala Sharh Matn Jam' al-Jawami'*. Beirut: Dar al-Fikr, 1415/1995, 2/189

<sup>19</sup> Al-Qudat, Nuh 'Ali Salman. *Al-Mukhtasar Al-Mufid fi Sharh Jawhara al-Tawhid*. 'Amman, Jordan: Dar al-Razi, 1420/1999, 219-220

there is no basis for interpretation of those doctrines or legal injunctions. This leads to their characterization as "self-evident" teachings of the religion. These teachings would include honoring one's oaths, truthfulness, fidelity, honesty, kindness to kith and kin, and courtesy to all people in word and deed. It also includes the obligation of husbands to care for their wives; for fathers to provide sustenance for their families; the duty of wives to obey their husbands; the inviolability of another human's person, property, and honor; the right to self-defense; and many other matters.

### Claims of *Ijma'*

We learned before that the technical view of a decisive and binding *Ijma'* is when the *mujtahids* of a particular age all agree expressly upon a particular ruling. A number of scholars question whether or not such an agreement has ever happened historically. One of those scholars is Shaykh 'Abd Al-Wahhab Khallaf (1956/1375), who poses the question,

"Has *ijma'* according to this meaning actually ever occurred in any historical period after the demise of the Messenger? The answer is, no. And whoever refers to the occurrences wherein the *Sahaba* passed judgment in their regard and ponders the judgment they passed in their regard as being consensus, it becomes clear that a consensus according to this meaning did not occur, and that what did happen was nothing more than an agreement from those who were present among the people of knowledge and intelligence upon a ruling about the particular occurrence being reviewed. So, it in reality is a ruling issuing from conciliar legislation (shura); not the opinion of one individual...And this is what the jurists have referred to as *ijma'*, but it is in reality group—not individual—legislation. And it was only present during the era of the

*Sahaba*<sup>20</sup> and some periods of the Umayyads in Andalus when they formed during the second century of Islam a society of scholars consulting one another about legislation. And it is often stated in the biographies of some of the scholars of Andalus that they were among the scholars of *shura* (conciliar legislation). As for after the time of the *Sahaba* besides this period of the Umayyad Dynasty in Andalus, no consensus was convened; nor did a consensus with the aim of legislation occur from the majority of *mujtahids*; nor did legislation happen from a guild. Rather, each individual *mujtahid* acted independently in his scholarly endeavor (*ijtihad*) in his town and environment. So legislation was individual, not conciliar, and the opinions at times agree with one another and at other times conflict. So, the most that a jurist is able to say is that no disagreement is known regarding the ruling of this incident.”<sup>21</sup>

Similar to Khallaf is another twentieth century scholar, ‘Abd Al-Karim Zaydan, who concurs with these findings; agreeing with Khallaf that the binding *Ijma’* as defined by legal theorists after the time of the *Sahaba* never occurred, and that the *Ijma’* that happened during the period of the Companions was a result of conciliar legislation (*shura*). He says in his *Usul* while rebutting the arguments of those who deny the theoretical possibility of a binding consensus,

“The truth regarding this is for it to be said that the eras of the pious forbears (Salaf) divide into two distinct periods: [1]

<sup>20</sup> Imam al-Razi states in his *Mahsul*, “Fairness dictates that there is no way for us to know that consensus has occurred except for in the age of the *Sahaba*; whereas the believers were small in number. It was possible to know each and every one of them” (Al-Razi, Fakhr al-Din Muhammad b. ‘Umar. *Al-Mahsul fi ‘Ilm Usul al-Fiqh*. Beirut: Mu’assasat al-Risala, 1412/1992, 4/34-35).

<sup>21</sup> ‘Khallaf, Abd al-Wahhab. *‘Ilm Usul al-Fiqh*. Kuwait: Dar al-Qalam, 1406/1986, p. 50

the period of the *Sahaba*; and [2] the period of those who came after them. In the period of the *Sahaba*—especially during the reigns of Abu Bakr and ‘Umar—the *mujtahids* were few in number, known specifically, almost all of them resided in Medina or a place that was easy to reach to acquire their opinions, and scholarly endeavor (*ijtihad*) took the form of conciliar legislation (*shura*). And in this period—with the state being as we have described—it was very easy for a consensus to convene. Rather, it actually did occur whereas a number of unanimous agreements have been transmitted to us. Among them are things that the overwhelming majority of scholars have advanced as proof and we have already made mention of<sup>22</sup>...As for after the period of the *Sahaba*, it is extremely difficult to accept that a consensus has convened due to the dispersion of the jurists into distant lands and the many metropolises of the Muslims, the numerousness of their number, the disparateness of their orientations, and that they do not employ the style of conciliar legislation as was the case during the period of the pioneers. So, the most that can be said is that some speculative (*ijtihadi*) rulings in some areas have been found and have become popular

<sup>22</sup> Among the agreements mentioned by Zaydan as having happened during the time of the *Sahaba* are: the agreement that one’s grandmother receives 1/6 of one’s legacy; the agreement that a Muslim woman may not marry a non-Muslim; the agreement that a marriage is valid if the woman or her guardian allows the groom to specify what he will give as a dowry; the agreement to not allow those who conquer different lands to divide the lands among the fighters; the agreement that if one leaves behind no siblings, one’s brethren who share the same father with the deceased are to be given from one’s inheritance instead; and the agreement that if one leaves behind a son and a grandson, the son bars the grandson from taking a portion from one’s legacy. (Zaydan, ‘Abd al-Karim. *Al-Wajiz fi Usul al-Fiqh*. Beirut: Mu’assasat al-Risala, 1425/2004, p. 190)

wherein no opponent to it is known. However, not knowing an opponent—while the situation is as we have described—does not indicate that an opponent does not exist. Furthermore, we cannot consider it a consensus; not even an implicit consensus.”<sup>23</sup>

What this would mean for claims of binding *Ijma'* (as defined by legal theorists) after the time of the *Sahaba* is that it indeed never happened—even if it were an implicit consensus—in light of the fact that many Shafi'i legal theorists do not afford any authority to an implicit consensus.<sup>24</sup> As for consensus claims based on conciliar legislation as happened during the Andalusian period, this principle would need to be accorded greater authority than it traditionally has been granted for those ascribing consensus to what occurred during the time of the *Sahaba*.<sup>25</sup> Otherwise, there will remain a point of entry to deny claims of consensus originating during the time of the Prophet's companions ﷺ. This latter option is not completely implausible since principles and concepts precede their technical limitations. Perhaps, the error is that

<sup>23</sup> *Ibid.* p. 191-192

<sup>24</sup> Al-Juwayni, Abu al-Ma'ali. *Al-Burhan fi al-Usul*. Beirut: Dar al-Kutub al-'Ilmiya, 1418/1998, 1/269-273

<sup>25</sup> Shaykh Wahbat al-Zuhayli states in his *Usul* that there were four phases to the development of the doctrine of consensus (*ijma'*): i) the time of the *Sahaba* who employed conciliar legislation (*shura*), since the narration of hadith was still discouraged due to fears that the Prophet ﷺ may be misquoted; ii) the time of the *Tabi'un* (Successors) when the concept of conciliar legislation loss steam due to the fact that many of the brilliant jurists started to scatter across the slopes of the expanding empire; iii) the era of the scholars of the various schools, like Malik and Abu Hanifa, who clung to their local consensuses; and iv) the era of the crystallization of the four schools when scholars within each school started to make broad “claims” of scholarly consensus. (Al-Zuhayli, Wahbat. *Usul al-Fiqh al-Islami*. Damascus: Dar al-Fiqh, 1418/1998, 1/488)

scholars have insufficiently defined the parameters of scholarly consensus. Even were we to deny claims of consensus originating with the *Sahaba*, that would not serve as a basis for uprooting the foundational self-evident teachings of Islam (*al-ma'lum bi al-darura*) which rely on authentic and unambiguous texts (*mutawar sarih*); not on the reinforcement of one speculative view by another as in the case of *Ijma'*.

One eminent scholar of the current age, Shaykh Wahbat al-Zuhayli, corroborates the findings of Khallaf (1956/1375) and Zaydan. After mentioning the claim of the great scholar, Ustadh Abu Ishaq Al-Isfarayini (1027/417), that there are twenty thousand issues wherein unanimous consensus has convened, al-Zuhayli says,

“The truth is that these legal consensuses are not to be supported without verification and substantiation. That is because the intent of such [claims] may, perhaps, be [only] the agreement of the majority; not everyone. What may also be the intent is the agreement of the Four Schools with disregard to [the views of] others. It might even be nothing more than the agreement of the scholars of one school with indifference to [the views of] others; or [even] the result of not knowing anyone who opposes those [claims], while what is likely meant by such [claims] is the agreement within one school.”<sup>26</sup>

## Majoritarian Consensus

“Some people included in consensus (*ijma'*) things that are not from it, and others considered the statement of the majority to constitute a consensus.” (Ibn Hazm)

One troublesome trend that has persisted for some time is the habit of Muslims informed only of particular views—or others who prefer specific

<sup>26</sup> *Ibid.* 1/488-489

opinions in spite of knowing that scholarly disagreement does exist about a matter—to trump that particular view as what “Islam says” about the matter. One tendency has been to intentionally undermine claims of scholarly consensus and juristic normativeness by contrasting those legal views with prophetic reports that outwardly contradict the opinions of the jurists. The other tendency is the habit of opponents of the first group to trump the “consensus” card as a means to silence members of the former group and discredit them with allegations of them being unqualified “reformers” of fundamental Islamic teachings. While the first stance is flawed by failing to acknowledge legitimate alternative interpretations to pseudo-explicit texts, the latter stance is equally problematic because it highlights a tendency of many people to use the potentially unifying principle of *Ijma’* as nothing more than a tool to suppress dissenting opinion. Who would possibly (knowingly) go against a binding and decisive consensus being aware that one’s faith is at risk in doing so? It is this fear of excommunication that some exploit in many Muslims that drives so many into silence and fear to speak critically of the opinions of earlier scholars of the tradition (though it is the tradition of all great scholars to be critical of the views of their peers).<sup>27</sup>

<sup>27</sup> Just imagine if Imam al-Daraqutni (995/385) never was critical of the collections of Imams Bukhari (870/256) and Muslim (875/261). We only know the soundness of those hadiths because of the critical eye of the expert. Other examples of critical scholarship are: the decision to gather the pages of the Qur’an by Abu Bakr (634/13); the decision to make copies of the original pages by ‘Uthman (656/35); the decision to compile and codify the prophetic tradition by ‘Umar b. ‘Abd Al-‘Aziz (720/102); the decision to write books concerning the integrity and precision of the hadith transmitters; the innovative achievements of the various forms of exegetes; the ingenuity of Khalil b. Ahmad al-Farahidi (c. 791/175) who extracted the poetic meters of the Arabs; even the decision of statesmen to adopt a single school to rule the Islamic lands are all examples of critical scholarship: all that have broadly enriched the Islamic tradition. Similar to these novelties is the effort to

As mentioned before by Ibn Hazm and others, claims of consensus take many forms, and in the view of Khallaf and Zaydan a binding decisive scholarly consensus has never occurred since the time of the *Sahaba*. The claims of consensus based on majoritarian agreements are many. For example, Sunni scholars claim that the Qur’an, Sunna, *Ijma’*, and Qiyas are the “agreed upon sources of Shariah,” even though the Literalist School of Imam Dawud al-Asfahani (883/270) and Twelvers allege that legal analogy (qiyas) lacks legislative authority. Twelvers also allege that *Ijma’* lacks compelling authority, while the dominant view in the Literalist School (Zahiriyya) is that *Ijma’* is only authoritative if it happens during the time of the *Sahaba*.<sup>28</sup> Classically trained scholars claim that there is unanimous consensus that the binding punishment for the apostasy of a Muslim man is death,<sup>29</sup> even though the Companion and second of the Rightly Guided caliphs, ‘Umar b. al-Khattab (644/23) ؓ, expressed the view that he would merely imprison a group of

maximize the linguistic and legal tradition to facilitate scholarly endeavor (ijtihad); the Andalusian considerations of local customs in determining whether standard or non-standard judicial decisions should be applied; the consideration of modern science to override flawed pre-modern understandings of a number of legal matters; and the decisions of contemporary Islamic ministries to adopt opinions that do not originate from within their nationally adopted schools of jurisprudence when they find that that view best serves the interests and cultural sensitivities of the nation. Even Shafi’i’s (820/204) critical disapproval of some of Malik’s (809/193) views, and his arguments expressed in his *Risala* for the authority of *Ijma’* are the plainest indications that it is traditional to be critical in one’s scholarship.

<sup>28</sup> Al-Banani, Mustafa. *Hashiyat al-‘Allama al-Banani ‘ala Sharh Matn Jam’ al-Jawami’*. Beirut: Dar al-Fikr, 1415/1995, 2/189

<sup>29</sup> Ibn Rushd, Abu al-Walid Muhammad b. Ahmad. *Bidayat al-Mujtahid wa Nihaya al-Muqtasid*. Beirut: Dar al-Kutub al-‘Ilmiya, 1418/1997, 2/673

apostates who defected to the idolaters during his reign.<sup>30</sup> The Successors, Ibrahim al-Nakha'i

<sup>30</sup> Bayhaqi (994/384), Ibn Hazm (1064/456), and 'Abd Al-Razzaq al-San'ani (826/211) report that a group of Muslims from the clan of Bakr b. Wa'il apostatized during the reign of 'Umar b. al-Khattab (644/23) ﷺ and joined the enemy forces in *Tustur*. Upon the return of Anas b. Malik (c. 712/94) from the battle, 'Umar inquired about the state of those men and was told by Anas that they had been killed in battle on the side of the enemy. 'Umar expressed his displeasure at hearing the news of that, and then told Anas, "If I had encountered them, I would have presented them the option of returning to Islam. If they refused, I would have merely imprisoned them." Shaykh Yusuf al-Qaradawi after relating this says,

"What this means is that 'Umar did not consider the punishment of execution to be binding for apostates in every circumstance, and that it is possible to grant amnesty or initiate a stay of execution on it whenever a need for amnesty or postponement presents itself. The justificatory necessity (*darura*) in this case is that war is underway, and the apostates are in proximity with the idolaters; so there is fear that they may be being persecuted (e.g. coerced into fighting against the Muslims). Perhaps, 'Umar analogized this situation with the statement of the Prophet ﷺ, "The hands [of the thief] should not be severed during warfare." And that is out of fear that tribal zealotry (*hamiya*) may lead the thief to defect to the side of the enemy. There is also another probability. It may be that 'Umar's view was that the Prophet's saying, "Kill whoever changes his religion", was uttered while playing his role as the commander and chief of the community and head of state. In other words, this is a decision of the executive office of government and one of the actions of divinely authorized administration (*siyasa shar'iyah*); not merely a fatwa and the conveyance of divine revelation such that the community is bound to enforce it in every time and place. [It is] within the sphere of his (the governor's) discretionary authority such that if he were to order it, it must be enforced. Otherwise, it is not

(726/108) and Sufyan al-Thawri (778/161), were of the view that while apostasy is considered a crime, no grace period should be stipulated for the apostate's repentance; a view that challenges the understanding that execution for apostasy is a binding and immutable punishment without consideration of mitigating circumstances.<sup>31</sup> The dominant Sunni opinion is that there is a consensus that the caliph can only be a member of the tribe of *Quraysh*, although Abu Bakr al-Baqillani finds no uneasiness in contravening this putative consensus by stating that a non-*Qurayshi* can be the caliph if he fulfills the conditions.<sup>32</sup> If this was a real unanimous consensus, Abu Bakr al-Baqillani (1013/403) could rightfully be accused of unbelief. But no scholar accuses him of that. Another problematic majoritarian consensus is the one that imposes a less significant indemnity on the one who kills a woman or a non-Muslim.<sup>33</sup>

[binding]; in the same context of what Hanafis and Malikis say about the hadith, "Whoever kills a combatant has the right to his belongings" and what Hanafis say about the hadith, "Whoever gives life to a dead land, it belongs to him." (In other words, those injunctions require the permission of the leader). (Al-Qaradawi, Yusuf. *Jarima al-Ridda wa 'Uquba al-Murtadd fi Daw' al-Qur'an wa al-Sunna*. Beirut: Mu'assasat al-Risala, 1422/2001, p. 34-35)

<sup>31</sup> Al-San'ani, 'Abd al-Razzaq. *Al-Musannaf*, 1/18697 and Ibn Taymiya's *Al-Sarim Al-Maslul*: 321.

<sup>32</sup> See the claim of consensus as well as Baqillani's contention in the *Muqaddima* of 'Abd Al-Rahman b. Khaldun (1405/808), *Muqaddimat Ibn Khaldun*. Beirut: Dar al-Kutub al-'Ilmiya, 1413/1993, p. 152

<sup>33</sup> Most scholars hold the view that if a Muslim takes the life of a non-Muslim, the Muslim cannot be executed due to the loss of the non-Muslim's life. But, if a non-Muslim takes the life of a Muslim, the non-Muslim can be executed since a believer's life is more valuable than that of an unbeliever. Abu Hanifa (767/150), though, placed equal value on the lives of Muslims and non-Muslims who

were not hostile to Muslims and living under the security of the Islamic state. Malik agrees with the majority of scholars with one exception. If a Muslim murders a non-Muslim by cutting his/her throat or as in a beheading, the Muslim murderer can be executed. Otherwise, he/she cannot be executed for the murder of an unbeliever. In such a case, a Muslim woman clearly has an advantage over a non-Muslim as relates to the right to protection of bodily integrity (hifz al-nafs). But when the family of the victim chooses to accept bloodwit (diya) instead of pardoning or demanding the murderer's execution, parity between the value of a believing man's life and that of a believing woman is quite glaring. While most jurists remain consistent in their decision to place greater monetary value on a believer's life, Imam Abu Hanifa likewise consistently makes no distinction between the sum of the bloodwit paid for the loss of the life of a Muslim and that of a non-Muslim. Most scholars, though, are of the view that the bloodwit due for the wrongful death of a non-Muslim is half of the bloodwit of a believer. Imam Shafi'i insists that the unbeliever's bloodwit should not exceed one third of a believer's bloodwit, since a Muslim woman's bloodwit is half of that of a Muslim man's. Shafi'i wanted to ensure that an unbeliever's life is not given the same value of the loss of the life of a believer (male or female). It is interesting, though, that a believing woman's bloodwit is equivalent to that of a non-believing male i.e. one half the bloodwit of a believing male, in the opinion of most schools. In this case, a Muslim woman's monetary value is equal to that of a male unbeliever; reinforcing the idea that the life of a man is more valuable than the life of a woman or that her femininity is a legitimate basis for devaluing her humanity. Even Abu Hanifa, inexplicably and unexpectedly, adopts the same view as the majority on this topic of a woman's bloodwit. Holding fast to such rulings lead us to believe that the lives of women and non-Muslims are of less value than the lives of Muslim men. To claim consensus here or that truth is always with the majority would necessitate that "Islam" rules that the lives of unbelievers are valueless and that the lives of women are of lesser value than the lives of men (believers or unbelievers). But, since we know that consensus can only be reached through some form of legal deduction (ijtihad)—not from an explicit text, we are given good reason to suspect that some flaw has occurred in the reasoning of those scholars who have ruled thus; thereby securing the Shariah from the accusation of naturalistic

The challenges to upholding majoritarian agreements are numerous.<sup>34</sup> Among them is the risk to one's good repute by promoting a view that portrays one as a misdirected uncritical neophyte. In other words, if sincere, one would be compelled to uphold a number of majoritarian—though "dominant"— understandings that are quite problematic, not merely because of Western critique. They are problematic also from an intra-judiciary standpoint. Consider the following majoritarian opinions and interpretations that pose such challenges:

The view that women are less intelligent than men<sup>35</sup>

gender inequality and the gross dehumanization of women. (Ibn Rushd, Abu al-Walid Muhammad b. Ahmad. *Bidayat al-Mujtahid wa Nihayat al-Muqtasid*. Beirut: Dar al-Kutub al-'Ilmiya, 1418/1998, 2/582)

<sup>34</sup> Another thing that weakens the authoritativeness of majoritarian claims of consensus is that culture and times can influence a change in the sentiments held toward a particular practice or doctrine. Take for example the view that the children of unbelievers will be in Hell with their parents that Imam al-Nawawi expresses in *Sharh Muslim* to be the view of the majority of scholars. In spite of this, he contravenes this view and expresses that the correct view is that they will go to Heaven due to dying before the age of responsibility (Al-Nawawi, Yahya b. Sharaf. *Sharh Sahih Muslim*. Beirut: Dar al-Fikr, 1415/1995, 8/2: 178-179). Today, though, the overwhelming majority of Muslims represented by the Ash'arite and Maturidite factions of the Sunnis agree with Imam al-Nawawi (1277/676) that children who die prior to puberty all go to Heaven. Many Ash'arites go further and state that even unbelievers who die without being reached by the invitation of Islam go to Heaven.

<sup>35</sup> Most traditional exegetes who comment on Q 4:34, which suggests some inherent merit that God has given to men over women by which He chose them to be caretakers of their wives and families, express that one of the merits given to men over women is full intelligence ('aql). This view is shared by Tabari (922/310), Razi (1209/606), Qurtubi (1273/671), Ibn Kathir (1343/744),

The view that women are not fit to hold public office or positions of leadership no matter how insignificant<sup>36</sup>

The view that a woman has no significant opinion in the political framework of any society

Each one of these matters has a majority of scholars in favor it, while some traditionalists today prefer to highlight the minor opinion of some of these views. As for the intra-judiciary challenge that is raised by supporting the majority view of any particular issue under all circumstances, it is that one would be led to abandon the dominant view of the school that one individual may have adopted. For instance, Malikis would have to abandon the ruling about the ritual purity of dogs and pigs.<sup>37</sup> Shafi'is would have to abandon their traditional opinion concerning the obligation of determining relative certainty that one is facing the Ka'ba while praying.<sup>38</sup> Hanafis would have to abandon their view that a marriage

guardian for an adult woman is unnecessary.<sup>39</sup> Hanbalis would have to abandon their opinion that the sale involving 'Arbun<sup>40</sup> is permitted. In another sense, though, since Hanafis represent a numerical majority in the world, all the other schools would have to abandon their views for those of the Hanafis in light of this numerical reality. In the end, we would have to decide which majoritarian criterion we are going to utilize: opinion-based majoritarianism or adherent-based majoritarianism. What I mean by 'opinion-based majoritarianism' is the preponderance given to a view simply because most legal schools adopt it in contradistinction to one or the minority of them. As for 'adherent-based majoritarianism' I mean the decision to uphold that the majority view inside of one's respective school constitutes truth with relation to the school itself while disregarding what other schools have to say about the matter. Both have their limitations.

## Consensus of the Sunni Scholars

Earlier we mentioned the views of scholars concerning those whose views are worthy of consideration in the area of consensus. We saw the opinion of most scholars that only the opinion of a *mujtahid* is valid regarding the ruling of a new occurrence. We also saw the disagreement among scholars over whether or not religious integrity or

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Mazhari al-Naqshabandi (1810/1225), Muhammad 'Ali al-Sabuni, Shinqiti (1913/1331), and many others.

<sup>36</sup> This view originates from the hadith reported by Bukhari (870/256), Tirmidhi (892/279), and others that the Prophet ﷺ said after the Persian king, *Shirawayh*, died and control of the empire fell to his daughter, *Bawran*, "A people who appoint a woman in charge of their affairs will not prosper." Most scholars have used this hadith as evidence that a woman may not be head of state (khalifa), though they differed about the permissibility of a woman holding other political offices, like public advisers, ministers, judges, muftis, and other types of administrators. (Al-Buti, Muhammad Sa'id Ramadan. *Al-Mar'a: bayn tughyan al-nizam al-gharbi wa lata'if al-tashri' al-islami*. Damascus: Dar al-Fikr, 1417/1996, p. 69-81).

<sup>37</sup> Al-Dardir, Ahmad b. Muhammad. *Aqrab al-Masalik li Madhhab al-Imam Malik*. Egypt: Makataba wa Matba'a Mustafa al-Babi al-Halabi wa Awaladihi, 1374/1954, p. 3

<sup>38</sup> Al-Baghdadi, 'Abd al-Wahhab. *Al-Ma'una 'ala Madhhab 'Alim al-Madina*. Beirut: Dar al-Kutub al-'Ilmiya, 1418/1998, 1/90

<sup>39</sup> Al-Quduri, Ahmad b. Muhammad. *Mukhtasar al-Quduri fi al-Fiqh al-Hanafi*. Beirut: Dar al-Kutub al-'Ilmiya, 1427/2006, p. 146

<sup>40</sup> 'Arbun, also called 'Irbun, is a form of layaway transaction where a customer hands over a portion of the cost of a desired item with the stipulation to the merchant that if he decides to purchase the item after examining it, the 'arbun or advanced money will be included as part of the final price. But if the customer decides to not purchase the item, the merchant will have the right to keep the advanced portion of the price. (Al-Azim, Muhammad b. Sharaf Amir. 'Awn al-Ma'bud 'ala Sunan Abi Dawud. Amman: Bayt al-Afkar al-Dawliya, p. 1498; Also see *Al-Qawanin Al-Fiqhiya*, p. 195).

ideological orthodoxy mattered when a scholar has fulfilled the prerequisites of undertaking scholarly endeavor (*ijtihad*). Most Sunni scholars are of the view that the opinions of non-Sunni factions, like Twelver Shiites, Zaydis, and Ibadis, are inconsequential. Their opinions, therefore, are not to be sought. In this regard, we find scholars, like Imam Abu Bakr al-Jassas (980/370), saying in his *Al-Fusul fi al-Usul*,

“We are unaware of comments from any of our [early] comrades of detail concerning those with whom consensus is to be convened, but scholars after their time have differed about the matter. Some have said that the consensus which constitutes a proof to God, Mighty and Majestic, only results when all of the different sects of the *Umma* (community) have agreed; both the orthodox and heterodox alike...Others have said that no consideration is given to the agreement of those who are heterodox because truth is in the soundness of consensus. And consensus which constitutes a proof to God, Mighty and Majestic, is the consensus of the people of truth; those who have been proven to be neither shamelessly sinful nor misguided...And this is the correct view in our estimation.”

Another interesting dynamic discovered in the historical debate about consensus is that some scholars further narrowed the sphere of acceptable opinion to those who carried out scholarly endeavor within the framework of the Four Schools of Sunni Islam. For instance, the Shafi'i scholar, Badr al-Din al-Zarkashi (1393/794) says in *Al-Bahr Al-Muhit* (6/209),

“The truth is that the age is without an absolute *mujtahid*, but not without a *mujtahid* in the school of one of the Four Imams. In addition, there is agreement between the Muslims that the boundaries of truth are defined within these [four] schools. Therefore, it is not permitted for one to act in accord with any other. Similarly, scholarly endeavor

(*ijtihad*) can only occur within their boundaries.”

Similarly, Hafiz Ibn Hajar al-Haytami says in *Al-Fatawa Al-Fiqhiya Al-Kubra* (4/325-326),

“What has been documented is that it is not permitted to follow any [Imam] other than the Four Imams ﷺ in legal responsa or judicial verdicts. As for what a person does privately, it is permitted for him to follow [an Imam] other than the Four among those who one is permitted to emulate; but not those like the [Imams of the] Shiites or the Literalists.”

These comments not only necessitate that only Sunni scholarship is worthy of consideration. They also necessitate that even among Sunnis only the views originating from scholars who are members of one of the four schools are valid. If that is so, the claims made by scholars like Wahbat al-Zuhayli that most claims of consensus are intramural/school-specific are given strong support. This tendency toward limited ideological relativism appears to have started during the pioneer community and sacred historical period, but would not become widespread until the latter half of the seventh century. Scholars, like Ghazzali (1112/505) and Amidi (1233/630), considered the views of non-Sunni factions to be important before a valid claim of consensus could be made. Others, however, insisted that only the views of Sunni *mujtahids* are authoritative whereas if Sunnis agree upon a particular ruling, all other Muslims factions are bound to accept their agreements. The Shafi'i historian, Al-Miqrizi (1442/846), highlights the state's influence in solidifying the position of the Four Schools during the second half of the seventh century after *Hijra* in his *Al-Mawa'iz wa Al-I'tibar* (3/390) when the reigning sultanate appointed four different judges in Egypt; one each from every school of law. He says,

“And that started in the year 665 AH until there remained no other schools recognized in all the major cities of Islam besides these four



schools. Boarding schools (madaris), nooks (khawanik wa zawaya), and caravansaries (rubut) were erected for their proponents in all the lands of Islam, and anyone following a different school was antagonized and condemned. No judge was appointed; no testimony was accepted; nor was anyone who did not adhere to one of these schools given the opportunity to speak publicly or to carry out the duties of an Imam. The jurists of all major cities during the length of this period also gave fatwa declaring the obligation of following these schools and the unlawfulness of following others.”

Abu al-Fida’ Ibn Kathir (1343/744) corroborates this claim of Al-Miqrizi (1442/846), saying in *Al-Bidaya wa al-Nihaya*

“Then the year 664 AH began during the reign of the Abbasid monarch, *Al-Zahir*, and there were four judges in Egypt. In the same [year], he placed four judges in Damascus—a judge from each school—just as he did in Egypt a year prior...And this was an unprecedented move [in Damascus] that he had already done in Egypt the year before. Then the affairs became established upon this pattern.”<sup>41</sup>

The great Maliki scholar, Al-Sawi (1826/1241), says in *Sharh al-Jawhara* (p. 342),

“So it is compulsory in the view of the overwhelming majority for everyone lacking the capacity to exercise absolute scholarly endeavor (ijtihad) to adopt the school of one of these four [Imams]. And it is not permitted to emulate any besides them after the convening of consensus concerning them, since the schools of others have not been compiled or retained. To the contrary is the case with these [Imams]; for they have encompassed knowledge of the views of all the *Sahaba* or most of them [atleast]; the foundations of their schools are known; their

views have been recorded; their followers have served and documented their views; and they have been transmitted with indisputable authenticity; so that one may depart from the burdensomeness of legal responsibility in the area of religious praxis by adopting such [schools], since schools do not die with their founders.”

Hafiz al-Dhahabi (1348/748) says in his *Siyar* (8/91),

“The school of Awza’i was popular for a time, but its exponents disappeared. The same is the case with the school of Sufyan and those of others we have mentioned. Today, only these four remain, and there is seldom one who knows them as well as they should be or one who is a *mujtahid*. The followers of Abu Thawr disappeared after the year 300 AH; as well as the companions of Dawud [al-Zahiri] save a few. The school of Jarir [al-Tabari] lasted until sometime after the year 400 AH, while the Zaydis have a school related to praxis in the Hejaz and Yemen, though it is considered heteropraxic. The same is the case with the Imamiya.”

The words of both Imam al-Sawi and Hafiz al-Dhahabi explain some of the practical reasons for eschewing the defunct schools of the early period. Those words also help explain, though, how the views of non-Sunni factions were disregarded from practical considerations within the definition and claims of unanimous consensus. That exclusion enervates the authoritativeness of historical claims of scholarly consensus such that instead of understanding it to be of unquestionable authoritativeness (qat’i), one is left to conclude that its authority is merely speculative (zanni); that is, if we even consider the mere fact that a collection of scholars express the same view about something to be a legal proof (dalil). In other words, the authority of *Ijma’* can only be established via a textual basis (mustanad). Most scholars of legal theory (usul) stipulate that it is only an obligation on the non-*mujtahid* to surrender to the fatwa of any given *mujtahid*. Those of the latter era, however, did not

<sup>41</sup> Hafiz al-Dhahabi also relates this in *Al-Ibar* concerning the occurrences of the year 663 AH.

furnish sufficiently the legally (usuli) binding textual evidence that substantiates their view upon which *Ijma'* could be based and the execution of its authority, nor did they convey unequivocal (qat'i) or unambiguous textual evidence to substantiate them.

## Towards a Universal Standard of Normalcy

If unanimous consensus has never occurred in the form outlined by scholars, how is a Muslim to determine the bedrock teachings of Islam? Without such a criterion, I believe that there is no way for one to determine what Islam truly is. If Sunnis acknowledge that historical claims of consensus are not as compelling as they formerly understood them to be, on what basis can they castigate Shiites among whom the practice of temporary marriage is deemed valid? If Shiites deny that there is any basis for the authority of consensus, on what grounds can they excommunicate Sunnis from the community of believers for not accepting the doctrine of the infallible Imam? Thus, any basis for determining the immutable and self-evident teachings of Islam has to consider a certain conception of consensus—even if defined differently than the vast majority of scholars historically.

Imam Abu al-Ma'ali al-Juwayni (1085/478) says,

“It has been circulated on the tongues of the jurists that the one who contravenes consensus is guilty of unbelief. This, however, is false beyond a shadow of a doubt. For, he who denies the authority of consensus is not accused of unbelief, nor is accusation of unbelief and the disavowal of one's association to such a person a light matter...On the other hand, the one who acknowledges consensus while affirming the truthfulness of those transmitting the consensus and then denies what they have unanimously agreed upon, this declaration of falsehood [to such transmitters] is attached to the Lawgiver ﷺ. And, whoever assigns falsehood to the Lawgiver has committed unbelief. The guiding principle in this regard, then, is that whoever

denies a method for establishing the law is not ascribed to unbelief. But one who acknowledges something to be a part of the law and then denies that it is concomitantly denies the law. And to deny a part of it is like denying all of it. But, Allah knows best.”<sup>42</sup>

As a consequence of considering the words of Al-Juwayni above, we are compelled to conclude that if Shiites are Muslims, their denial of the doctrine of consensus is not sound enough of a basis for excommunication (kufr), since one who does not believe in the doctrine does not become an unbeliever for denying it. As for those who acknowledge it and the injunctions connected with it, they are guilty of unbelief in the dominant Sunni paradigm. This also means that *Ijma'* is not a universal criterion for identifying the bedrocks of Islam. For that reason, we take recourse to a unifying principle acknowledged by all Muslim factions known as *al-ma'lum min al-din bi al-darura* or ‘what is known from the religion by immediate necessity.’ These are (as stated before) the self-evident teachings of the Islamic faith. Anyone who denies them is deemed an apostate.

Imam Mahalli (1459/863) says in defining what is ‘known from the religion by immediate necessity’,

“It is knowledge of which both the elect and commoners share; wherein doubt cannot be produced [about its integral connection to Islam]. Thus, it joins matters of immediate necessity, like the obligation of Salat, fasting [of Ramadan], the prohibition of illicit intercourse, and [the drinking of] wine.”

Taj al-Din Ibn al-Subki (1369/771) says,

“The denier of what has been unanimously agreed upon and known from the religion by immediate necessity is an unbeliever without doubt.”

<sup>42</sup> Al-Juwayni, Abu al-Ma'ali. *Al-Burhan fi al-Usul*. Beirut: Dar al-Kutub al-'Ilmiya, 1418/1998, 2/202-203

The great supercommentator on Ibn al-Subki's, *Jam' al-Jawami'*, Shaykh al-Banani (1791/1206), says while explaining Amidi's and Ibn Hajib's statements that there is disagreement over the unbelief of one who contravenes consensus,

"That is to say: Rather, their intention is that the disagreement they mentioned applies only to what is not known from the religion by immediate necessity in what is unanimously agreed upon. As for what is known from the religion by immediate necessity from what is unanimously agreed upon, there is no disagreement that the one who rejects it becomes an apostate."<sup>43</sup>

Imam al-Bajuri (1860/1277) says about this principle,

"Similar to one who denies a matter known from the religion by immediacy is he who negates a ruling that has been unanimously agreed upon through a binding and decisive consensus (ijma' qat'i). It is what considerable parties (i.e. scholars) have agreed upon to be a consensus; contrary to the implicit consensus, which is probabilistic (zanni), not decisive (qat'i). Apparently the words of the poet (Laqqani) is that whoever negates something agreed upon becomes an unbeliever even if it is not known from the religion by immediacy such as the right of a [granddaughter i.e.] son's daughter to 1/6 [of one's inheritance when she inherits] with one's daughter. But this view is weak even if the poet speaks of it in certain terms. The weightier view is that one who negates something agreed upon does not become an unbeliever unless it is

something known from the religion by immediacy."<sup>44</sup>

Shaykh Nuh b. Salman al-Qudat says,

"Faith is the affirmation of all that God's Messenger, Muhammad ﷺ has brought and has reached us through an unquestionable medium to which doubt does not reach. It is what both Muslim scholars and religiously committed commoners know to be from the Islamic faith. That is like the obligation of Salat, fasting, obligatory alms (Zakat), the impermissibility of illicit intercourse, the drinking of wine, and the obligation of believing in the Afterlife, resurrection after death, Heaven, and Hell. As for those who are not religiously committed, what they have knowledge of is not considerable, because they place no importance on the laws of Islam and are ignorant of many of them. So, when a Muslim denies one of these laws, he has belied the Messenger ﷺ; and to belie the Messenger ﷺ is tantamount to unbelief...Similarly, those who negate the obligation of a matter upon which all the religiously committed Muslims have agreed to be an obligation are guilty of unbelief. As for what only the jurists agree upon to be compulsory, those who deny it do not fall into unbelief, since some things that the jurists agree upon may not be known to all religiously committed Muslims. So, such a matter has not reached the level of indisputable authenticity from the Prophet ﷺ. Also, one who considers a prohibited matter upon which consensus is held among all religiously committed Muslims regarding its prohibition to be lawful becomes guilty of unbelief, since the ruling in such a case is

<sup>43</sup> Al-Banani, Mustafa. *Hashiyat al-'Allama al-Banani 'ala Sharh Matn Jam' al-Jawami'*. Beirut: Dar al-Fikr, 1415/1995, 2/189

<sup>44</sup> Al-Bayjuri, Ibrahim b. Muhammad b. Ahmad. *Tuhfat al-Murid Sharh Jawhara al-Tawhid*. Beirut: Dar al-Kutub al-'Ilmiya, 1422/2001, p. 218-219

transmitted from the Prophet through a decisive medium.”<sup>45</sup>

## Conclusion

The Qur’an expresses that “*Religion with God is [willful] submission*” (Q 3: 19). It also states that “*Whoever seeks other than [willful] submission as religion it will not be accepted from him; and in the afterlife he will be among the losers*” (Q 3: 85). Obvious to most people, “willful submission” in these two verses is a literal translation of the word ‘Islam’ which happens to be the official name of the final dispensation revealed by God to his final prophet and messenger, Muhammad ﷺ. Throughout Islam’s long history efforts have been made by Muslim scholars of various and vying factions to ensure the preservation of the purity of Islam’s most fundamental teachings as has been ensured by God who says, “*Surely, We have revealed the Reminder; and surely We shall guard it*” (Q 15: 9). Elements devoted to maintaining and perpetuating long held sectarian divisions in the Muslim community have always viewed the pure Islamic teachings in the narrowest of terms: “*Each party rejoicing with what is with them*” (Q 30: 52). The oppositionalist spirit that characterized the early years succeeding the Messenger’s demise ﷺ would be canonized and codified in subsequent generations. That oppositionalism would be passed down and represented in formulations of dogmatic catechisms from which aspiring scholars would take direct benefit for their personal spirituality and understanding of God as well as learn matters that reinforce intra-religious and intellectual bigotry that commoners scarcely understood nor found good reason with which to be concerned.<sup>46</sup> These

<sup>45</sup> Al-Qudat, Nuh ‘Ali Salman. *Al-Mukhtasar Al-Mufid fi Sharh Jawhara al-Tawhid*. ‘Amman, Jordan: Dar al-Razi, 1420/1999, 219-220

<sup>46</sup> The true aim of a theology should be to bring the student closer to his/her Lord and to solidify the

were issues like the question of who was the best Companion after the Prophet’s demise, for which reports exist over whose authenticity both Shiites and Sunnis dispute.<sup>47</sup> A more important question

relationship with Him. Traditionally, however, students involved in intensive studies of what can be termed ‘dogma’ or ‘dogmatic theology’ have had to suffer the exposure to historical ideological differences that arose after the demise of the holy prophet ﷺ. This includes discussions of matters like, whether or not the Qur’an is created? Is God’s speech beginningless or invented? Can God be seen in the Afterlife? Who are the best of the Prophet’s companions? Is it an obligation to appoint a head of state? and many other questions not directly related to matters of personal spiritual importance. Such issues are studied, rather, because of the interest of teaching adherents the views that distinguish their party from other parties and factions. Because of much of the confusion caused by such teachings, Imam Abu Hamid al-Ghazzali in his book *Ijlam al-Awamm ‘an ‘ilm al-Kalam*, encourages scholars to direct commoners to the Qur’an to learn their creed; not from the manuals of dogmatic theology. Furthermore, Shaykh al-Munawi says (Fayd al-Qadir: 4/431):

“Ibn ‘Arabi (1240/638) said: Dialectical theology (‘ilm al-kalam) in spite of its nobility is unnecessary for most people. Rather, for one person in a town to learn it is sufficient. But that is not the case with respect to matters of jurisprudence. People need a multitude of scholars of the sacred law. And were a man to die not knowing the nomenclature of the dialectics, like the meaning of the atom (jawhar), the accident (‘arad), the body (jism) and what is of an embodied nature (jismani), the soul (ruh) and what is of a spirited nature (ruhani), Allah will not ask him about any of that. He will only ask people about what was his obligation to do that relate to matters of jurisprudence, practice, and similar things.”

<sup>47</sup> What is intended by this statement is that Shiites reject the authenticity of any hadith that contains a claim that the first three caliphs (Abu Bakr, ‘Umar, and ‘Uthman ؓ) are better or of greater merit than ‘Ali ؓ. This is not to suggest that Sunnis differ about the soundness of these reports. Rather, Sunnis acknowledge that such reports are

was whether or not the reigns of the first three caliphs were religiously sanctioned by God or the Prophet, and whether or not the Imam of the Muslims must be taken to be infallible in his interpretation of the religion. Scholars agree that the contravention of an explicit and decisive consensus (ijma') concerning the self-evident Islamic teaching leads to the negation of one's faith. Some Sunni scholars, though, excommunicate believers from the community for contravening any form of decisive consensus regardless of the area of concern.

This study examined unanimous consensus (ijma') from the Sunni paradigm while searching for a truly objective criterion for discerning authentic and original teachings of faith in the Islamic tradition. We concluded that Sunnis [and other] factions agree that certain self-evident teachings referred to as 'matters known from the religion by immediate necessity' represent the bedrocks of the Islamic faith. These are things such as the five pillars, the tenets of faith, the prohibition of things like wine, the consumption of pork, interest, illicit intercourse which includes fornication, adultery, sodomy and

not indisputably authentic (mutawatir). They consider them to be of reasonable authenticity (sahih ahadi). Due to this, Sunni scholars have differed about who is the best of the community after Abu Bakr and 'Umar. The people of Kufa were of the view that 'Ali is better than 'Uthman. Some of them of later times declared Abu Bakr to be the best of the community with respect to companionship (i.e. the one favored with the greatest portion of the Prophet's time), while declaring 'Ali (660/40) as being the best of them with respect to closeness and kinship. (Al-'Azim, Muhammad b. Sharaf Amir. *'Awn al-Ma'bud 'ala Sunan Abi Dawud*. Amman: Bayt al-Afkar al-Dawliya, p. 2013-2014). It has also been reported that many of the Sahaba, like Salman, Abu Dharr, Jabir, and others considered 'Ali to be the best of the Umma after the Prophet ﷺ. This view was upheld by some Sunni authorities too, like Abu al-Aswad al-Du'ali and Sufyan al-Thawri. (Ibn 'Asakir, *Tarikh Dimashq*; Ibn 'Abd al-Barr, *Isti'ab*; Ibn Hajar, *Isaba*; Ibn Hazm, *Fasl*). This reveals doctrinal confusion even among Sunnis with respect to the status of 'Ali ﷺ.

bestiality. They result from sources that are both indisputably authentic (mutawatir) and unequivocal in wording (sarih). While the various sects and factions of Muslims differ about many of the details of these self-evident teachings, none of them disagree that a Muslim is not a Muslim if he/she does not know or acknowledge these pivotal doctrines. They also agree that the denial of such teachings is an act of heresy and apostasy.<sup>48</sup> Historically, the doctrine of consensus has been utilized quite often as a tool for suppressing dissenting opinion; as many continue to employ it today. While uniformity inspired through guilt may be the unintended residue of the doctrine of consensus, it has served the historical community well, and has aided in preserving a broad—though limited—collectivity. State appropriation of religious doctrine and jurisprudence undoubtedly plays a major role in consolidating the authoritative claims of normative dogmatic and legal trends, though it is not the only factor. Muslims, as well as members of other faiths, need to consider the possibility that God in His infinite wisdom has placed His mercy in the preservation of ideological and philosophical diversity; in non-reified renditions of the faith.<sup>49</sup> This study ventured to

<sup>48</sup> It may appear to some that I am using contradictory logic by claiming that a binding consensus has never occurred and then claiming that all the Muslim factions agree. Some may see this as utilizing consensus as a basis for invalidating claims of consensus. The truth, however, is that this is not an appeal to unanimous consensus to corroborate shared understanding among Muslim scholars. This is an appeal to the very principles identified and expressed by the scholars of the various factions who have transmitted the different views of their predecessors about consensus. In other words, we know they agree on these points, because they have expressed those views in their works that remain accessible to those who study them.

<sup>49</sup> In other words, one should not uncritically surrender to common understandings of "normative", "orthodox", or "majoritarian" with respect to any religion. Without considering the socio-economic and political factors that

loosen the bind that has been created by historical claims of consensus. The aim is to promote a more critical, free, productive, and effective Muslim intelligentsia that finds itself faced with some of the most impressive nihilistic and secular philosophies that the Islamic community has ever confronted. It is also because—as was the case during the Andalusian period—dominant and normative opinions in one or another school are not always the most appropriate views that serve the interests of a local collectivity; especially if that collectivity is represented by a new convert community. The concerns and interests of non-converts often overshadow and eclipse the concerns and interests of converts; such that Islam loses its empowering and universal appeal that makes it fit for all times and climes. In meeting these challenges, it is my belief that Muslims will need at times to break with pre-assumed notions of “traditional”, “majoritarian”, and putative claims of unanimous consensus to effectively meet such challenges. This is not to suggest that one has no right to claim that there is a consensus on a particular topic. What is important to understand is that such claims are only as authoritative as the parameters set by their claimants. And success is only from Allah, Most-Wise and Just.

lead to one interpretation or paradigm gaining public authority over another, one should not blindly surrender to claims of orthodoxy and authenticity. There may, in fact, be teachings of great value in the distinct doctrines of factions like the Zaydis and Ibadis (or unpopular Christian factions, for example) from which other Muslim factions can take benefit. Having the social and material currency necessary to promote one’s views that eventually propel a group to socio-political authoritative status is equally (if not more) important in consolidating the position of a dominant ideology. The current age of political economies, mass culture developments in marketing and distribution, should teach us about the pivotal role that these elements play in the propulsion of one group or another.

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ<sup>i</sup>

علم الأصول هو الحجر الأساس للفقهاء والمتفقه، وهو منهج البحث عند أهل العلم في الاستنباط والاستدلال لكونه عاصماً من التخييط والخطل. وقد اطلعت على ما كتبه أخونا الشيخ عبد الله بن حميد علي وفقه الله في هذه المسألة الأصولية، فرأيتُه سبباً أغوارها ووقف على مداخلها ومخارجها، مما يشهد له بروسوخ القدم وسعة الإطلاع وكمال التملّي من العلوم الأصلية، وفقه الله تعالى لخدمة السنة وأهلها، ونفع به ويعلمه البلاد والعباد

محمد بن يحيى النينوي