

## CHAPTER 4

### What Makes a Hadith Transmitter Reliable? A Discussion from the *Ghāyat al-ma'mūl* of al-Kāzīmī (d. 1065/1655)

Raha Rafii and Belal Abu-Alabbas

#### Introduction\*

The author of this text, Jawād b. Sa'd b. Jawād al-Baghdādī al-Kāzīmī (hereon Kāzīmī), was born in the last decades of the tenth/sixteenth century in the shrine city of al-Kāzimiyya north of Baghdad.<sup>1</sup> He is popularly known as “al-Fāḍil al-Jawād” (the virtuous Jawād). The exact date of his birth remains unknown. Born into a scholarly family, he received early religious training from his father. For further studies, he travelled to the Safavid capital at the time, Isfahan, where he studied under the tutelage of al-Shaykh al-Bahā'ī (d. 1030/1620 or 1031/1621).<sup>2</sup> The biographers introduce Kāzīmī as one of al-Shaykh al-Bahā'ī's most distinguished students.

Kāzīmī was more than a seminarian: he was given administrative responsibilities. He assumed the post of *Shaykh al-islām*<sup>3</sup> of Astarābād (present-day Gorgan) during the reign of Shāh 'Abbās I (d. 1038/1629). It appears likely that he was promoted to this prestigious post due to his close ties with al-Shaykh al-Bahā'ī who himself held the office of *Shaykh al-islām* of Isfahan and other provinces for much of period between 1580 and his death in 1620–21.<sup>4</sup> Kāzīmī, however, did not stay long in Astarābād; he found himself embroiled in a dispute on account of which he was expelled from the town. This expulsion is believed to have been instigated by a local rival scholar and fellow student of al-Shaykh al-Bahā'ī, al-Sayyid Amīr Muḥammad Bāqir al-Astarābādī (d. after 1031/1621, popularly known as Mīr Muḥammad Bāqir Ṭālibān). Kāzīmī reported this incident to Shāh 'Abbās I who not only dismissed his plea but also expelled him from the region. The Shāh, it is reported, had a close relationship with Ṭālibān.

Kāzīmī returned to his hometown where he continued teaching and writing. He completed writing a commentary in 1029/1619 in al-Kāzimiyya from which we can deduce that he probably left Safavid Iran around 1025/1615. The Safavid official of Baghdad Bektāsh Khān Gorjī (d. 1049/1639) was impressed by Kāzīmī's scholarship and maintained a good relationship with him. Kāzīmī resided in his hometown for more than two decades. The political turmoil of Baghdad at the time, combined with his close relationship with Bektāsh Khān, contributed to his decision to return to Safavid Iran just before Sulṭān Murād IV (r. 1032-49/1623-40) recaptured Baghdad for the Ottomans in 1638. Unlike his first visit when he lived in the northern provinces, this time he chose to live in the south. He resided in Ḥuwayza (also spelled Ḥawīza or Hoveyzeh; in the Khuzestan province of present-day Iran) for some time and then moved to Tustar (Shūshtar – Shoostar in European sources). In 1050/1640 he assumed the post of *Shaykh al-islām* of Shūshtar following the death of Shaykh al-Islām 'Abd al-Laṭif al-Jāmi'ī (d. 1050/1640-41). There is no further information on how long his tenure as *Shaykh al-islām* of Shūshtar lasted nor do we know

---

\* The introduction of this chapter is written by Kumail Rajani.

about his other whereabouts. The precise place of his death also remains unknown. Some biographers record that Kāzīmī died in Isfahan, whilst others suggest that he died in al-Kāzimiyya. Notwithstanding this ambiguity, the sources agree that he was buried in al-Kāzimiyya which implies that, if he died in Isfahan, his remains would have been taken there. Similarly, his precise date of death is uncertain; it is estimated, though, that he died in 1065/1655.<sup>5</sup>

Al-Shaykh al-Bahā'ī is reportedly Kāzīmī's only teacher during his stay in Safavid Iran. Nor are there many prominent figures among his very few students recorded in the biographical dictionaries. Among the students were: al-Sayyid Mīr Maḥmūd b. Faṭḥallāh al-Ḥusaynī al-Kāzīmī al-Najafī, al-Shaykh Shāhīn, Muḥammad al-Kāshānī al-Āmilī, his nephew 'Alī b. Muḥammad al-Hādī b. Sa'dallāh and few others.

Kāzīmī's major literary output primarily comprised of commentaries. The twentieth century Twelver bibliophile Shihāb al-Dīn al-Mar'ashī al-Najafī (d. 1990) has credited him with 19 works: 12 *sharḥs* (commentaries), 4 *ta'liqas* (glosses), a *tawḍīḥ* (annotation), a monograph and a treatise.<sup>6</sup> Most of these commentaries (9 in total) are on the books of his teacher, al-Shaykh al-Bahā'ī, in diverse disciplines, including Arabic grammar (e.g. his *Sharḥ Risālat al-ṣamadiyya fi l-naḥw*), astronomy (his *Sharḥ Tashrīḥ al-aflāk*)<sup>7</sup>, arithmetic (his *Sharḥ Khulāṣat al-ḥisāb*), geography (his *Sharḥ Risālat fi nisbat taḍārīs al-arḍ*), riddles and puzzles (his *Sharḥ ba'd al-mu'ammayāt wa-l-ghāz*) and occult sciences (his *Sharḥ Kitāb surkhāb fi 'ilm al-raml*). He composed numerous commentaries on classical works of Twelver law including an incomplete commentary on al-Shahīd al-Awwal's (d. 786/1384) *al-Durūs* (titled *Sharḥ al-Durūs al-shar'īyya fi fiqh al-imāniyya*), a commentary on al-'Allāma al-Ḥillī's (d. 726/1325) *Nahj al-mustarshidīn* (titled *Aḥwāl al-dīn fi sharḥ Nahj al-mustrashidīn fi uṣūl al-dīn*, completed in 1029/1619 in al-Kāzimiyya) and al-'Allāma's *Khulāṣat al-rijāl* (titled *Ta'liqa 'alā Khulāṣat al-rijāl*) and a commentary on al-Muḥaqqiq al-Karākī's (d. 940/1534) *al-Ja'fariyya* (titled *al-Fawā'id al-'aliyya fi sharḥ al-Ja'fariyya*; completed on 2 Rabi' II 1032/3 February 1623 in al-Kāzimiyya). He also transcribed *al-Dhari'a ilā uṣūl al-shari'a* of al-Sharīf al-Murtaḍā (d. 436/1044) on Wednesday 8 Ramaḍān 1025/21 September 1616 which is arguably the best surviving MS of this *uṣūl* work. This MS is housed at Majlis-e Shūrā-ye Islāmī Library in Tehran (#3794).<sup>8</sup> His only monograph and arguably his most important work is an exegesis of the legal verses of the Qur'an titled *Masālik al-afḥām ilā āyāt al-aḥkām* (completed on 3 Muḥarram 1043/10 July 1633).<sup>9</sup>

The text presented in this chapter is yet another commentary on his teacher's popular *uṣūl* work, *Zubdat al-uṣūl*. In his study of al-Māzandarānī's commentary on the *Zubda*, Gleave (see Chapter 1 of the current volume) outlines the nature and style of postclassical Twelver works of *uṣūl*, particularly that of the *Zubda*. Besides al-Shaykh al-Bahā'ī's own marginal notes that he appended after completing his book, *Zubda* has attracted 28 commentaries (*shurūḥ*), 8 glosses (*ḥawāshī*) and 3 poetic re-presentations (*manzūmāt*).<sup>10</sup> It is on the request of his teacher and while he was alive, it is reported, that Kāzīmī wrote his commentary on the *Zubda* titled *Ghāyat al-ma'mūl fi sharḥ Zubdat al-uṣūl*.<sup>11</sup> Based on this account, it is more likely that the *Ghāyat al-ma'mūl* should have been composed in Dhū l-Ḥijja 1027/November-December 1618 and not Rabi' II 1042/October-November 1632.

Unlike al-Māzandarānī's commentary (described in Chapter 1), Kāzīmī's commentary is not blended (*mazjī*), rather he picks passages from the *Zubda* and comments upon them phrase by phrase. He elucidates the obscure passages of the base text, elaborates its arguments and compares and contrasts the opinions of his teachers with his predecessors (al-Shaykh al-Ṭūsī d. 460/1067, al-Muḥaqqiq al-Ḥillī d. 676/1277, and al-'Allāma al-Ḥillī d. 726/1325). In the pro-

cess, he does not shy away from criticising his teacher's views. On one occasion, for instance, he writes, "it is evident from the evidence presented earlier that the author's [i.e. al-Shaykh al-Bahā'ī's] opinion is far from being correct" (*wa-l ḥaqq inna qawl al-muṣannif hunā ba'īd ba'd mulāḥaẓat mā aslafnāhu*). In another instance, Kāzimī states, "the opinion of the teacher, the author, that it is *a fortiori* argument is doubtful" (*wa-qawl al-ustādh al-muṣannif annahu qiyās al-awlawiyya ghayr zāhir*). This critical approach, adopted by Kāzimī, has put his commentary on a par with his teacher's base text (*al-sharḥ ka-l-aṣl mashhūrān*).<sup>12</sup>

The edition of the selected passages and its English commentary presented in this chapter is the result of three teams of researchers: Raha Rafii and Dale Correa produced the first draft from a manuscript housed at Houghton Library of Harvard University (*Kitāb Ghāyat al-ma'mūl fī sharḥ Zubdat al-uṣūl* MS #1651, MS Arab 231, 112v-116v – indicated as H); Robert Gleave and I then consulted two other manuscripts from Majlis-e Shūrā-ye Islāmī Library (#14062 [pp. 186–192] and #8081 [fols. 75r-78v] – indicated as M1 and M2 respectively) and collated with H after recording their variants in the footnotes. We found that M1 contains several marginal notes from other commentaries of the *Zubda* – the most notable was that of another student of al-Shaykh al-Bahā'ī, Muḥammad b. Maḥmūd b. 'Alī al-Ṭabasī (d. after 1083/1672); Raha Rafii and Belal Abu-Alabbas then composed the English commentary and revised the Arabic draft of the text.

The popularity of the *Ghāyat al-ma'mūl* can be gauged by the exceptionally large number of manuscripts in which it survives. Dirāyatī has enumerated upto 130 MSs.<sup>13</sup> Sāzmān-e Asnād wa-Ketābkhāneh-ye Milli-ye Jumhuri-ye Islāmī holds eleven of these MSs (#5–2137/3, #5–1549, #5–1622, #5–20714, #5–26089, #5–2626, #5–22890, #5–1548, #5–2196, #5–3600, #5–367). Other MSs are also found in Tehran (Majlis-e Shūrā-ye Islāmī Library), Qum (Ketābkhāneh-ye Āstāneh-ye Muqaddas-e Ḥaḍrat-e Fāṭimeh-ye Ma'sūmeh; Ketābkhāneh-ye Mar'ashī; Ketābkhāneh-ye Markaz-e Iḥyā'-ye Mirāth-i Islāmī; Mu'assasa-ye Imām Šādiq etc.), Isfahan (Ketābkhāneh-ye Ketābkhānehhā-ye Iṣfahān), Mashhad (Ketābkhāneh-ye Madraseh-ye Nawwāb) among few other libraries and private collections.

The selected text deals with the topic of solitary reports (*al-akhbār al-āḥād*) and their role as legal sources; this topic is conventionally studied in the chapters of "probativity of solitary reports" (*hujjiyyat al-akhbār al-āḥād*) and "methods of resolving contradictory and conflicting reports" (*ta'ādul and tarjih*). The first section [a] of the edited passages concerns the conditions that are required for the reports of solitary transmitters in order to be considered legally binding proofs. Al-Shaykh al-Bahā'ī enumerates five such conditions: adulthood (*bulūgh*), sanity ('*aql*), uprightness ('*adl*), accuracy (*ḍabt*) and belief (*īmān*). Kāzimī delves deeper into each of these conditions by rearranging his teacher's order. He examines the condition of uprightness ('*adl*) in greater depth. The question which he attempts to address here is whether Sunnis, or for that matter non-Twelve Shi'is (such as the Faṭhiyya, the Nāwūsiyya, the Wāqifiyya) are sufficiently upright for their reports to be considered legally binding for Twelvers. The second section [b] examines the methods of appraising the transmitters and whether the testimony of a single upright Twelver scholar is a sufficient basis on which judgment could be passed on the trustworthiness, or otherwise, of a transmitter? In this section, Kāzimī deliberates on the instances in which scholars of 'ilm *al-rijāl* have contradictory opinions vis-à-vis certain transmitters and offers methodological solutions to resolve such contradictions.<sup>14</sup>



وعدائهم وضبطهم واعيانهم والحمد الكافي الشيخ عن الايمان بالعدالة بحيث يجعل لنا بنية تجبر ابن بكر وسماحة وبني فضال اضرابهم  
 وليس في اية المذنب حجة عليه لغير صدق الفاسق على الخطي في بعض الاصول بعد بدو الحجج ووجهه ونقض الاصل مع توثيقه والاعيان  
 الموثوق به لا يثبتون الايمان من اصحابنا اذ اماننا في بعض المحققين في توثيق بيان بن عثمان مع توثيق الاصل كما قالوا ثبت في بعضهم  
 الشيخ صلا بشرائه واما الضميمة في اية بنية الكفر في السهو وقد نقلنا العدالة من شرطه فيها فيقولوا ما المراد بنية ووجهه منقح ما في نقله صاحبها  
 فضلا عن التبره فيضبطوا وغيره ايضا بطور

ذكر السيد في جواب السائل التباينات حيث قال ان الكفر جازا انا الرواية وكيننا  
 عن المتنا عليهم العلم معطو عنده على حجةها ابا النوار ا واما مارة وعلامة ذلك على صحتها  
 وصدق راوينا فهي موجبة معضلة للمقطع وان كانت مودعة في الكتب مستحضر من  
 الاحادك التي كلامه وفي الكلام في اتمام القدنا بالجمت عن احوال الاحكامه جازان  
 يكون طلبا لتكثير الفران وتسهيل السبيل العلم بصحة الخبر وانه علم **ما الله فضل**  
 للعمل بجز الاحاد بل هو فيهم وعلمهم **ما هو** معد ما ثبت من وقوع الغيبة بخبر الواحد لا يورث  
 بيان الشروط المعيرة وفيه من رتبة الاول التكليف فلا يقبل روايته الموثوق به الا الصواب  
 كان منزه واحكم في المحذور المطبق والصبي غير الميزان وربما نقل الاجماع عليه ما الخرف عنه  
 المطبق ولو المودوك فلا مانع من قبول روايته حال الا فاقه وربما حال بعضهم ان **ما هو**  
 في من افاقته لم يقبل والا قبل وهو حسن واما الميرنا المعروف من مراتب الاحصاء  
 عدم قبول روايته وموتها ردهم والعامه ومعظم على القبول قياسا على حرز الا قدرا **ضعف**  
 فلا ينع الاصل ولا ايراد الفرق ثانيا فان القدوة على خبرهم لا يشترط فيها شي والتحقق  
 ان عدم قبول روايته الفاسق معصفي عدم قبول قوله بطرا واول فان الفاسق **الكلمة**  
 حشمة من الصدق ربما ينع عن الاقدام على الكذب ولذا كذا في العلم بالحق اما الكلف  
 عنه فلا مانع له من الاقدام على الكذب ولا كلفه اذا سمع وروي قبل المخرج اما المخرج **فعله**  
 وروي بعد ذلك ولا مانع منه لوجود المنقضي وهو اجاز العذر وعدم صلاحه مانعة عما  
 يفرضه ايضا الثاني الايمان بمعنى كونه اما عينا او اشراطه هو المشهور من الاحصاء **وجنتهم**  
 فاسق فلا يجوز العمل بغيره بقوله في ان جازك فاسق الابه وحكي المحسن عن الشيخ انه اجاز العمل  
 بحر العظمة من ضارهم بشرط ان لا يكون تنها بالكذب وسنكح عليه الله انما العلة  
 وهي كونه في النفس سقطت على ملازمة المتقون والمردة ويراد بالنعون الاحصاء **على كتاب**  
 والا حرا على الصغار وبالرؤية الخلق محقق اقبال في زمانه ومكانه واشراط العدالة

عدالة الكفر الموثوق به  
 كوارها مع التوثيق الاربعة الموثوق

المشهور

Figure 4.2 MS Houghton Library – Harvard University, Cambridge, US (#1651, MS Arab 231), fol. 112b

## زبدة الأصول

الشيخ بهاء الدين محمد بن الحسين بن عبد الصمد الحارثي الهمداني العاملي الجبعي م 31-1030هـ

## [a] فصل

يشتد في العمل بخبر الآحاد: بلوغهم [a.1]، وعقلهم [a.1]، وعدالتهم [a.3]، وضبطهم [a.4]، وإيمانهم [a.2]. واكتفى الشيخ عن الإيمان بالعدالة، محتجا بعمل الطائفة بخبر ابن بكير، وسماعة، وبنو فضال، وأضرابهم. وليس في آية التثبيت حجة عليه لمنع صدق الفاسق على المخطئ في بعض الأصول بعد بذل مجهوده، ونص الأصحاب على توثيقه. ولو جامع التوثيق التفسير لارتفع الوثوق بعدالة أكثر الموثقين من أصحابنا. وأما ما ينقل عن بعض المحققين من تفسير أبا بن عثمان مع توثيق الأصحاب له فلو ثبت لم ينهض حجة على الشيخ طاب ثراه. وأما الضبط فيراد به غلبة الذكر على السهو. و[قد] ظن إغناء العدالة عن شرطه لمنعها عن نقل ما لم يضبطه. ورد بعدم منعها عن نقله ساهيا [فضلا] عن أنه غير مضبوط أو غير ضابط .

## [b] فصل

[b.1] تزكية العدل الواحد الإمامي كافية في الرواية، وفاقا للشيخ، والعلامة، وسائر المتأخرين وخلافا للمحقق وأتباعه وإلا زاد الاحتياط في الفرع على الأصل، ولدلالة آية التثبيت على عموم قبول خبر الواحد إلا ما خرج بدليل كالشهادة قالوا: كل خبر شهادة فلا يكفي الواحد. قلنا: ممنوع، بل أكثرها غيرها كالرواية، ونقل الإجماع، وتفسير المترجم، وإخبار الطبيب بإضرار الصوم، والأجير بإيقاع الحج إلى غير ذلك. وقد بسطنا الكلام فيه في مشرق الشمسين<sup>1</sup> [b.2] وإذا تعارض الجرح والمعدل ولم ينحصر نفيه ربح الجرح ومعه الأكثر الأورع. والقول بالإطلاق متجه.

<sup>1</sup> مشرق الشمسين صص 43-45

## Commentary

[a]

The [following] conditions must be fulfilled [in order for] the reports of solitary transmitters [to be considered binding proof]: [that the transmitter be] adult, sane, upright, accurate, and a believer. Al-Shaykh [al-Ṭūsi] dispensed with ‘belief’ (*imān*) as a condition [since for him] ‘uprightness’ (*‘adāla*) was sufficient on the basis of the community’s [i.e. Twelver jurists’ precedent of] acceptance of the reports of Ibn Bukayr,<sup>15</sup> Samā’a [b. Mihrān],<sup>16</sup> the Banū Faḍḍāl,<sup>17</sup> and others like them. However, there is no evidence in the “Reliability Verse”<sup>18</sup> supporting [al-Shaykh al-Ṭūsi’s position], because it is not necessarily true that the term *fāsiq* [i.e. non-Twelver] applies to one who errs in certain beliefs (*uṣūl*) after having exerted himself to understand them and whom the community [of Twelvers] had already deemed trustworthy. If a transmitter could be deemed trustworthy and be discredited at the same time, then confidence in the uprightness of most of the community’s trustworthy transmitters could be in question. As for the discrediting of Abān b. ‘Uthmān<sup>19</sup> by some scholars, despite his trustworthiness being asserted by [most scholars] of the Twelver community: even if that [i.e. the discrediting of Abān b. ‘Uthmān] is proven, it would not constitute a proof against al-Shaykh [al-Ṭūsi], may he rest in peace. As for ‘accuracy,’ (*dabt*) it means the preponderance of remembering over forgetting. Some have assumed ‘uprightness’ (*‘adāla*) to be sufficient [enough to the extent of dispensing with ‘accuracy’], because ‘uprightness’ should prevent the transmitter from narrating what he did not accurately memorise. This is rejected because uprightness [alone] does not prevent him from transmitting while being unaware that he was inaccurate or that [the report] he transmitted was not accurate in the first place.

[b]

[b.1]

The testimony of a single, upright Imāmī (i.e. Twelver) is sufficient for the transmission [of a solitary transmitter] to be accepted in accordance with [the opinion of] al-Shaykh [al-Ṭūsi], al-‘Allāma [al-Ḥilli], and most later scholars, but is in contrast to al-Muḥaqqiq [al-Ḥilli] and his adherents. Otherwise, precaution taken in regard to the ancillary matter (*far‘*, i.e. *‘adāla*) would exceed precaution taken in regard to the main matter (*aṣl*, i.e. the reliability of the *riwāya*). Also, the “Reliability Verse” provides a general proof (*dalāla*) for accepting any solitary report [as binding] except testimony, which is exempted by another proof [requiring a minimum of two witnesses]. They (our opponents) say: Every report is testimony, so a solitary transmitter does not suffice. We say: This [statement] is not accepted; most [solitary reports] are not [testimony], such as narration, transmission of scholarly consensus (*ijmā‘*), the explanation of a translator, the physician informing [a patient] of the harm of fasting, the person performing the pilgrimage on someone else’s behalf informing them of its fulfillment (*al-ajr bi-īqā‘ al-ḥajj*), etc. We have clarified this discussion in *Mashriq al-shamsayn*.<sup>20</sup>

[b.2]

If appraisals by critics are contradictory [with one group ascertaining the transmitter’s uprightness (*mu‘addil*) and one group discrediting him (*jāriḥ*)], and the statement of the *mu‘addil* does not specifically address the criticism of the *jāriḥ*, then preference is given to the [appraisal of the] *jāriḥ*. [Preference may also be given to whichever of these two groups is] the more numerous and scrupulous. It is reasonable to consider this a general rule.

In what follows, **bold text** is the base text, the *Zubdat al-uṣūl* of al-Shaykh al-Bahā'ī; the remainder is al-Kāzimi's commentary. Section markers in **bold** lower-case letters and numerals ([a], [b], [b.1] etc.) refer to passages in the *Zubdat al-uṣūl* (as per above).

غاية المأمول في شرح زبدة الأصول  
جواد بن سعد بن جواد الكاظمي م 1065هـ

[a] فصل يشترط للعمل بخبر الآحاد بلوغهم، وعقلهم الخ

بعدهما ثبت من وقوع التعبد بخبر الواحد لا بد من بيان الشروط المعتبرة فيه، وهي أربعة:

[a.1] الأول: التكليف، فلا تقبل رواية المجنون ولا الصبي وإن كان مميزاً، والحكم في المجنون المطبق والصبي غير المميز ظاهر. وربما نقل الإجماع عليه، أما المجنون غير المطبق وهو الدوري فلا مانع من قبول روايته حال الإفاقة، وربما قال بعضهم إن أثر جنونه في زمن إفاقته لم يقبل وإلا قبل<sup>2</sup> وهو حسن، وأما المميز المعروف من مذهب الأصحاب عدم قبول روايته وهو مختار جمهور العامة، وبعضهم على القبول قياساً على جواز الاقتداء به وضعفه ظاهر<sup>3</sup> لمنع الأصل أولاً، وإبداء الفرق ثانياً، فإن القدوة على مذهبهم لا يشترط فيها شيء. والتحقيق إن عدم قبول رواية الفاسق تقتضى<sup>4</sup> عدم قبول قوله بطريق أولى فإنّ للفاسق من حيث التكليف<sup>5</sup> خشية من الله تعالى ربما تمنعه من الإقدام على الكذب، ولا كذلك الصبي لعلمه بانتفاء التكليف عنه فلا مانع له من الإقدام على الكذب. هذا كله إذا سمع وروى<sup>6</sup> قبل البلوغ أما لو سمع قبله وروى بعده فلا مانع منه لوجود المقتضى وهو أخبار العدل وعدم صلاحية مانعية ما<sup>7</sup> يفرض مانعاً.

2 missing and إلا قبل in M2.

3 وضعفه ظاهر missing in M2. The MS is distorted in this instance.

4 M2: يقتضى

5 M2: instead of فإنّ للفاسق من حيث التكليف

6 M2: فروى

7 missing in M2.

### Commentary

Kāzīmī's commentary delves into the minutiae of al-Shaykh al-Bahā'ī's text on appraising solitary reports (*khābar al-āḥād*). He does so by refining legal definitions and exhaustively examining which juristic positions are logically consistent, and therefore correct in his view, through complex examples with multiple variables. Kāzīmī appeals to various forms of reasoning to make his arguments as well as discredit those he does not agree with, utilising neo-Aristotelian logic and Islamic philosophical conceptualisations that he does not explicitly outline; this approach makes his jurisprudential writing challenging to follow and decipher. Through this process, Kāzīmī explicitly puts not only al-Shaykh al-Bahā'ī's views under the microscope, but also those of the major "classical" jurists al-Shaykh al-Ṭūsī, al-Muḥaqqiq al-Ḥillī, and al-ʿAllāma al-Ḥillī, as well as later juristic positions and methods that were generally accepted in his time. His main aim is thus to gather all relevant Twelver juristic positions on the matter in order to derive a consistent and rationally sound approach to appraising solitary, non-Twelver transmitters and the question of the acceptance of their reports.

[a.1] al-Shaykh al-Bahā'ī's section begins with the necessary conditions for a solitary transmitter to have his report accepted by Twelver jurists. After first asserting that the acceptability of the use of solitary reports is already well established, Kāzīmī proceeds to analyse the five conditions laid down by al-Shaykh al-Bahā'ī. He combines adulthood (*bulūgh*) and sanity (*ʿaql*) under the category of *taklif*, the capacity to be held accountable, in contrast to the examples he gives of the young boy who is unable to exercise discretion (*al-ṣabiyy ghayr al-mumayyiz*) and the completely "insane" person (*al-majnūn al-muṭbiq*). However, whereas those examples clearly demonstrate lack of *taklif*, Kāzīmī wishes to examine the more complex cases of the transmission of the precocious young boy (*al-ṣabiyy al-mumayyiz*) and the insane person who experiences intermittent moments of clarity (*al-majnūn ghayr al-muṭbiq wa-huwa al-dawrī*), especially since Kāzīmī acknowledges the difference of juristic opinions regarding accepting their transmitted reports. Kāzīmī first breaks down the discussion regarding *al-majnūn ghayr al-muṭbiq* on the basis of whether the insane person's moments of clarity are clouded by his condition, although Kāzīmī does not explain how such interference would be determined. If the person's insanity interferes with his moments of clarity, then his transmission during his moments of clarity is rejected. Conversely, if it does not, then his transmission is accepted.

As for the precocious boy, Kāzīmī notes that Twelver jurists and the majority of Sunni scholars (*al-ʿamma*) do not accept his transmission. However, Kāzīmī dismisses the acceptance of a precocious boy's transmission by some Sunni scholars on the basis of analogy (*qiyās*) of permitting a young boy to lead prayer (*iqtidāʾ*). Kāzīmī considers this argument weak for two reasons: because the permission for a boy to lead prayer is not a basic premise (*aṣl*) that everyone agrees on, and because prayer itself is a different category than transmission. Instead, Kāzīmī argues that acceptance of a precocious boy's transmission must be seen as comparable to that of a *fāsiq*, which he uses here to refer to an immoral adult. His rationale is that a boy is more prone to lying than a *fāsiq* because a *fāsiq* is at least accountable both in this world and in the afterlife by virtue of being an adult. However, the precocious young boy, knowing he cannot be held accountable because of his age, is not similarly restricted, and thus, Kāzīmī argues, there is nothing to prevent him from lying in his narration. Thus, if the *fāsiq* is liable to lying in his narration, all the more so the precocious boy, so the rejection of the *fāsiq*'s transmission must mean the rejection of precocious boy's transmission, which Kāzīmī asserts as the correct opinion. While this position would clearly apply to the case of a precocious boy who heard a narration and transmitted it

[a.2] الثاني:<sup>8</sup> الإيمان، بمعنى كونه إماميا. واشترطه هو المشهور بين الأصحاب، وحتهم إن غير الإمامي فاسق<sup>9</sup> فلا يجوز العمل بخبره لقوله تعالى: ﴿إِنْ جَاءَكُمْ فَاسِقٌ﴾<sup>10</sup> - الآية-. وحكى المحقق عن الشيخ أنه أجاز العمل بخبر الفطحية ومن ضارعه<sup>11</sup> بشرط أن لا يكون متهما<sup>12</sup> بالكذب، وستكلم عليه إن شاء الله تعالى.

[a.3] الثالث: العدالة، وهي كيفية في النفس تبعث على ملازمة التقوى والمروءة. ويراد بالتقوى الاجتناب عن الكجائر والإصرار<sup>13</sup> على الصغائر، وبالمروءة التخلُّق بخلق أمثاله في زمانه ومكانه. واشترط العدالة هو المشهور بين الأصحاب، ومنه يلزم عدم قبول خبر<sup>14</sup> مجهول الحال. وظاهر جماعة من المتأخرين الميل إلى العمل بخبر مجهول الحال وهو اختيار جماعة من العامة. وقد نقل المحقق في أصوله عن الشيخ رحمه الله أنه قال يكفي كون<sup>15</sup> الراوي ثقة متحرزا عن الكذب في الرواية وإن كان فاسقا بجوارحه، وادعى عمل الطائفة على أخبار جماعة هذه صفتهم. وأتكر المحقق هذه الدعوى مطالبا بدليلها، ولو سلَّناها لاقتصرنا على المواضع التي عملت الأصحاب<sup>16</sup> فيها بأخبار خاصة ولم يجز التعدي في العمل إلى غيرها. ثم قال: «و<sup>17</sup>دعوى التحرز عن الكذب مع ظهور الفسق مستبعد»<sup>18</sup> هذا كلامه وهو قوي.

وقد يستدل على اشتراط العدالة بالأمر بالتثبت عند خبر الفاسق ولا واسطة في الواقع بين وصفي العدالة والفسق، ومجهول الحال إنما توسط<sup>19</sup> بين من علم فسقه أو عدالته. ولا ريب أن تقدم العلم بالوصف غير داخل<sup>20</sup> في حقيقة الوصف. وإذا كان وجوب التثبت في الآية معلقا بنفس الوصف لا بما<sup>21</sup> تقدم العلم به كان مقتضاها إرادة البحث والفحص عن حصوله وعدمه. و<sup>22</sup>نظير ذلك إذا قال القائل: اعط كل بالغ رشيد من هذه الجماعة مثلا درهم، فإنه يقتضي إرادة السؤال والفحص عن اجتماع هذين الوصفين لا الاقتضاء على من سبق العلم باجتماعهما فيه. ويؤيد ذلك تضمن الآية التعليل بقوله: «أَنْ تُصِيبُوا قَوْمًا بِجَهَالَةٍ فَتُصِحِّحُوا عَلَيَّ مَا فَعَلْتُمْ نَادِمِينَ»<sup>23</sup>. ومن البين أن الوقوع في الندم بظهور عدم صدق الخبر يحصل من قبول إخبار من له صفة الفسق في الواقع حيث لا حجر معها عن الكذب، ولا مدخلية لسبق العلم بحصولها في ذلك، على أن لنا أن نقول هذا التعليل يقتضي أن كلما لم يؤمن معه الندم لا يقبل قوله، خرج المؤمن<sup>24</sup> العدل بالإجماع فيبقى الباقي على المنع، ومنه محل النزاع.<sup>25</sup> وجواب الشيخ يعلم مما ذكره المحقق.

بقي الكلام في اكتفاء العدالة عن الإيمان كما اختاره الشيخ محتجا بعمل العصابة المحقة بخبر عبد الله بن بكير

8 In marginal note of M.

9 H and M2: إنه فاسق

10 Qur'an 49:6.

11 missing in M2. ومن ضارعه

12 missing in M2. متهما

13 In the marginal note of M: عدم الإصرار

14 Missing in H and in the marginal note of M.

15 Missing in H and in the marginal note of M.

16 Missing in M and H.

17 Missing in M2.

18 معارج الأصول ص 216

19 M2: هو وسط

20 In the marginal note of M: ما لو كان داخلا لما صدق الفسق إلا على من علم فسقه، ولا صدق العدل إلا على من علم عدالته وليس كذلك.

21 missing in M2. ما

22 Missing in M2 and H.

23 Qur'an 49:6.

24 M2: المؤمنون

25 In M الحال: at the end of the page.

before reaching the age of maturity, Kāzimī presents another case that leads to a different conclusion: hearing a narration before reaching maturity and then transmitting it after adulthood. In this case, such transmission is acceptable, because then the transmitter, upon reaching adulthood, becomes subject to accountability for what he transmits, and his transmissions are thus considered the reports of an upright person (*akhbār al-'adl*).

[a.2] Kāzimī then proceeds to discuss al-Shaykh al-Bahā'ī's condition that the transmitter must have "belief" (*īmān*) in order for his solitary report to be accepted. Kāzimī defines "belief," in accordance with most Twelver jurists, as meaning the transmitter must be Twelver. He cites the "Reliability Verse",<sup>21</sup> as proof of the necessity of verifying the report of a *fāsiq*, which Kāzimī here specifies to mean anyone who is a non-Twelver, that is, is incorrect in his beliefs rather than immoral in his actions. Kāzimī mentions that al-Muḥaqqiq al-Ḥilli reported that al-Shaykh al-Ṭūsī permitted acceptance of the reports of the Faḥiyya<sup>22</sup> and others like them as long as they had not been accused of lying. Kāzimī, who rejects al-Shaykh al-Ṭūsī's argumentation regarding this point, discusses it in more detail in the following section.

[a.3] The subsequent stipulation that Kāzimī expounds on is uprightness (*'adāla*), which he defines as the state in which a person expresses God-fearing and virtue (*al-taqwā wa-l-muruwwa*). He defines a "God-fearing" person as someone who completely avoids major sins (*al-kabā'ir*) and does not repeatedly engage in minor sins (*al-ṣaghā'ir*). He defines "virtue" as adhering to the standards of morality among the transmitter's peers and the people of his region. Kāzimī asserts that the condition of uprightness is standard among the Twelver jurists, which would entail the exclusion of reports by transmitters whose moral status is unknown. However, he notes that it is clear that some of the later Twelver scholars tend to accept solitary reports that are transmitted by a transmitter of undetermined reliability (*majhūl al-ḥāl*), which, he believes, is also the preference of some Sunni scholars (*al-'amma*). By way of example, Kāzimī references al-Muḥaqqiq al-Ḥilli in his book on *uṣūl* (referring to *Ma'ārij al-uṣūl*) to point to al-Shaykh al-Ṭūsī as one of the major Twelver scholars who accept reports by *majhūl al-ḥāl*.<sup>23</sup> According to al-Muḥaqqiq al-Ḥilli, al-Shaykh al-Ṭūsī states that a narrator is accepted as trustworthy if he is not known to lie about narration, even if he is considered an immoral person in other parts of his life; al-Muḥaqqiq al-Ḥilli understands this statement as applying to the issue of *majhūl al-ḥāl* since a transmitter of undetermined reliability could possibly be an immoral person. Whereas al-Shaykh al-Ṭūsī claimed that the Twelver jurists (*al-tā'ifa*) had accepted reports by transmitters in this category, al-Muḥaqqiq al-Ḥilli himself rejected this claim, and thus the acceptance of the reports of a *majhūl al-ḥāl*, on the basis of the weakness of its reasoning; he states that the idea that a transmitter who is known to be immoral would also refrain from lying is unlikely. He further underscores his point by stating that even if this type of transmission were acceptable, it would only be permitted for this specific instance, i.e. only when the majority of Twelver jurists acted on the basis of a specific report; it should thus not be generalised as a principle applying to all reports falling under the same category. Kāzimī agrees with al-Muḥaqqiq al-Ḥilli's position of the unreliability of the immoral person.

Kāzimī elaborates on al-Shaykh al-Bahā'ī's inclusion of the "Reliability Verse" as the basis for uprightness being a condition of a transmitter's trustworthiness, understanding the second half of the verse to mean one must seek to verify the report or statement of one who is *fāsiq*, lest one cause harm to the community out of ignorance and become regretful due to wrongdoing. Kāzimī goes further to assert that there can be no middle ground between immorality and uprightness. A transmitter's status cannot be both; he must be immoral or upright, and so cannot be upright

مع كونه فطحي المذهب، وبخبر سماعة بن مهران وبني<sup>26</sup> فضال مع كونهم من أكبر الفطحية وأضرابهم<sup>27</sup> من نحو علي ابن أبي حمزة البطائني وعثمان بن عيسى الرواسي. قال في العدة: «وأما العدالة المراعاة في ترجيح أحد الخبرين على الآخر، فهو أن يكون الراوي معتقداً للحق، مستبصراً، ثقة في دينه، محترزاً عن الكذب، غير متهم فيما يرويه. فأما إذا كان مخالفاً في الاعتقاد لأصل<sup>29</sup> المذهب وروى مع ذلك عن الأئمة عليهم السلام نظر فيما يرويه، فإن كان هناك<sup>30</sup> بالطريق الموثوق بها ما يخالفه وجب أطراح خبره، وإن لم يكن هناك ما يوجب أطراح خبره ويكون هناك ما يوافق وجب العمل به، وإن لم يكن من الفرقة المحقة خبر يوافق ذلك ولا يخالفه ولا يعرف لهم قول فيه وجب أيضاً العمل به»<sup>31</sup>. وقال - بعد أسطر -: «إذا<sup>32</sup> كان الراوي من فرق الشيعة مثل الفطحية، والناووسية، والواقفية، أو من العامة نظر فيما يرويه فإن كان هناك قرينة تعضده أو خبر آخر من جهة الموثقين وجب أطراح ما اختصوا بروايته والعمل بما رواه الثقة<sup>33</sup>، وإن كان ما روه<sup>34</sup> ليس هناك ما يخالفه ولا يعرف من الطائفة العمل بخلافه وجب أيضاً العمل<sup>35</sup> به إذا كان متحرجاً<sup>36</sup> في روايته موثقاً<sup>37</sup> به<sup>38</sup> في أمانته وإن كان مخطئاً في أصل الاعتقاد. ولأجل<sup>39</sup> ما قلناه<sup>40</sup> عملت الطائفة بأخبار الفطحية مثل عبد الله بن بكير وغيره، وأخبار الواقفية مثل سماعة بن مهران، وعلي بن أبي حمزة، وعثمان بن عيسى، ومن بعد هؤلاء ما رواه بنو فضال، والطاطريون،<sup>43</sup> وغيرهم فيما لم يكن عندهم فيه خلاف»<sup>44</sup>. هذا كلامه وهو ناطق بأن المخالف في المذهب قد يعمل بقوله وأجاب عنه المحقق بـ «أنا لم نعلم إلى الآن أن الطائفة عملت بأخبار هؤلاء»<sup>45</sup>. وقد يجاب عنه أيضاً: بأن غير المؤمن<sup>46</sup> فاسق. فإن من<sup>47</sup> كلام أهل اللغة أن الفسق هو الخروج عن طاعة الله تعالى،<sup>48</sup> وهو عام في الفروع والأصول. وقد بينا سابقاً أن الفسق من موانع القبول، وإلى هذا نظر العلامة في تفسيره أبان بن عثمان الأحمر على ما نقله عنه<sup>49</sup> نضر المحققين في حواشي الخلاصة حيث قال: «سألت والدي عن أبان بن عثمان الأحمر فقال: الأقرب عدم قبول روايته لقوله تعالى: ﴿إِنْ جَاءَكَ كُرْ فَاسِقٌ بَنِيًّا فَتَبَيَّنُوا﴾<sup>51</sup> وأي فسق أعظم من عدم الإيمان»<sup>52</sup>

26 M2: وأولاد

27 M2: الفطحية وأضرابهم instead of من أخبارهم من نحو: وكذا أضرابهم H:

28 H: missing in M2 and also الطائي instead of البطائني

29 M: لأهل

30 Missing in M2.

31 عدة الأصول صص 148-149.

In marginal note of M: «لما روى عن الصادق ع: «إذا نزلت بكم حادثة لا تجدون حكماً فيما روى عنا فانظروا إلى ما روهوا عن علي فاعملوا به» طلسي

32 M2: إن H: وإذا

33 M2: الفقيه

34 H: رواه

35 H: ولا يعرف من الطائفة العمل بخلافه وجب العمل به ولا يعرف من instead of بخلافه وجب العمل أيضاً به الطائفة العمل بخلافه وجب أيضاً العمل

36 متحرجاً M2:

37 موثقاً M2:

38 Missing in M.

39 M: والأصل M2: ولأصل

40 M2: قلنا

41 Missing in M2.

42 Missing in M2.

43 M2: والمطاطرون

44 عدة الأصول صص 149-151

45 M2: 215 معارج الأصول ص. «أخبار غير هؤلاء»

46 المؤمن من فاسق M2:

47 M2: فإن الظاهر في

48 Missing in M2 and H.

49 Missing in M2.

50 In the marginal notes of M.

51 Qur'an 49:6.

52 خلاصة الأقوال ص 74

in some aspects and not in others. It is a matter of knowing or not knowing one's status. If one does not know a transmitter's status, the "Reliability Verse" compels him to investigate and examine the transmitter's characteristics until his status can be determined. Kāzīmī then gives the example of a command to someone to give a dirham to every upright male in a particularly group who had reached maturity; Kāzīmī then rhetorically asks, "Wouldn't the person responsible have to check which males currently met these two conditions in order to properly carry out this command, instead of relying on what he or others knew of them previously?" In this way he demonstrates that the issue at stake is that a person's status may have changed from child to adult since the last time someone checked their status. Kāzīmī argues that it is clear from the verse that regret occurs when one accepts a report from a narrator known to be *fāsiq* because *fiṣq* does not deter one from lying, and prior knowledge of *fiṣq* is not the main issue but the likelihood of regret that would occur after accepting the report of a *fāsiq*. According to scholarly consensus, the only type of transmitter who is exempt from this type of examination is the upright transmitter who is also a believer (i.e. Twelver); therefore those who do not fall in this category are not considered upright.

For Kāzīmī, the remaining discussion on this section concerns the issue of stipulation of uprightness for a transmitter without the concomitant stipulation of "correct belief," a point that al-Shaykh al-Bahā'ī mentioned as al-Shaykh al-Ṭūsī's position, with which al-Shaykh al-Bahā'ī and Kāzīmī both disagree. al-Shaykh al-Ṭūsī based his claim on the accepted practice of the Twelver jurists (*al-ʿiṣāba al-muḥiqqa*) regarding the reports of non-Twelver Shi'is such as the Fathiyya, Nāwūsiyya,<sup>24</sup> Wāqifiyya,<sup>25</sup> or the Sunnis. That accepted practice meant that if there was additional corroborating information, or another verified report, then the report that overlaps must be preserved and the ones that disagree must be discarded. Kāzīmī cites al-Shaykh al-Ṭūsī's statement in *al-Udda*<sup>26</sup> that the determining factor in preferring one report over another is that the narrator believes in the "true" faith, adheres to his religious practice, refrains from lying, and is never accused of distorting his narration. Yet he notes al-Shaykh al-Ṭūsī's exception: if the creed of the transmitter does not conform to that of the adherents of the Twelver school (*mukhālifa li-ahl al-madhab*) but he narrates from the Imams, then his reports must be examined. If his transmission is contradicted by a transmission of a trustworthy chain (i.e. of Twelver transmitters), then his report must be discarded. However, if there is nothing in the Twelver corpus that agrees or disagrees with the report, and there is no known precedent among the Twelvers that disagrees with it, then it is compulsory to accept it. Al-Muḥaqqiq al-Ḥillī, Kāzīmī cites, rejects al-Ṭūsī's stipulation, arguing that there is no evidence that accepting reports of non-Twelver Shi'is is an accepted or established practice of the Twelver jurists.<sup>27</sup>

Kāzīmī also notes that lexicographers (*ahl al-lughā*) define *fāsiq* as "one who is not obedient to God," which may include disobeying God through acts or "incorrect" beliefs. This implies, Kāzīmī asserts, that whoever is not a Twelver is a *fāsiq*. Having had previously established in Section [a.1] that *fiṣq* necessitates rejection of a report, Kāzīmī notes that al-ʿAllāma al-Ḥillī had attributed *fiṣq* to Abān b. ʿUthmān al-Aḥmar, which Kāzīmī observed from Fakhr al-Muḥaqqiqīn's (d. 771/1369-70) comments in the margins of *al-Khulāṣa*: that after asking about Abān b. ʿUthmān al-Aḥmar, his father, al-ʿAllāma al-Ḥillī, had responded that the most appropriate position was rejection of his narration according to the "Reliability Verse", commenting, "and what is a greater *fiṣq* than being a non-Twelver."<sup>28</sup> However, Kāzīmī notes that al-Shaykh al-Bahā'ī rejects this position because the term *fāsiq* cannot be applied to one who misunderstands certain beliefs

انتهى كلامه، وهو ناظر إلى<sup>53</sup> ما قلناه. وردّه المصنف بالمنع من صدق الفاسق على المخطئ في<sup>54</sup> بعض الأصول<sup>55</sup> بعد بذله<sup>56</sup> مجهوده و<sup>57</sup>بعد نصّ الأصحاب على توثيقه، فإن نصّ الأصحاب على توثيق أحد مانع من صدق الفاسق عليه، إذ لو لم يكن مانعاً من ذلك لجاز صدق الفاسق على شخص مع توثيق الأصحاب<sup>58</sup> وهو موجب لارتفاع<sup>59</sup> الوثوق بعدالة أكثر الموثقين من أصحابنا الإمامية. وذلك مؤد إلى سد باب العمل بخبر الواحد. وإذا لم يكن الفاسق صادقاً على مثل أولئك لا يكونون داخلين في الآية فلا يكون الآية حجة على الشيخ العامل بخبرهم. وقول العلامة في تفسيق أبان بن عثمان لا ينهض حجة على الشيخ إذ المسألة اجتهادية. وفيه نظر يعلم ممّا ذكرناه. فإن الظاهر أن فساد العقيدة لا يجامع العدالة،<sup>60</sup> وكون الاتصاف بالفسق موقوفاً على اعتقاد الفاعل أن فعله معصية تمّ. فظاهر قوله تعالى: ﴿وَالَّذِينَ جَاهَدُوا فِينَا لَنَهْدِيَنَّهُمْ سُبُلَنَا﴾<sup>61</sup> - الآية - دالّ على أن<sup>62</sup> مثل<sup>63</sup> هذا لم يبذل مجهوده. والتوثيق في كلام الأصحاب إن وقع مطلقاً غير مقيد بكون الموصوف به فطحيّاً أو واقفياً ثبت<sup>64</sup> التوثيق المعتبر وإن اقترن<sup>65</sup> بأحدهما فالمراد به حينئذ كونه ثقة في مذهبه، وذلك لا يتنافى كونه فاسقاً عندنا معاشراً للإمامية. ومنه يعلم أن الملازمة في قوله ولو جامع التفسيق<sup>67</sup> التوثيق الخ ممنوعة، أن جماعة<sup>68</sup> التفسيق التوثيق على الوجه المتقدم لا يوجب ارتفاع الوثوق مع الإطلاق<sup>69</sup> وعدم إظهار المنافي. وكلام العلامة<sup>70</sup> ناظر إلى ما قلناه وهو تام. والحق إن قول المصنف هنا بعيد بعد ملاحظة ما أسلفناه.

[a.4] الرابع: الضبط، ولا خلاف في اشتراطه فإن<sup>71</sup> من لا ضبط له قد يسهو عن بعض الحديث ويكون ذلك البعض مما يتم به فائدته ويختلف الحكم بعده، أو<sup>72</sup> يسهو فيزيد في الحديث ما يضطرب به معناه، أو يبذل لفظاً بآخر، أو<sup>73</sup> يروي عن المعصوم ويسهو عن الوسطة مع وجودها إلى غير ذلك من الأسباب الموجبة للاختلال.<sup>74</sup> والمراد بالضبط المشروط أن يغلب ذكره على سهوه، فلو عرض له السهو نادراً لم<sup>75</sup> يقدح إذ لا يكاد يسلم من ذلك أحد كما لا يخفى. قال المحقق: ولو كان زوال السهو أصلاً شرطاً في قبول الرواية لما صح العمل<sup>76</sup> إلاّ عن معصوم

53 M2: على

54 In the marginal notes of M and missing in H.

55 M2: الأحوال

56 M2: بذل

57 Missing in M2.

58 This sentence is repeated in M:

فإن نصّ الأصحاب على توثيق أحد مانع من صدق الفاسق عليه، إذ لو لم يكن مانعاً من ذلك لجاز صدق الفاسق على شخص مع توثيق الأصحاب له. in H: فإن نصّ الأصحاب على توثيق أحد مانع من صدق الفاسق عليه إذا لم

59 M: لا يقاع

60 M2: not clear؟ العطا

61 Missing in M.

62 Qur'an 29:69.

63 Missing in H.

64 Missing in M2.

65 M2 and H: يثبت

66 M2: أقرن

67 H: الفسق

68 H: أن جماعة; M: إذ تجماع

69 In marginal note of M:

أي إطلاق الأصحاب لفظ الثقة على شخص من غير تقييد بكونه فطحيّاً، أو واقفياً، أو مثل ذلك مع عدم ظهور المنافي فيه لا يوجب ارتفاع الوثوق به. وإذا قلنا أن التفسيق يجامع التوثيق على الوجه الذي ذكره المصنف وهو أن يكون الراوي ثقة عندنا فاسقاً في مذهبه. ع ل

70 M2: كلام العلامة instead of كلامه

71 M2: فإن قال instead of قال

72 M2: أو instead of و

73 M2: أو instead of و

74 M2: للاختلاف

75 M2: لا

76 Missing in M2.

(*uṣūl*) after having exerted himself to understand them and after having been deemed trustworthy by Twelver scholars.

Kāzīmī agrees with al-Shaykh al-Bahā'ī that if the term *fāsiq* can be applied to someone who is already deemed trustworthy by Twelver scholars, that would mean that the reliability of most trustworthy Twelver narrators (*min aṣḥābinā l-Imāmiyya*) would be questioned, and so the whole system of appraising solitary reports would collapse. Thus, for al-Shaykh al-Bahā'ī, a narrator who has been determined to be trustworthy by Twelver scholars cannot be later deemed *fāsiq*. Kāzīmī then states that if the term “*fāsiq*” does not apply to non-Twelvers, then the “Reliability Verse” would not apply to them and would not be considered a proof against accepting their reports. Also, according to Kāzīmī, al-‘Allāma al-Ḥilli’s consideration of Abān b. ‘Uthmān as *fāsiq* was based on a personal opinion that does not constitute an argument against al-Shaykh al-Ṭūsī, who accepted non-Twelver reports under certain conditions. In summary, Kāzīmī and al-Shaykh al-Bahā'ī consider al-‘Allāma al-Ḥilli’s opinion that non-Twelvers are *fāsiq* by default to be unproven. Hence, non-Twelvers who were considered trustworthy by Twelver scholars cannot be declared *fāsiq*.

After thus elucidating the issues with al-Shaykh al-Bahā'ī’s reasoning that *fiṣq* and trustworthiness cannot be attributed to the same person, Kāzīmī disagrees and provides his own reasoning. Kāzīmī bases the characterisation of someone as *fāsiq* on one’s belief (*i'tiqād*) because incorrect belief is a disobedience to God. Kāzīmī then supports his argument with a section of, *wa-l-ladhina jāhadū finā la-nahdiyannahum subulanā* (“...and those who struggle for Us, We will guide them...”).<sup>29</sup> Kāzīmī interprets this part of the verse to indicate that a non-Twelve is considered *fāsiq* because he did not exert sufficient effort to find the “truth”. Therefore, theological speaking, any non-Twelve is considered *fāsiq* in belief by default. According to this logic, if one were to accept a transmission from a non-Twelve that would indicate that he considered the non-Twelve trustworthy in transmission, leading to the conclusion that *fiṣq* and trustworthiness in the same person could exist at the same time in this specific case, as Kāzīmī asserts. According to Kāzīmī, if a transmitter is mentioned as trustworthy by Twelver scholars without specifying that he is a Faṭḥī or Wāqifī, then this is considered proper verification, because the assumption is that the transmitter in this case is a Twelver. However, if the transmitter is in fact mentioned as a Faṭḥī or Wāqifī, then the transmitter is understood to be trustworthy according to his own community, although it does not negate the fact that he is considered a *fāsiq* by the Twelvers. Accordingly, for Kāzīmī, one can be considered upright and *fāsiq* at the same time in such situations when one is a non-Twelve transmitter known to be of good standing in his own community. Drawing from al-‘Allāma’s argument, Kāzīmī argues that al-Shaykh al-Bahā'ī’s opinion is an implausible one, and that trustworthiness and *fiṣq* can in fact coexist in certain cases.

[a.4] The final condition that Kāzīmī expounds on is accuracy (*ḍabt*); he notes that there is no doubt regarding accuracy being a condition, because a transmitter who narrates a report without accuracy could distort its meaning or affect its reliability by omitting a transmitter in its *isnād*. Kāzīmī clarifies al-Shaykh al-Bahā'ī’s definition of accuracy as meaning the “preponderance of remembering over forgetting” as referring to one who rarely forgets or errs, and thus causes no harm, since it is impossible for anyone to have an infallible memory; hence, al-Muḥaqqiq has argued that accuracy must be a condition, an argument that Kāzīmī endorses.<sup>30</sup> Additionally, Kāzīmī considers an argument of al-Shahīd al-Thānī (d. 965/1558) in his work *al-Dirāya* that uprightness should suffice as a condition because an upright transmitter would not narrate something unless he knew he could do so accurately.<sup>31</sup> Kāzīmī dismisses this reasoning, arguing that

من السهو وهو باطل إجماعاً من القائلين بالخبر.<sup>77</sup> هذا كلامه ولا يخفى قوته. لكن<sup>78</sup> يبقى الكلام في أن العدالة تمنع عن رواية<sup>79</sup> ما ليس بمضبوط عنده، فيغني اشتراطها عن اشتراطه.<sup>80</sup> وبذلك صرح شيخنا الشهيد الثاني في الدراية بناء على أن العدل لا يروي ما ليس بمضبوط عنده على الوجه المعتبر لأن عدالته تمنعه<sup>81</sup> عن<sup>82</sup> ذلك.<sup>83</sup> وفيه نظر إذ العدالة إنما تمنع عن تعمد الكذب لا عن السهو فيه فإن العدل إذا كان كثير السهو ربما سهى عن كون الحديث غير مضبوط عنده أو كونه غير ضابط له فينقله وإن كان عدلاً، وحينئذ<sup>84</sup> لا بد<sup>85</sup> من ذكره معها ولا يكتفى بها عنه. وقد اكتفى أصحابنا -رضوان الله عليهم- عن الأمرين بلفظ الثقة لدالتها على صفة زائدة على لفظ العدل وهي صفة الضبط إذ هو مشتق من الوثوق ولا وثوق بمن<sup>86</sup> ساوى<sup>87</sup> سهوه ذكره<sup>88</sup> أو غلب سهوه عليه ولعل ذلك هو الباعث لهم على العدول في بيان التعديل عن لفظ عدل إلى لفظ<sup>89</sup> ثقة.

[b.1] قال مد ظله: تزكية العدل الواحد الإمامي كافية في الرواية وفاقاً للشيخ، والعلامة، وسائر المتأخرين وخلافاً للمحقق وأتباعه وإلا زاد الاحتياط في الفرع على الأصل، ولدلالة آية الثبوت على عموم قبول خبر الواحد إلا ما خرج بدليل كالشهادة.<sup>90</sup> أقول: طريق معرفة العدالة أمران: الاختبار والتزكية. والأول يحصل بالصحة المتأكدة والملازمة التامة بحيث يظهر له من القرائن ما يدل على ثبوت خوف في قلبه مانع من الكذب والإقدام على المعصية. والثاني مما اختلف فيه أصحابنا. فالأستاذ المصنف، والعلامة، وسائر المتأخرين على الاكتفاء في التزكية بالعدل الواحد الإمامي وكذا في الجرح وهو الحق. وذهب المحقق وأتباعه إلى اشتراط العدلين في كل من التزكية والجرح. واستدل المصنف على الأول بأن العدالة شرط في الرواية وشرط الشيء فرعه والاحتياط في الفرع لا يزيد على الاحتياط في الأصل. وقد اكتفى في الأصل أعني الرواية بواحد فيكفي الواحد أيضاً في الفرع أعني العدالة وإلا زاد الاحتياط في الفرع على الاحتياط في الأصل. فإن قلت: الاحتياط في الفرع قد يزيد على الأصل، فإن هلال رمضان يثبت<sup>91</sup> بشاهد واحد كما ذهب إليه بعضهم ويحتاج في تزكية إلى اثنين. قلت: قد خرج مثل هذا بالنص والمخرج بالنص لا يرد نقضاً. فإن قلت: للخصم أن يقول لا يلزمي ما ذكرتم من زيادة الفرع على الأصل فإني أشرت في الأصل أعني الرواية ثلاثة أخبار:<sup>92</sup> واحد بها واثنين بعدالة<sup>93</sup> راويها وأشرت في الفرع أعني العدالة اثنين لا غير فأين الزيادة في الفرع؟! قلت: هو يقبل رواية عدل واحد زكاه عدلان، ولا يقبل

77 معارج الأصول ص 218

78 ولكن M2:

79 روايته M2 and H:

80 M2: عن اشتراطه ما ليس بمضبوط عنده عنده فيغني اشتراطها

81 M2: تمنع

82 Missing in M2.

83 الرعاية في علم الدراية ص 186

84 Missing in M2.

85 M2: فلا بد

86 H: في

87 In M2: يتساوى Mashriq al-shamsayn: يتساوى

88 M2: وذكره

89 Missing in M and M2.

90 In the marginal note of M and H, the scribe has chosen to record the remaining passage from the Zubda:

قالوا: كل خبر شهادة فلا يكفي الواحد. قلنا: ممنوع، بل أكثرها غيرها كالرواية، ونقل الإجماع، وتفسير المترجم، وإخبار الطبيب بإضرار الصوم، والأجير بإيقاع الحج، إلى غير ذلك وقد بسطنا الكلام فيه في مشرق الشمسيين. متن

91 Missing in M2.

92 M2: أخبار أخبار

93 M2: برواية

an upright person's probity would only prevent him from lying about a report, not forgetting its details, so he could still forget parts of a report or even the fact that he is not accurate in his reporting. Kāzīmī adds that Twelver scholars (*aṣḥābunā*) have attempted to cover both uprightness and accuracy by the condition of reliability (*thiqa*), for reliability entails both uprightness and accuracy; one who often forgets cannot be considered reliable, and so must have his reports corroborated. For that reason, they have preferred the word *thiqa* over *'adl*.

[b] Section

This section focuses on two main issues: that requiring to have more than one upright Twelver attest to the reliability of a transmitter is excessive, and that if a transmitter's reliability has been equally corroborated by a trustworthy person and criticised by another, the criticism of the transmitter's reliability is given preponderance unless the corroborators are more numerous and scrupulous than the critics.

[b.1] Commenting on al-Shaykh al-Bahā'ī's discussion on the sufficiency of a single, upright, Twelver (*Imāmī*) in determining a transmitter's reliability, Kāzīmī asserts that there are two ways of ascertaining uprightness: the critic's long-term familiarity with the transmitter (*ikhtibār*) and testimony or appraisal from others (*tazkiya*). For Kāzīmī, long-term familiarity consists of an adequate level of companionship, in which one can witness various factors that indicate fear of God, lack of inclination to lie, and abstention from committing sin. Kāzīmī notes that al-Shaykh al-Bahā'ī, al-'Allāma al-Ḥillī, and the later scholars agree that the attestation of one upright Twelver to a transmitter's uprightness or lack thereof is sufficient to determine the status of the transmitter's reliability, which Kāzīmī holds as the correct position. The other position that Kāzīmī notes was taken up by al-Muḥaqqiq al-Ḥillī and his followers, which stipulated that there must be two upright witnesses to determine whether a transmitter is upright or not. Kāzīmī further explains the position of al-Shaykh al-Bahā'ī in contrast to that of al-Muḥaqqiq al-Ḥillī, arguing that the primary concern for the jurist is the integrity of the transmission, whereas uprightness is only a condition for the acceptance of the transmission. So, for Kāzīmī, since Twelvers accept transmission through a single transmitter, they cannot require more than one person to verify that transmitter's uprightness, because doing so would mean giving more importance to the condition of being upright rather than the issue of transmission.

In explaining al-Shaykh al-Bahā'ī's first argument, Kāzīmī provides the reasoning behind it through a dialogue with an imagined interlocutor in which he uses logical reasoning to make his case. First, he has his interlocutor argue that there are cases in which precaution in an ancillary issue can exceed the precaution in a primary issue – as in the sighting of the moon of Ramadan – which is accepted with a single witness according to some scholars, whereas *tazkiya* requires two witnesses. Kāzīmī states that the stipulation of a single witness sighting the moon does not relate to this issue of *tazkiya* because sighting the moon by a single person has basis in a specific textual proof (and therefore cannot be generalised). Furthermore, because one cannot accept the transmission of one upright person approved by two upright people while at the same time rejecting the *tazkiya* of an upright person by two upright people, Kāzīmī argues that it is a contradiction. Thus, precaution in an ancillary issue – i.e. the *tazkiya* – cannot exceed the precaution in a primary issue – i.e. the transmission.

In clarifying al-Shaykh al-Bahā'ī's second argument, Kāzīmī then points out that there is a text-proof in the "Reliability Verse"<sup>32</sup> for the acceptance of the report of a single, upright transmitter in all aspects including narration, *tazkiya*, and testimony but that testimony is exempted



from this rule by another textual proof<sup>33</sup> requiring two witnesses. Therefore, anything other than testimony may be accepted through a single upright person.

Kāzīmī then presents the potential limitations of al-Shaykh al-Bahā'ī's two arguments, the first of which he dismisses, and the second of which he partially concedes to. As for the first argument: Kāzīmī states that the argument of extra precaution in verifying the uprightness of transmitters, although accepted among the later Twelver scholars, is weak, not self-evident, and has no strong evidence to support it. Al-Shaykh al-Bahā'ī argues that *tazkiya* by a single upright person is acceptable based on *qiyās al-awlawiyya* (*a fortiori* argument), which Kāzīmī dismisses as invalid. For him, *tazkiya* is merely the means by which one determines uprightness, and since the method of determining the condition (uprightness) cannot be a condition itself, the analogy thus does not apply.

As for the second argument that anything other than testimony may be accepted through a single upright Twelver, including *tazkiya*: Kāzīmī clarifies that the “Reliability Verse,” which he had earlier argued was a proof-text for needing only one person for *tazkiya*, may in fact be inapplicable to *tazkiya*. He explains that one would only need to obtain corroboration of a report of an individual who is *fāsiq*; conversely, one does not need to obtain corroboration of a report from a transmitter who is not accused of *fiṣq*, which is typically determined through information stating that a transmitter is upright. Thus, for Kāzīmī, it is obvious that determination of the lack of *fiṣq* is conditional on knowledge of the transmitter's uprightness. Kāzīmī acknowledges that if the “Reliability Verse” were to apply universally to include *tazkiya*, then it would create a contradiction, because then the requirement would be to verify that a transmitter is not a *fāsiq* rather than verifying his report. Therefore, the verse must be understood to refer to reports other than *tazkiya*. Kāzīmī says that if his interlocutor were to argue that the *tazkiya* of two persons does not give “certain” knowledge either, then one must acknowledge that the point of the “Reliability Verse” is to make the acceptance of a report conditional on knowing the transmitter's lack of *fiṣq*. The acceptance of the report in this way, via Qur'anic verse, can thus only be limited by another textual proof. For this reason, Kāzīmī argues, a single upright witness to a transmitter's trustworthiness is sufficient because the witness provides probable knowledge (*ẓānn*) that the transmitter is more trustworthy than not. In this case, it is best to accept the narration of such a transmitter, because, as Kāzīmī argues, there is more harm in the discarding of a report that is likely to be true than there is in retaining it. However, in the case of the report of a *fāsiq*, probable knowledge is reversed, i.e. the possibility of falsehood is higher than the possibility of truthfulness in the report, which means that there would be greater harm in accepting the report than discarding it. Therefore, God (the “*Shāri'*”) has relieved the community of believers from accepting the report of a *fāsiq* at face value by asking them to verify it.

فإنها على ذلك التقدير تؤخذ من الآية فيجئ المحذور السابق كذا قيل، وأقول ظاهر<sup>111</sup> الآية وجوب التثبيت<sup>112</sup> عند خبر من ثبت له هذه الصفة، فهي نفسها علة في التثبيت<sup>113</sup> فلا بد من العلم بانتفاءها أو ما يقوم مقامه كالظن، فلا يتم ما ذكره.

ويمكن الاستدلال على الاكتفاء بالواحد في التزكية بأن يقال<sup>114</sup> لما<sup>115</sup> كان خبر العدل يفيد ظن الصدق فلو أخبرنا عدل بعدالة شخص حصل لنا ظن صدقه بحيث لو أخبرنا بخبر كان الصدق راجحاً والكذب مرجوحاً، ولا ريب أنه يحصل لنا بخالفة الراجح وعدم العمل بمقتضاه ظن الضرر ودفع الضرر المظنون واجب كما بين في محله. فإن قيل يرد عليكم خبر الفاسق، قلنا قد أسقط عنا الشارع العمل بالظن الحاصل من خبر الفاسق وأوجب التثبيت<sup>116</sup> كما دلت عليه الآية فلم يحصل لنا ظن الضرر بخالفة خبره، بل نحن آمنون به<sup>117</sup> بل الضرر بقبول خبره فلا يكون الدليل متناولاً له<sup>118</sup> كما لا يخفى. وإنما قيد المصنف العدل بكونه إمامياً لأن غيره لا اعتبار بتزكيته كما لا اعتبار بجرحه. وقد يفهم من المصنف في بعض تحقیقاته أن تزكية غير الإمامي إذا كان عدلاً لمن هو إمامي على حد الاعتبار والاعتماد بناء على أن الفضل ما شهدت به الأعداء، وأما الجرح فلا عبرة به إذا كان عن<sup>119</sup> غير إمامي، ولا يخفى عليك أنه كلام خطابي لا دليل عليه يوجب الاستناد إليه. وكأن في التصريح بقيد الإمامي هنا استعاراً بعدم الالتفات إلى ذلك. استدلال القائل بالتعدد في التزكية بأن التزكية شهادة، والشهادة لا يكفي فيها الواحد. والجواب منع الصغرى، فإنها غير بينة ولا مبينة ولم لا كانت<sup>120</sup> التزكية كأغلب الأخبار في أنها ليست شهادة كالرواية؟ فإنها خبر وليست بشهادة<sup>121</sup> وكنقل الإجماع، وتفسير مترجم القاضي، وكأخبار الطيب بإضرار الصوم للمريض، وكأخبار الأمير بإيقاع الحج، وكأخبار العارف بالقبلة لجاهل العلامات،<sup>122</sup> ونحو ذلك مما لا يخفى. سلطنا ذلك، لكن نمنع أن الشهادة مطلقاً لا يكفي فيها الواحد، فإن شهادة العدل الواحد بالهلال مقبولة عند بعض علمائنا بل شهادة المرأة الواحدة في ربع ميراث المستهل.<sup>123</sup> فاندفع كلية الكبرى أيضاً. هذا وقد استدل بأن اعتبار التعدد أحوط للتعبدية عن احتمال العمل بما ليس بحديث. والجواب المعارضة بأن اعتبار عدم التعدد أحوط للتعبدية عن احتمال عدم العمل بما هو حديث المستلزم لتضييع أوامره تعالى ونواهيها كما لا يخفى.

[b.2] قال مد ظله: وإذا تعارض الجرح والمعدل ولم ينحصر نفيه رجح الجرح ومعه الأكثر الأورع والقول

بالإطلاق متجه.

أقول: إذا اجتمع في واحد جرح وتعديل<sup>125</sup> فلا يخلو إما أن ينحصر نفي المعدل في جرح الجرح أو يطلق،

111 Missing in M. M2: الظاهر من الآية

112 M and H: التثبيت

113 M and H: التثبيت

114 In H تقول

115 missing in M2: يقال لما بأن

116 M and H: التثبيت

117 M2: منه

118 Missing in M2.

119 Missing in M2.

120 M2: تكون

121 M2: شهادة

122 M2: الجاهل العلامات

123 In the marginal note of M: استهل الصبي أي رفع  
النساء؟ In M2: صوته عند الولادة

124 In H فإذا

125 In the marginal note of M: اختلفوا في قبول الجرح  
والتعديل مجردين عن ذكر السبب فقال القاضي أبو بكر: يكفي  
الإطلاق فيهما ولا حاجة إلى ذكر السبب وقال قوم لا

Kāzīmī points out that al-Shaykh al-Bahā'ī stated that a witness to the trustworthiness of a transmitter must be an upright Twelver (*Imāmī*) in order for his testimony to be accepted by default, and that al-Shaykh al-Bahā'ī had mentioned elsewhere (*fī ba'd taḥqīqātihi*) that the Twelver jurists did not concern themselves with non-Twelvers attesting to the uprightness of a Twelver transmitter. However, a positive appraisal by one of their opponents would be accepted, with the reasoning that an opponent's *tazkiya* would be all the more reliable since it was not self-serving. Kāzīmī does not find this line of thinking convincing, referring to it as rhetorical discourse (*kalām khiṭābi*) rather than proper reasoning.

Kāzīmī then reiterates that reports do not fall under the same conditions of requiring two upright persons as testimony does, giving the same examples as those of al-Shaykh al-Bahā'ī, with some modifications, where one witness is accepted as sufficient. Kāzīmī is careful to note, however, that even though the testimony of a single female adult witness is accepted regarding the live birth of a baby and its effect on the mother's inheritance (*fī rub' al-mustahill*), one cannot generalise about testimony based on this specific case. The essential rule is that testimony (*shahāda*) is not commensurate with appraisal (*tazkiya*). One may argue that requesting more than one witness is a better precaution rather than acting upon a report that may not be valid. Kāzīmī, however, argues that this reasoning is invalid because it may lead to the neglect of God's commands and prohibitions.

[b.2] Kāzīmī's commentary on this section is concerned with what to do when there are two conflicting opinions on whether a transmitter of a solitary report is upright or not. When it is not clear that one opinion has more evidence than the other to support it, Kāzīmī's treatment of the issue becomes more complex. Rather than having two equally contradictory appraisals simply revoke each other, Kāzīmī frames the relationship between criticism and approval as forms of specific and general knowledge. While a *mu'addil* can only attest to knowing that the transmitter was in a general state of uprightness, he cannot claim to know that the transmitter never committed an act of *fiṣq*, since it is not humanly possible to have knowledge of all things at all times. A *mu'addil*'s attestations of trustworthiness is therefore always general knowledge at best. A *jāriḥ*, however, needs only to point to a specific instance of *fiṣq* in order to discredit the transmitter; therefore, his knowledge is specific by definition. Thus, the *jāriḥ*'s opinion is preferred in instances of stalemate. However, this does not mean that the *mu'addil*'s opinion is completely disregarded in relation to appraisals of transmitters or even the transmitter in question; rather, it only means that the *mu'addil* reported what he knew to be true, however limited it may have been. In instances where the *mu'addils* are found to be higher in number or more scrupulous (*akthar aw awra'*), then their opinion is preferred. In order to illustrate this concept, Kāzīmī gives the example of a *jāriḥ* who stated that he saw a certain transmitter drink wine at the time of the Friday communal prayer, whereas a *mu'addil* attested that the transmitter was in fact praying during that time. If there is no further evidence to break the stalemate, then preference is given to which one of the two appraisers is more pious, or known to be more accurate in recollection (*akthar ḍabṭan*), or to whichever of the *mu'addils* or *jāriḥs* were more numerous. However, if there is no deciding factor (*murajjih*), one must abstain from making a judgment. Kāzīmī summarises his typology into four categories based on whether the *ta'dil* or *jarḥ* is specific or general.

فإن أطلق المعدل كما لو قال بعدالته مطلقاً وذكر الجرح سبباً في الجرح قدم قول الجرح مطلقاً، سوى إن<sup>126</sup> زاد المعدل على الجرح أو ساواه، لأن الجمع بين قولي عدلين لا يكون إلا بذلك. إذ غاية قول المعدل عدم العلم بنفسه والإخبار عن ظاهر حاله لا العلم بالعدم. إذ لو قال ذلك لرد قوله لأنه حينئذ شهادة على النفي والجرح يخبر عن إطلاعه على أمر خفي على المعدل لانه لا يعتبر في المعدل ملازمته في جميع الأحوال فلعله<sup>127</sup> ارتكب الموجب للجرح في بعض الأحوال التي فارقه المعدل فيها.<sup>128</sup> وحينئذ فالعمل بقول الجرح لا ينفي مقتضى التعديل، فتقديم الجرح يكون جمعا بينهما فهو أولى وبالأعتبار أخرى. وقيل بالتفصيل فإن كان المعدل أكثر أو أروع قدم قوله، وإلا فالجرح. وإن انحصر نفي المعدل في الجرح كما لو قال الجرح إنه شرب الخمر ظهر الجملة وقال المعدل كان يصلي ذلك الوقت فهما يتعارضان من غير إمكان الجمع بينهما ويجب الترجيح إن كان هناك مرجح بأن يكون أحدهما أروع، أو أكثر ضبطاً، أو عدداً، أو نحو ذلك فيعمل بالراجح ويترك المرجوح، وإن لم يكن هناك مرجح وجب التوقف للتعارض واستحالة الترجيح من غير مرجح. فهنا صور أربع:

الانحصار في نفي الجرح، وله صورتان: إحداها تساوي الجرح والمعدل من جميع الصفات، وحينئذ يجب التوقف. الثانية اختلافهما، فيقدم الراجح بالأكثرية أو الأورعية أو نحوهما. وعدم الانحصار، له صورتان أيضاً: إحداها التساوي، كما ذكر وتقدم الجرح هنا بالإجماع. الثانية الاختلاف، فالمشهور تقديم الجرح أيضاً. وقيل يقدم المعدل إذا كان راجحاً بإحدى الصفات المذكورة. ويظهر من كلام الأستاذ المصنف هنا الميل إليه كما قال والإطلاق متجه أى إطلاق القول بتقديم الأكثر الأروع وإن لم يكن النفي منحصراً متجه. وقد فعله العلامة في الخلاصة كثيراً،<sup>129</sup> فإن إبراهيم بن سليمان قد جرحه الغضائري وعدله الشيخ، والنجاشي، والعلامة رجع قولهما على قوله وإن كان لتقديم قولهما وجه ذكرناه في غير هذا الموضع لكن العلامة في النهاية<sup>130</sup> جزم بتقديم قول الجرح في صورة عدم الانحصار وإن كان المعدل أكثر لأن وجه تقديم الجرح احتمال اطلاعه على ما لم يطالع عليه المعدل، وهذا لا يرتفع بزيادة عدد المعدل. هذا وإطلاق تقديم الجرح في القسم الأول<sup>131</sup> غير جيد فإن من صورة<sup>132</sup> الجرح بما لا يخفى على المعدل. والظاهر التعارض على ذلك التقدير مثلاً إذا جرح الشيخ الطوسي<sup>133</sup> بجرح ظاهر وأطلق النجاشي التوثيق فإنه يبعد القول بخفاء<sup>134</sup> مثل ذلك الجرح على النجاشي لكثرة إطلاعه على أحوال الرجال. وقد يفهم من بعض الأصحاب تقديم قول النجاشي وطرح قول الشيخ في هذه الصورة وفيه بعد. والحق النظر إلى مستندها فإن وجد مرجح عمل بمقتضى الترجيح ولا يقدم الجرح على التعديل من غير مرجح، إذ هما متساويان لتساوي مستندهما في الظهور.

يكفي الإطلاق فيهما بل يجب ذكر السبب وقال الشافعي:  
يكفي في التعديل دون الجرح وقيل بالعكس.

126 Missing in M2 and H.

127 Missing in M2.

128 فلعله ارتكب الموجب للجرح في بعض الأحوال التي فارقه  
missing in M2. المعدل فيها

129 خلاصة الأقوال ص 50

نهاية الوصول ج 3 ص 432

131 In the marginal note of M: وهو عدم انحصار قول  
المعدل في نفي جرح الجرح

132 صور M2:

133 Missing in M2.

134 H: بخطاً

In cases where the *jāriḥ* makes a specific criticism that the *mu'addil* rejects in his assessment:

- When the *jāriḥs* and *mu'addils* are equal in terms of uprightness and accuracy, one must abstain from making a judgment regarding the transmitter in question.
- When the *jāriḥs* and *mu'addils* differ in number or scrupulousness, one must abide by the opinion of the group higher in number or more scrupulous.

In cases where both the *jarḥ* and the *ta'dil* are general:

- When the *jāriḥs* and *mu'addils* are equal in number and scrupulousness, one must abide by the opinion of the *jāriḥs* – this is a rule by scholarly consensus (*ijmā'*).
- When the *jāriḥs* and *mu'addils* differ in number or scrupulousness, the widely-accepted scholarly opinion is to accept the *jāriḥ's* assessment. However, others have said that the *mu'addils* may be preferred if they are higher in number or scrupulousness.

Kāzīmī notes that al-Shaykh al-Bahā'ī and al-ʿAllāma al-Ḥillī applied this reasoning quite often. Citing a case where the transmitter Ibrāhīm b. Sulaymān was considered trustworthy by al-Shaykh al-Ṭūsī and al-Najāshī (d. c. 450/1058), whereas their contemporary al-Ghaḍā'irī (d. before 450/1058) discredited him, Kāzīmī notes that al-ʿAllāma al-Ḥillī in *al-Khulāṣa*<sup>34</sup> had preferred the opinion of al-Shaykh al-Ṭūsī and al-Najāshī over that of al-Ghaḍā'irī. However, Kāzīmī notes that in *al-Nihāya*,<sup>35</sup> al-ʿAllāma al-Ḥillī decisively preferred the opinion of the *jāriḥ* even if the *mu'addils* were greater in number, because the nature of knowledge of *fiṣq* – its specificity – cannot be affected by the number of *mu'addils*.

However, Kāzīmī gives another hypothetical example of a transmitter discredited by al-Shaykh al-Ṭūsī, for instance, due to an abhorrent act that would have been too obvious to have been missed by someone like al-Najāshī, with his vast knowledge of transmitters and their backgrounds. In this hypothetical example, al-Najāshī happens to approve of the transmitter in question. Kāzīmī points out that some scholars would prefer al-Najāshī's opinion over al-Ṭūsī, but Kāzīmī rejects preferring al-Najāshī's opinions as a general rule. Instead, Kāzīmī argues that the correct position is to weigh the evidence or to abstain from judgment until a deciding factor is found, because one must not accept the opinion of a *jāriḥ* or *mu'addil* without a sound deciding factor.

## Endnotes

- 1 For biographical details of his life and works see al-Ḥurr al-ʿĀmilī, *Amal al-ʿāmil* (Qum, 1362Sh/1984), v. 2, pp. 57–58 #149; al-Afandī, *Riyāq al-ʿulamā'* (Beirut, 1431/2009), v. 1, pp. 118–119 (the editions of both these biographical dictionaries have recorded the name of his father as Sa'īd. Al-Afandī adds that though he is famous by the name al-Jawād his original name was Muḥammad); al-Khwānsārī, *Rawḍāt al-jannāt* (Qum: Ismā'īliyyān, 1390/1970), v. 2, pp. 215–216 #178; al-ʿĀmilī, *A'yān al-Shi'a* (Beirut, 1403/1983), v. 4, p. 271; al-Qummī, *al-Kunā wa-l-alqāb* (Tehran, 1397/1976), v. 3, pp. 9–10; al-Ṣadr, *Takmilat Amal al-ʿāmil* (Beirut, 1429/2008), v. 2, pp. 300–303 #305; Subḥānī et al., *Mawsū'at tabaqāt al-fuqḥā'* (Qum, 1420/1999), v. 11, pp. 63–64 #3352; al-Mar'ashī al-Najafī, *Manhaj al-rashād fī tarjumat al-Fāḍil al-Jawād*, v. 1, pp. 14–18 (this is a succinct dedicated treatise on the biography of Kāzīmī).
- 2 On al-Shaykh al-Bahā'ī see Stewart, “The Lost Biography of Baha' al-Din al-ʿĀmilī and the Reign of Shah Isma'īl II in Safavid Historiography,” *Iranian Studies* 31/2 (1998), pp. 177–205; Stewart, “A Biographical Notice on Bahā' al-Dīn al-ʿĀmilī (d. 1030/1621),” *JAOS* 111 (1999), pp. 568–571.
- 3 The *Shaykh al-Islām* of a city was its chief religious authority who was responsible, among others duties, for the judgeship. This was a state appointed post. See Arjomand, *The Shadow of God and the Hidden*

- Imam* (Chicago: University of Chicago Press, 1984), pp. 124, 137; Stewart, "The First Shaykh al-Islām of the Safavid Capital Qazvin," *JAOS* 116 (1996), p. 387.
- 4 Stewart, "A Biographical Notice on Bahā' al-Dīn al-Āmilī (d. 1030/1621)," p. 571.
  - 5 Al-Āmilī, *A'yān al-Shi'a*, v. 4, p. 271.
  - 6 Al-Mar'ashī al-Najafī, *Manhaj al-rashād fi tarjumat al-Fāḍil al-Jawād*, pp. 16–17.
  - 7 Al-Ṣadr has recorded a different title: *Sharḥ al-ṣaḥīfa al-uṣṭurlābiyya*. See al-Ṣadr, *Takmilat Amal al-āmīl*, v. 2, p. 301 #5.
  - 8 For the details of this MS see the editor's introduction in al-Sharīf al-Murtaḍā, *al-Dhari'a ilā uṣūl al-shari'a* (Mashhad, 1399Sh/2020), p. 134.
  - 9 This is arguably Kāzīmī's most important work. It is edited and published in 4 volumes. See al-Kāzīmī, *Masālik al-afhām ilā āyāt al-aḥkām* (Tehran, 1365Sh/1986).
  - 10 Bahā' al-Dīn al-Āmilī, *Zubdat al-uṣūl ma'a ḥawāshī l-muṣannif 'alayhā* (Qum, 1425/2004), pp. 44–46 (editor's introduction). It appears that the list of commentaries contains a repetition and therefore the total will reach to 27 commentaries.
  - 11 Al-Khwānsārī, *Rawḍāt al-jannāt*, v. 2, p. 216; Āghā Buzurg al-Ṭīhrānī, *al-Dhari'a ilā taṣānīf al-Shi'a* (Beirut, 1403/1983), v. 16, p. 15 #61. It should be noted that his rival scholar Ṭālibān of Astarābād is also credited with a commentary on the *Zubdat al-uṣūl*.
  - 12 Al-Āmilī, *A'yān al-Shi'a*, v. 9, p. 244.
  - 13 Dirāyatī, *Fihristegān-e nuskehā-ye khaṭṭi-ye Irān* (Tehran, 1390Sh/2012), v. 23, pp. 305–312; Naṣrābādī, *Ketābshināsi-ye Shaykh Bahā'ī* (Mashhad, 1387Sh/2008), pp. 379–381 (73 MSs). This is also attested by Āghā Buzurg al-Ṭīhrānī, *al-Dhari'a*, v. 16, p. 15 when he states that the MSs of *Ghāyat al-ma'mūl* are numerous and widely disseminated (*kathīra shāyi'a*).
  - 14 The *Ghāyat al-ma'mūl* has been subject of research at the postgraduate degree level at Al-Azhar University. Between 2010 and 2011, three students selected different sections of the *Ghāyat al-ma'mūl* for their dissertations. See 'Alī 'Amr 'Abd al-Laṭīf 'Alī, *Ghāyat al-ma'mūl fi sharḥ Zubdat al-uṣūl "taḥqīq wa-dirāsa" lil-'Allāma Muḥammad b. Sa'd al-shahīr bi-l-Jawād al-Kāzīmī min awwal al-makhtūṭ ilā ākhir al-kalām 'an al-mabādī al-lughawiyya* (MA dissertation, Al-Azhar University, 2010), 604 pages; 'Abd al-Raḥmān Muḥammad As'ad Muḥammad, *Taḥqīq wa-dirāsa makhtūṭ Ghāyat al-ma'mūl fi sharḥ Zubdat al-uṣūl (min awwal al-mabādī al-aḥkāmīyya ilā ākhir mabath al-qiyās) lil-'Allāma Muḥammad b. Sa'd al-shahīr bi-l-Jawād al-Kāzīmī* (MA dissertation, Al-Azhar University, 2011), 621 pages; Muḥammad Fārūq Muḥammad 'Abd al-Muḥsin, *Taḥqīq wa-dirāsa makhtūṭ (Ghāyat al-ma'mūl fi sharḥ Zubdat al-uṣūl) lil-'Allāma Muḥammad b. Sa'd al-shahīr bi-l-Jawād al-Kāzīmī min bidāyat (mabāḥiṭh al-awāmīr wa-l-nawāḥi) ilā nihāyat (mabāḥiṭh al-tarjīh) wa-huwa ākhir ajzā' al-makhtūṭ* (MA dissertation, Al-Azhar University, 2011), 618 pages. For biographical details, see (accessed 11 August 2021): <http://www.azhar.edu.eg/central-lib/ar-eg/الرسائل-العلمية/الرسائل-العربية/كليات-الشريعة-والقانون>
  - 15 'Abdallāh b. Bukayr, a student and narrator of traditions from Abū Baṣīr Layth b. al-Bakhtārī al-Murādī. Abū Baṣīr al-Murādī was a Twelver hadith transmitter; because chains of transmission only listed the *kunya* Abū Baṣīr, it was often unclear whether it was in reference to him or Abū Baṣīr Yaḥyā b. Abī l-Qāsim al-Asadī, another transmitter, since both were disciples of the Imams Muḥammad al-Bāqir and Ja'far al-Ṣādiq, and lived in Kufa around the same time. As a result, the identity of Abū Baṣīr in a chain of transmission cannot be determined with certainty (Pakatchi, tr. Hamid Tehrani, "Abū Baṣīr," *EIS*).
  - 16 Samā'a b. Mihrān b. 'Abd al-Raḥmān, a prolific Kufan author and transmitter from Ja'far al-Ṣādiq, Mūsā al-Kāzīm, and their disciples; "there are close to one thousand quotations from this author in Shi'ite works...mainly through the same transmitter." See Modarressi, *Traditional and Survival* (Oxford, 2003), p. 370.
  - 17 A reference to the followers of Ibn Faḍḍāl, who was a "renowned" scholar of *rijāl*, the biographies of transmitters, and a member of the Faṭḥiyya; Abū Baṣīr al-Murādī's only attributed work, on juridical issues, is known mainly through Ibn Faḍḍāl's transmission. See Pakatchi, "Abū Baṣīr".
  - 18 Qur'an 49:6.

- 19 Abān b. ʿUthmān al-Aḥmar, a transmitter of hadith from Abū Baṣīr al-Asādī. See Pakatchi, “Abū Baṣīr”.
- 20 Bahāʾ al-Dīn al-ʿĀmilī, *Mashriq al-shamsayn wa-ikṣir al-saʿādātayn* (Mashhad, 1429/2008), pp. 43–45.
- 21 Qurʾan 49:6.
- 22 The Faṭḥiyya were Shiʿis who believed that the rightful Imam after Jaʿfar al-Ṣādiq was his son ʿAbdallāh al-Aftaḥ rather than his other son, Mūsā al-Kāzim, who the Twelver Shiʿis regard as the sole legitimate successor. See Pakatchi, “Abū Baṣīr”.
- 23 Al-Muḥaqqiq al-Ḥillī, *Maʿārij al-uṣūl* (London, 2003), p. 216.
- 24 Shiʿis who believed that Jaʿfar al-Ṣādiq did not die and would return as the Mahdī (Eds., “Nāwūsiyya,” *EI2*).
- 25 Shiʿis who believed the line of Imams stopped with Mūsā al-Kāzim, whom they believed did not die and would one day return as the Mahdī. See Khani, tr. Farzin Negahban, “Bashiriyya,” *EIS*.
- 26 Al-Ṭūsī, *Uddat al-uṣūl* (Qum, 1417/1997), vol. 1, pp. 148–150.
- 27 Al-Muḥaqqiq al-Ḥillī, *Maʿārij al-uṣūl*, p. 215.
- 28 Al-ʿAllāma al-Ḥillī, *Khulāṣat al-aqwāl fī maʿrifat al-rijāl* (Qum, 1417/1996), p. 74.
- 29 Qurʾan 29:69.
- 30 Al-Muḥaqqiq al-Ḥillī, *Maʿārij al-uṣūl*, p. 218.
- 31 Al-Jubāʿī al-ʿĀmilī al-Shahīd al-Thānī, *al-Riʿāya fī ʿilm al-dirāya* (Qum, 1408/1988), p. 186.
- 32 Qurʾan 49:6.
- 33 Qurʾan 2:282.
- 34 Al-ʿAllāma al-Ḥillī, *Khulāṣat al-aqwāl*, p. 50.
- 35 Al-ʿAllāma al-Ḥillī, *Nihāyat al-wuṣūl ilā ʿilm al-uṣūl* (Qum, 1427/2006), vol. 3, p. 432.

## Bibliography

- al-Afandī, ʿAbdallāh. *Riyāḍ al-ʿulamāʾ wa-ḥiyāḍ al-fuḍalāʾ*, ed. Ḥusaynī Ishkawarī and Aḥmad al-Awlā (Beirut: Muʿassasat al-Tārīkh al-ʿArabī, 1431/2009).
- Āghā Buzurg al-Ṭihrānī, Muḥammad Muḥsin. *al-Dhariʿa ilā taṣānif al-Shiʿa* (Beirut: Dār al-Aḍwāʾ, 1403/1983).
- al-ʿAllāma al-Ḥillī, al-Ḥasan b. Yūsuf. *Khulāṣat al-aqwāl fī maʿrifat al-rijāl*, ed. Jawād al-Qayyūmī (Qum: Muʿassasat Nashr al-Faqāha, 1417/1996).
- . *Nihāyat al-wuṣūl ilā ʿilm al-uṣūl*, ed. Ibrāhīm al-Bahāduri (Qum: Muʿassasat al-Imām al-Ṣādiq, 1427/2006).
- al-ʿĀmilī, al-Sayyid Muḥsin al-Amin. *Aʿyān al-Shiʿa* (Beirut: Dār al-Taʿāruf lil-Maṭbūʿāt, 1403/1983).
- Arjomand, Said Amir. *The Shadow of God and the Hidden Imam* (Chicago: University of Chicago Press, 1984).
- Bahāʾ al-Dīn al-ʿĀmilī, Muḥammad b. al-Ḥusayn. *Mashriq al-shamsayn wa-ikṣir al-saʿādātayn*, ed. Mahdī al-Rajāʾī (Mashhad: Āstān-e Quds-e Raḍawī, 1429/2008).
- . *Zubdat al-uṣūl*, ed. Fāris Ḥassūn Karīm (Qum: Mirṣād, 1423/2002).
- . *Zubdat al-uṣūl maʿa ḥawāshī l-muṣannif ʿalayhā*, ed. ʿAlī Jabbār Gulbāghī (Qum: Intishārāt Dār al-Bashīr, 1425/2004).
- Dirāyatī, Muṣṭafā. *Fihristegān-e nuskehāye khaṭṭī-ye Irān* (Tehran: Sāzmān-e Asnād wa Ketābkhāneh-ye Milī-ye Jumhūri-ye Islāmi-ye Irān, 1390Sh/2012).
- Eds., “Nāwūsiyya,” *EI2*.
- al-Ḥurr al-ʿĀmilī, Muḥammad b. al-Ḥasan. *Amal al-āmil fī tarājim ʿulamāʾ Jabal ʿĀmil*, ed. al-Sayyid Aḥmad al-Ḥusaynī (Qum: Dār al-Kitāb al-Islāmi, 1362Sh/1984).
- al-Jubāʿī al-ʿĀmilī (al-Shahīd al-Thānī), Zayn al-Dīn b. ʿAlī. *al-Riʿāya fī ʿilm al-dirāya*, ed. ʿA. Ḥ. M. ʿA. Baqqāl (Qum: Maṭbaʿat Bahman, 1408/1988).
- al-Kāzimī, Jawād b. Saʿīd [Saʿīd]. *Masālik al-afḥām ilā āyāt al-aḥkām* ed. Muḥammad Bāqir Sharifzādeh and Muḥammad Taqī Kashfī (v. 1)/Muḥammad Bāqir Sharifzādeh and Muḥammad Bāqir al-Bihbūdī (vols. 2, 3 and 4) (Tehran: al-Maktabat al-Murtaḍawiyya li-lḥyāʾ Āthār al-Jaʿfariyya, 1365Sh/1986).
- Khani, Hamed [Farhang Mehrvash], tr. Farzin Negehan. “Bashiriyya,” *EIS*.

- al-Khwānsārī, al-Sayyid Muḥammad Bāqir. *Rawḍāt al-jannāt fi aḥwāl al-‘ulamā’ wa-l-sādāt*, ed. Asadallāh Ismā‘īliyān (Qum: Ismā‘īliyān, 1390/1970).
- al-Mar‘ashī al-Najafī, Shihāb al-Dīn. “*Manhaj al-rashād fi tarjumat al-Fāḍil al-Jawād*,” in al-Kāzīmī, al-Fāḍil al-Jawād. *Masālik al-afhām ilā āyāt al-aḥkām*, ed. Muḥammad Taqī al-Kashfī (Tehran: Intishārāt-e Murtaḍawī, 1365Sh/1986), v. 1, pp. 14–18.
- Modarressi, Hossein. *Traditional and Survival: A Bibliographical Survey of Early Shiite Literature* (Oxford: One-world, 2003).
- al-Muḥaqqiq al-Ḥillī, Ja‘far b. al-Ḥasan. *Ma‘ārij al-uṣūl*, ed. Muḥammad Ḥusayn al-Raḍawī al-Kashmīrī (London: Mu‘assasat al-Imām ‘Alī, 2003).
- Naṣrābādī, Muḥsin Nāji. *Ketābshināsi-ye Shaykh Bahā’ī* (Mashhad: Bunyād-e Pazuhishhā-ye Islāmi-ye Āstān-e Quds-e Raḍawī, 1387Sh/2008).
- Pakatchi, Ahmad, tr. Hamid Tehrani. “Abū Baṣīr,” *EIS*.
- al-Qummī, al-Shaykh ‘Abbās. *al-Kunā wa-l-alqāb* (Tehran: Maktabat al-Ṣadr, 1397/1976).
- al-Ṣadr, al-Sayyid Ḥasan. *Takmilat Amal al-‘āmil*, ed. ‘Abd al-Karīm Dabbāgh (Beirut: Dār al-Mu‘arrikh al-‘Arabī, 1429/2008).
- Stewart, Devin J. “A Biographical Notice on Bahā’ al-Dīn al-‘Āmilī (d. 1030/1621),” *JAOS* 111 (1999), pp. 563–571.
- Stewart, Devin J. “The First Shaykh al-Islām of the Safavid Capital Qazvin,” *JAOS* 116 (1996), pp. 387–405.
- Stewart, Devin J. “The Lost Biography of Baha’ al-Din al-‘Āmilī and the Reign of Shah Isma‘īl II in Safavid Historiography,” *Iranian Studies* 31/2 (1998), pp. 177–205.
- al-Sharīf al-Murtaḍā, ‘Alī b. al-Ḥusayn. *al-Dhari‘a ilā uṣūl al-shari‘a*, ed. al-Sayyid ‘Alī Riḍā al-Madadī (Mashhad: Bunyād-e Pazuhishhā-ye Islāmi-ye Āstān-e Quds-e Raḍawī, 1399Sh/2020).
- Subḥānī, Ja‘far et al. *Mawsū‘at ṭabaqāt al-fuqhā’* (Qum: Mu‘assasat al-Imām al-Ṣādiq, 1420/1999).
- al-Ṭūsī, Abū Ja‘far Muḥammad b. Ḥasan. *Uddat al-uṣūl*, ed. Muḥammad Riḍā al-Anṣārī al-Qummī (Qum: Sitāreh, 1417/1997).