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THE SUNNA AND ITS STATUS  
IN ISLAMIC LAW

Chapter 9

THE SEARCH FOR A SOUND HADITH

Sunna in the Zāhirī Madhhab

Amr Osman

EDITED BY  
ADIS DUDERIJA

24 Temmuz 2017

Overview of the History and Main  
Doctrines of the Zāhirī madhhab

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MADDE YATIRILMADIKTAN  
SUNNA CELEN DOKÜMAN

The founding of the Zāhirī *madhhab*<sup>1</sup> is attributed to Abū Sulaymān Dāwūd ibn 'Alī ibn Khalaf al-Iṣbahānī al-Zāhirī (d. 270/884), whose biographers portray him as a scholar who possessed vast knowledge and argumentation skills and had many followers. The Shāfi'ī scholar Abū Iṣḥāq al-Shīrāzī (d. 476/1083) goes so far as to state that the "mastership of knowledge in Baghdad culminated in Dāwūd,"<sup>2</sup> a problematic statement given the lack of some basic biographical information on Dāwūd and his life. Furthermore, none of Dāwūd's works has survived. In his *Fihrist*, Ibn al-Nadīm (d. 438/1047) attributes to him a large number of works, including ones that obviously dealt with legal theoretical subjects of *uṣūl al-fiqh*—such as *al-Uṣūl*, a copy of which Tāj al-Dīn al-Subkī (d. 771/1370) seems to have had a copy some five hundred years after Dāwūd's death; *Kitāb al-Dhabb 'an al-Sunan wa-l-Aḥkām wa-l-Akhhbār* ("In Defense of *Sunnas*, Rulings, and Reports," a work said to have comprised 1000 folios); *Kitāb al-Ijmā'* (on consensus); *Kitāb Ibtāl al-Taqlīd* (on the invalidity of the [uncritical] following of others' views); *Kitāb Ibtāl al-Qiyās* (on the invalidity of analogy); *Kitāb Khabar al-Wāhid* (on traditions narrated by one transmitter); *Kitāb al-Khabar al-Mūjib li-l-'Ilm* (on reports that establish apodictic knowledge); *Kitāb al-Khusūs wa-l-'Umūm* (on the restrictedness and unrestrictedness of terms); *Kitāb al-Mufassar wa-l-Mujmal* (on clear and ambiguous terms);

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MADDE YAYIMLANDIKTAN  
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## CHAPTER 1

# Dāwūd al-Zāhirī and the Beginnings of the Zāhirī Madhhab

As a first step toward studying the trajectory of the Zāhirī *madhhab*, the purpose of this chapter is to discuss what medieval sources—which sources include biographical dictionaries and works of legal theory (*uṣūl al-fiqh*) and jurisprudence (*fiqh*)—report about the life and doctrines of Dāwūd al-Zāhirī.

### 1 Life and Doctrines

Biographies of Abū Sulaymān Dāwūd ibn ‘Alī ibn Khalaf al-Iṣbahānī al-Zāhirī pose a special historiographical difficulty: statements made about his vast knowledge and prominence do not seem to be consistent with the few pieces of information that his biographers report about his life. For example, al-Khaṭīb al-Baghdādī (d. 463/1071) mentions that Dāwūd lived most of his life in Baghdad,<sup>1</sup> but he does not mention where he was born. Abū Ishāq al-Shīrāzī (d. 476/1083) mentions that Dāwūd was born in Kufa and grew up in Baghdad.<sup>2</sup> Al-Sam‘ānī (d. 562/1166) reports that he was from Qāshān (a village near Isfahan), but resided in Baghdad.<sup>3</sup> We will see below that the majority of Dāwūd’s teachers were either Basran by birth or residents of Basra. It is therefore possible that Dāwūd was born in Kufa, traveled to Basra at an early age, and then possibly to the east where he may have met with Ishāq ibn Rāhawayh and other traditionists of the time, to finally settle in Baghdad until the end of his life.

Another uncertainty about Dāwūd’s basic biographical information is his date of birth. Some of his biographers mention that he was born in the year 200/815; others give the year 202/817.<sup>4</sup> Disagreement over dates of birth of medieval scholars is not uncommon in biographical dictionaries, but information about Dāwūd’s death is also uncertain. His biographers were uncertain

1 Al-Khaṭīb al-Baghdādī, *Tārīkh Baghdād*, vol. 8, p. 369.

2 Abū Ishāq al-Shīrāzī, *Ṭabaqāt al-Fuqahā’*, p. 92. Al-Qurashī mentions the same thing in *al-Jawāhir al-Muḍīyyah* (vol. 4, p. 544).

3 Al-Sam‘ānī, *Ansāb al-Ashraf*, vol. 4, p. 99.

4 Al-Khaṭīb al-Baghdādī, *Tārīkh*, vol. 8, p. 375.

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# The Zāhiri Madhhab (3rd/9th–10th/16th Century)

*A Textualist Theory of Islamic Law*

By

Amr Osman

Zahiriye  
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quite similar to that of contemporary Ḥanafī law-oriented theorists.<sup>78</sup> The scripturalist hermeneutic of the Baghdād Mu'tazila, as expanded by Ja'far ibn Mubashshir to include Prophetic traditions, did survive for several more centuries, but not under a Mu'tazilī banner. It was promoted as an alternative to mainstream Sunnī jurisprudence by a nascent legal school: the Zāhiriyya.

#### THE EASTERN ZĀHIRĪ MOVEMENT

Abū Sulaymān Dāwūd al-Iṣbahānī al-Zāhirī (d. 270/884), considered the founder of the Zāhirī movement, replicated in many respects the scripturalism of Ja'far ibn Mubashshir,<sup>79</sup> yet was also a devoted supporter of al-Shāfi'ī's teachings. On the one hand, like Ja'far, he accepted the legal authority of the Qur'ān and Prophetic traditions<sup>80</sup> while dismissing the authority of the community of legal scholars<sup>81</sup> and of reasoning by analogy—even when the rationale underlying an analogy was explicitly revealed (“sugar is prohibited because it is sweet” prohibits nothing but sugar).<sup>82</sup> He held that only the words of revelation, such as the Prophet's command verbally transmitted in a tradition, can produce legal requirements; another person's statement that the Prophet commanded something has no legal effect if the words of the command itself are not reported.<sup>83</sup> Dāwūd's hermeneutical theory kept interpretation so close to the words of revelation that, according to some reports, he would not admit even the most obvious forms of positive implication, such as “do not insult your parents' implies ‘do not beat them’.”<sup>84</sup> On the contrary, he assumed that if a prohibition addresses some special

<sup>78</sup> See the hermeneutical views in al-Shaykh al-Mufid, *al-Tadhkira*, as summarized in al-Karājaki, *Kanz al-fawā'id*, 2:16-27, and compare, for example, the views defended by Abū 'Abd Allāh al-Ṣaymarī in his *Masā'il al-khilāf*. See also Brunshvig, “Les uṣūl al-fiqh imāmites,” 326.

<sup>79</sup> This was noted by van Ess, *Theologie und Gesellschaft*, 4:224.

<sup>80</sup> Ibn Ḥazm, *al-Iḥkām*, 1:119; al-Zarkashī, *al-Baḥr al-muḥīṭ*, 4:262; Turki, *Polémiques*, 14.

<sup>81</sup> The only kind of consensus he recognized as a binding source of legal rulings was the explicit agreement of all the Prophet's Companions (al-Zarkashī, *al-Baḥr al-muḥīṭ*, 4:482, 495; Goldziher, *Zāhirīs*, 33; Melchert, *Formation*, 180); he accepted the consensus of scholars only on basic factual information such as the location of the Ka'ba (al-Qāḍī al-Nu'mān, *Ikhtilāf uṣūl al-madhāhib*, 123-124; Stewart, “Muḥammad b. Dāwūd,” 138-139). He also wrote a book, or a chapter in a book on legal theory, against *taqlīd* (Ibn al-Nadīm, *al-Fihrist*, 272; Stewart, “Muḥammad b. Dāwūd,” 109-112).

<sup>82</sup> On analogy, see especially al-Zarkashī, *al-Baḥr al-muḥīṭ*, 5:17-21; also al-Nāṭiq bi-l-Ḥaqq, *al-Mujzī*, 1:284; al-Shīrāzī, *Sharḥ al-Luma'*, 2:761 ¶891; al-Bājī, *Iḥkām*, 531 ¶568; Shehaby, “'Illa and Qiyās,” 29; Turki, *Polémiques*, 340-341. On Dāwūd's view of the sources of law generally, see Goldziher, *Zāhirīs*, 30; Melchert, *Formation*, 179-180.

<sup>83</sup> Abū Ya'lā, *al-Udda*, 3:1000; al-Bājī, *Iḥkām*, 225 ¶110; Ibn 'Aqīl, *al-Wādīh*, 3:218; al-Kalwadhānī, *al-Tamhīd*, 3:186; al-Zarkashī, *al-Baḥr al-muḥīṭ*, 2:375, 4:374.

<sup>84</sup> Dāwūd's stance on positive implication is disputed (as noted by Zysow, “Economy,” 161): some reported that he denied it (al-Nāṭiq bi-l-Ḥaqq, *al-Mujzī*, 2:213, 216; Abū Ya'lā, *al-Udda*, 2:481-482); others that he affirmed it (al-Zarkashī, *al-Baḥr al-muḥīṭ*, 5:17, 20). Probably the notion of positive implication had not been formalized in classical terms during Dāwūd's lifetime, though it had been discussed (see p. 26, above). Most later thinkers would consider it part of the

situation, it does not apply to other situations even if they seem all the more fitting; thus “do not kill your children out of fear of poverty” does not itself prohibit killing them for other reasons. This dramatic minimalism was said to stem from his principle that it is only the text that matters, not the meaning behind it.<sup>85</sup> The “argument from evidence” (*dalīl*) that he reportedly employed at times seems to have been a kind of basic rational deduction, or perhaps a kind of analogy akin to al-Aṣamm's categorization of actions according to their formal properties,<sup>86</sup> but not true analogical reasoning in disguise, as some of his critics charged.<sup>87</sup> There were plenty of ways of finding legal values without appealing to analogy—if nothing else he could always appeal to the default value of permissibility that God established when he declared that he had “created for you everything that is on the earth” (Q 2:29).<sup>88</sup> And once a legal value was established, Dāwūd's legal theory required evidentiary certainty before modifying it.<sup>89</sup> He was reluctant to either expand upon or depart from the minimal legal meaning that he found in the language of revelation.

On the other hand, Dāwūd was a devoted admirer of al-Shāfi'ī,<sup>90</sup> and shared significant parts of his project and vision. He adopted al-Shāfi'ī's theoretical definition of the canon of revelation, allowing that individually-transmitted reports can provide genuine knowledge and can impose legal obligations.<sup>91</sup> Most importantly, he shared

implied verbal meaning of the text, and some scholars apparently thought it must therefore have been accepted by Dāwūd; but reports that he rejected it seem more consistent with his other views, including the one mentioned next.

<sup>85</sup> Al-Zarkashī, *al-Baḥr al-muḥīṭ*, 4:23. This illustration was given in a polemical discussion of negative implication, which Dāwūd is generally said to have accepted (Abū Ya'lā, *al-Udda*, 2:453; al-Zarkashī, *al-Baḥr al-muḥīṭ*, 4:25, 30, 41; Zysow, “Economy,” 169). But it seems doubtful that Dāwūd would have affirmed that doctrine in the classical sense that the unmentioned situation must have a legal value opposite that of the situation mentioned. More likely he simply insisted that a text did not apply to any but the situation it mentioned, and left any other situations up to other evidence, or applied to them the default legal value of permission (on which, see below).

<sup>86</sup> See al-Jaṣṣāṣ, *al-Fuṣūl*, 2:262, comparing 2:200 and 2:203-205, which suggest that al-Jaṣṣāṣ understood Dāwūd to have engaged in some kind of interpretive inference that he claimed was indisputable even though it went beyond the words of revelation. Shehaby (“'Illa and Qiyās,” 30-31) concluded this might involve either a clear-cut kind of deduction, or a kind of analogy akin to that of al-Aṣamm; he dismissed the second option only because he was unaware that figures like al-Aṣamm were precisely the kind of thinkers Dāwūd was likely to agree with. See also al-Nāṭiq bi-l-Ḥaqq, *al-Mujzī*, 2:213.

<sup>87</sup> See Goldziher, *Zāhirīs*, 35, 206; Shehaby, “'Illa and Qiyās,” 29.

<sup>88</sup> Al-Bājī, *Iḥkām*, 259 ¶181. Cf. al-Zarkashī, *al-Baḥr al-muḥīṭ*, 5:18.

<sup>89</sup> Al-Zarkashī, *al-Baḥr al-muḥīṭ*, 4:537. Since this principle of *istiṣhāb* extended a known legal value to a new situation, it could fulfill the same function as analogy, as one of his opponents complained (al-Zarkashī, *al-Baḥr al-muḥīṭ*, 6:22).

<sup>90</sup> See Goldziher, *Zāhirīs*, 27-28; Melchert, *Formation*, 146, 179.

<sup>91</sup> Ibn Ḥazm, *al-Iḥkām*, 1:119; al-Zarkashī, *al-Baḥr al-muḥīṭ*, 4:262; Melchert, *Formation*, 180.

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SERRANO RUANO, Delfina. Forum shopping in al-Andalus (II): discussing Coran V, 42 and 49 (Ibn Hazm, Ibn Rushd al-Jadd, Abū Bakr ibn al-'Arabī and al-Qurtubī). *Law and religious minorities in medieval societies: between theory and praxis*. Ed. Ana Echevarria, J.P. Monferrer-Sala, J.V. Tolán. Turnhout: Brepols, 2016, pp. 173-196.  
"Discussions about the Coran verses that use to be quoted by Muslim jurists when addressing Christians and Jews' voluntary resort to Islamic justice." The article is a sequel to the author's "Islamic legal jurisdiction over dhimmis and dhimmis forum shopping in al-Andalus: the divergent views of Malikis and Zahiris (10th-12th centuries C.E.)", in *Religious minorities in Christian, Jewish and Muslim law (5th - 15th centuries)*, ed. J. V. Tolán et al., Turnhout: Brepols, 2016.

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ÖSMAN, Amr. *Sunna in the Zāhiri madhhab. The Sunna and its status in Islamic law: the search for a sound Hadith.* Ed. Adis Duderija. Basingstoke & New York: Palgrave Macmillan, 2015, pp. 195-209.

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SUNNA GELEN DOKÜMAN



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MADDE YAYIMLANDIKTAN  
SONRA GELEN DOKÜMAN

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communal guidance. A closer look at Ibn Ḥazm's identification of controversial Graeco-Arabic philosophical doctrines in a later group of Masarrīs' internal debates will shed further light on how the tenth-century political controversy over the Platonizing Fatimid Ismā'īlī and Masarrī movements, influential in respectively Shiite and Sunnī writings of esoteric scriptural hermeneutics, was a key counterpoint to his eleventh-century Aristotelian logic-oriented theology.

### Philosophy in Zāhirism and Masarrism

Like his criticism of Zoroastrianism and Ismā'īlism, Ibn Ḥazm's critique of his Cordovan predecessor Ibn Masarra and his later Masarrī followers in eleventh-century Almería offers the reader an additional window into the following point: Ibn Ḥazm rejected specific doctrines in Graeco-Arabic psychology and cosmology by criticizing not al-Fārābī or the Baghdad Peripatetics, but rather philosophically oriented theological writers who drew on the philosophers' Platonizing conclusions. Ibn Ḥazm's critique emerges in his fascinating encounter with the later followers of Ibn Masarra who were living in Almería a century after the Andalūsī Umayyads' book-burning campaign. Ibn Ḥazm describes a contemporary figure named Ismā'īl b. 'Abdullāh al-Ru'aynī as an influential Masarrī thinker who deviated so far from mainstream Masarrī theological positions about God's pre-eternal existence and God's omniscience that even his own followers parted ways with him.

I myself saw him, but I did not meet him ... he said seven things that made all of the Masarrīs (*masarrīyya*) wash their hands of him and ascribe disbelief to him, except those who followed him. He said that bodies are never resurrected, and that only the spirits are resurrected. ... It is also said that he used to claim that upon the death of man and the separation of his spirit from his body, his spirit encounters the final reckoning and goes either to heaven or to hell, and that [Ismā'īl b. al-Ru'aynī] did not recognize resurrection except in this way. It is also said that he used to claim that the world does not end (*yufnā*), but rather that it will be as it is [in eternal existence] with no end.<sup>40</sup>

Ibn Ḥazm presents the case of Ismā'īl b. al-Ru'aynī, who was an important figure among at least one group of later followers of Ibn Masarra, but who appears to have been a source of controversy among the Masarrīs themselves for his theological claims.<sup>41</sup> Ismā'īl b. al-Ru'aynī's reading of Ibn Masarra's texts undergirded certain philosophical claims that clashed with the scriptural notion of God's omnipotence and omniscience. Specifically, Ibn Ḥazm's account attributes to Ismā'īl b. al-Ru'aynī the claim that only souls and not bodies are resurrected, and that the world has no finite end in time. Ibn Ḥazm explains that he also

heard from the jurist Abū Aḥmad al-Ma'āfirī al-Ṭulayṭulī that a certain Yahyā b. Aḥmad al-Ṭabīb, the maternal grandson of Ismā'īl b. al-Ru'aynī, remembered that "My grandfather [Ismā'īl b. al-Ru'aynī] used to say that the Throne is what orders and governs (*mudabbir*) the world, and that God Most High is more exalted than to be described with agency at all. He used to attribute this saying to Muḥammad b. 'Abdullāh b. Masarra [Ibn Masarra]."<sup>42</sup> That is, Ismā'īl b. al-Ru'aynī was associated with yet another controversial claim in theology, namely that it is not God but the divine Throne that is the ultimate ordering and governing agent of the world. Ibn Ḥazm also attributes to Ismā'īl b. al-Ru'aynī the opinion that God does not have foreknowledge of the world's particular events before they occur. Specifically, he characterizes the followers of Ismā'īl b. al-Ru'aynī as a group who ascribed disbelief to anyone who said that God "knows everything that will be before it is."<sup>43</sup> The entire discussion of Ismā'īl b. al-Ru'aynī is in fact framed in this section of Ibn Ḥazm's work as one example of a theological group that considers divine agency a separate attribute. Rounding out the controversial claims attributed to Ismā'īl b. al-Ru'aynī, Ibn Ḥazm points to the most controversial doctrine that he was accused of, which is the claim that prophecy could be acquired. Specifically, Ibn Ḥazm says that, "those disagreeing with [Ismā'īl b. al-Ru'aynī] as well as those following him ascribed to him discussion of the acquisition of prophecy, meaning that whoever reached the limit of goodness and purity of the soul can achieve prophecy, [which implies] that it is not a specialized trait. We have seen among them some who ascribe this saying to Ibn Masarra."<sup>44</sup> Interestingly, this claim is the same one that the Andalūsī scholar al-Ṭalamankī, a contemporary of Ibn Ḥazm, ascribed to Ibn Masarra in a lost refutation quoted by several later sources.<sup>45</sup> Given that Ibn Masarra's works do not show evidence of this doctrine, its association with both Ibn Masarra and Ismā'īl b. al-Ru'aynī may have emerged as part of polemical refutations.

This list of controversial doctrines that Ibn Ḥazm associated with the head of the eleventh-century Masarrīs is significant because it highlights how Ibn Ḥazm ascribed common Graeco-Arabic philosophical doctrines to movements beyond the philosophers themselves. In total, Ibn Ḥazm's discussion has identified five sources of theological contention among the followers of Ismā'īl b. al-Ru'aynī: (1) denial of bodily resurrection, (2) denial of the creation of the world from nothing in time (*ex nihilo*), (3) denial of God's agency as the ultimate governing agent, (4) denial of God's foreknowledge of the world's particular events, and finally (5) denial of the inimitability of prophecy. The parallel between this representation of the Masarrīs and al-Ghazālī's later representation of the Graeco-Arabic philosophers is critical. The five philosophical doctrines

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MADDE YAYIMLANDIKTAN  
SONRA GELEN DOKÜMAN

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MADDE YAYIMLANDIKTAN  
SÜLEYMAN ACELEN DOKÜMAN

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CHAPTER 3

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A Definitive Enunciation of God's Inscrutable Demands:  
The Scripturalist Mu'tazila and the Zāhiriyya to Ibn Ḥazm

Al-Shāfi'i's project combined the legal visions of scripturalists, traditionists, and "rationalist" jurists. He reconciled these different visions by proposing that the kinds of comprehensive legal systems propounded by the jurists, the substance of which had, in fact, been derived from local practices and pragmatic considerations as well as from the Prophet's message, could be imagined to stem entirely from Prophetic revelation, and ultimately from the Qur'ān. In chapters 4 through 6 we will see that this proposal ultimately succeeded in winning over theologians, traditionists, and law-oriented theorists of all the major Sunnī schools. This success, however, was not immediate. For several centuries a loose movement culminating in the Zāhiriyya ("literalists" or "followers of the apparent meaning") continued to champion the scripturalist dimension of al-Shāfi'i's proposal. Eventually this movement accepted his extension of Qur'ānic authority to Prophetic traditions, but it doggedly opposed his idea that revelation could be correlated with a comprehensive and rationally coherent system of legal rules. Its proponents denied al-Shāfi'i's claim that revelation can be extended to address unanswered questions through reasoning by analogy, arguing that there is no coherent moral rationale behind God's stated laws, from which human beings might extrapolate additional laws. They therefore restricted the legislative significance of revealed language to its explicit provisions, and left unregulated any action that revelation failed to mention. Equally important, they rejected the flexibility of al-Shāfi'i's hermeneutic of ambiguity, which allowed him to harmonize his legal system with the texts then in circulation. They would sooner dismiss a tradition as inauthentic than reinterpret it. They argued that the words of revelation could be applied directly and straightforwardly to concrete legal problems, without the least interpretive uncertainty (or flexibility), thanks to a divinely sanctioned correspondence between words and their referents.

This literalist and scripturalist hermeneutic was developed most fully by the Zāhiriyya, some of whom supported it with a distinctive theory of language in which meaning is inseparable from verbal form. According to this theory, the words of revelation do not refer to things like wheat or sugar as instances of more abstract universals such as foodstuffs or sweetness; they refer only to precisely circumscribed classes of individual created things, which are defined and delimited by God's choice to conjoin certain things having certain common characteristics under certain arbitrary linguistic labels. God's speech assigns specific legal values to certain classes of things, but those legal values have nothing to do with the essential natures or common

characteristics that define those classes of things. If something is obligatory or permitted or proscribed, this is not pursuant to some coherent moral system existing in the mind of God; it is solely because that thing happens to fall under a certain name or verbal label to which God has assigned a legal value. God's law is nothing but words, which must be followed precisely in accordance with their standard linguistic denotations.

Such a hermeneutic, if implemented as a means of negotiating the relationships between actual laws and texts, would give language a great deal of control over law. This chapter is not a study of Zāhirī law; but from previous studies it does appear that at least some Zāhirī thinkers were willing to depart sharply from mainstream practices and laws in order to make their legal views consistent with revealed texts and with their hermeneutic. For instance, the Zāhiriyya agreed with a few early Muslims that a full bath (*ghusl*) before Friday prayer was strictly obligatory, in keeping with the plain sense of those Prophetic traditions that al-Shāfi'i and other mainstream jurists had reinterpreted to make the bath optional.<sup>1</sup> And while most jurists forbade usurious gain in all kinds of transactions, the Zāhiriyya disallowed it only in exchanges of gold, silver, wheat, barley, dates, and raisins, since those were the only commodities for which the Prophet had explicitly prohibited it.<sup>2</sup> Ultimately this challenge to the legal status quo proved to be too radical. The Zāhiriyya never achieved recognition as an orthodox and institutionally viable legal school, but petered out in the east after the preclassical period,<sup>3</sup> surviving somewhat longer in the Islamic west only as a small and vaguely delimited movement, intermingling with the Mālikī school and known mainly for an emphasis on traditions.<sup>4</sup> During the formative centuries that we are considering here, however, the Zāhiriyya still offered a starkly simple yet theoretically sophisticated alternative to al-Shāfi'i's subtle hermeneutic. This chapter will reconstruct the origins of Zāhirī hermeneutical thought among early theologians, trace its development under Dāwūd al-Zāhirī and his followers in Iraq, and then sketch its fresh elaboration in al-Andalus by the polymath Ibn Ḥazm of Cordova, the only Zāhirī legal theorist whose thought is known to us in detail.

<sup>1</sup> Goldziher, *Zāhirīs*, 60-62; cf. al-Shāfi'i, *al-Risāla*, 303-305 ¶¶840-844.

<sup>2</sup> Goldziher, *Zāhirīs*, 40-41.

<sup>3</sup> See Melchert, *Formation*, 178-190. Melchert stresses their unorthodoxy, their failure to institutionalize the transmission of their views, and their lack of continuing patronage as reasons for their decline in the east (*ibid.*, 187-189). Goldziher (*Zāhirīs*, 104-107) presented the eastern Zāhiriyya as a widespread and coherent religious party, but did not claim that it formed an institutionalized *madhhab* in Melchert's sense.

<sup>4</sup> See the series of articles on the Andalusian Zāhiriyya by Camilla Adang: "The Beginnings of the Zāhiri Madhhab in al-Andalus," "The Spread of Zāhirism in Post-Caliphal al-Andalus," and "Zāhirīs of Almohad Times."

# MADDE YAYIMLANDIKTAN SONRA GELEN DOKÜMAN

111059 - Kiyas  
030036 - Zahiriyec  
HABIB, Muhammad Rafiq. A critical analysis of  
Zāhirī's arguments against the methodology of *qiyās*.  
*Zia-e-Tahqeeq. Ziyā'-i Tahqīq*, 2 / 3 (2012) pp.5-21.  
[The arguments of the Zāhirī legal school.]

27 Nisan 2014

08 Temmuz 2015

- 515 OSMAN, Amr. *The Zāhirī madhhab (3rd/9th-10th/16th century): a textualist theory of Islamic law*. Leiden: Brill, 2014 (Studies in Islamic Law and Society, 38). 308 pp.

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SONRA GELEN DOKÜMAN

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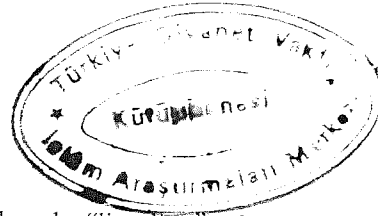
---

1 ALİ PARLAK, Tefsir tarihinde zahirilik ve zahiri te'vil geleneđi, Ankara Üniversitesi, Doktora, 2009

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## Zahirism, Literalism and Ibn Ḥazm



As we have seen, in modern linguistic philosophy “literalism” refers to the belief that statements have meaning distinct from both the intended meaning of the one making the statement, and the meaning understood by the hearer. It is a statement’s meaning which requires no “mind-reading” abilities to be acquired and understood<sup>1</sup> but instead is dictated by a linguistic system. In this sense, much of the language theory of the classical Uṣūlīs was “literalist”, in that the notion of *waḍʿ* as a language system forced a meaning on an utterance which the statement then “owned”. Yunis Ali has usefully described what he calls the *salafī* theory of meaning (deduced through the scattered musings on linguistic philosophy from Ibn Taymiyya and Ibn Qayyim al-Jawziyya). This is closer to the contextualism of the modern philosophical debate,<sup>2</sup> and is anti-literalist. Meaning is produced by use in context, not by an abstract linguistic system. The *salafī* theory remained marginal in the study of *uṣūl al-fiqh*, until the modern period.<sup>3</sup> For most Uṣūlīs, though, the literal meaning was the default meaning because, unlike its rivals, it was not subject to (variable) context. For this reason, it had an ontological status which outlived its rejection as the most plausible interpretation of a particular utterance: unlike meanings which move beyond the literal, the literal meaning was not eliminated by the eventual preference for another meaning. In the main, it remained a *prima facie* justified, even if incorrect, interpretation. Even when rejected, it held a different status to the other (non-literal) discarded meanings.

There is, however, another use of the terms “literalism” and “literalist”, particularly popular in religious and literary studies and also in some other branches of the contemporary humanities. Under this definition, the literal meaning is not merely the fundamental starting point for all textual understanding; its ontological priority is such that, even in the face of indisputable evidence of the literal meaning’s incoherence or irrationality, these literalists refuse to abandon the “literal meaning”. Literalism, in such a disciplinary context, is inevitably caricatured as a form of anti-rationalism (or irrationalism), and for some “literalist” is not a simple description of an exegetical view, it is a judgement on its credibility. In this context, the trend most commonly referred to as “literalist” within the secondary literature on medieval Islamic thought is, of course, the Zāhiriyya. The Zāhiri *uṣūlī* theory of literal

<sup>1</sup> Borg, *Minimal Semantics*, p. 108 (and elsewhere).

<sup>2</sup> Yunis Ali, *Medieval Islamic Pragmatics*, pp. 87–140; Borg, “Minimalism vs Contextualism”.

<sup>3</sup> See below, pp. 181–4.

meaning, the subject matter of this chapter, is known from two main source types: the attribution of opinions in early non-Zāhiri works, and the prolific output of the Andalusian scholar Ibn Ḥazm (d. 456/1064).

### Early Zahirism

Whilst the early history of the Zāhiri school is yet to be comprehensively addressed,<sup>4</sup> the standard account traces its formation to one Dāwūd b. ‘Alī al-Iṣbahānī (d. 270/884), based in Baghdad and probably linked to al-Shāfi‘ī (and possibly Mu‘tazilī) circles. Vishanoff provides a detailed exposition of the intellectual context out of which Dāwūd’s thought apparently emerged.<sup>5</sup> One has al-Nazzām’s (d. c. 221/836) refusal to recognise any rational coherence to the laws God has revealed. It represents a tendency within Mu‘tazilism which is surprising, given the dominant ideas of the more influential Basran Mu‘tazilī school. Within al-Nazzām’s thought, as much as we can reconstruct it in the absence of his works on legal theory, this stance freed the legal meaning of the revelatory texts (which, for al-Nazzām, meant primarily the Qur’ān) from any need to conform to reason, and made possible a sort of literalist hermeneutic. Following this line of reasoning to its natural conclusion, Ja‘far b. Mubashshir (d. 234/848) and Ja‘far b. Ḥarb (d. 236/850) are both associated with a tendency within the Baghdadi Mu‘tazilī school which rejected the innovations of analogical reasoning (*qiyās*) found in the emerging juristic mainstream. The possibility of a thoroughly literalist hermeneutic was, then, established by these thinkers. Al-Shāfi‘ī’s framework, though not his hermeneutic position, was also influential on Dāwūd’s exegetical theory. Within that framework, al-Shāfi‘ī had developed a notion of the *zāhir* meaning of the text, which can deviate from the author’s intended meaning in ways determined by the formal features of the Arabic language (the *lisān al-‘Arab*).<sup>6</sup> Dāwūd may have accepted al-Shāfi‘ī’s notion of *al-zāhir*, but he did not accept that any assumption of the presumed intended meaning of the author, based on some vague notion of accepted Arabic conventions of communication, formed sufficient grounds for a departure from the *zāhir*.<sup>7</sup> Hence, the *zāhir/bāṭin* dichotomy, one of al-Shāfi‘ī’s mechanisms for solving hermeneutic problems, was intentionally unavailable to Dāwūd.<sup>8</sup> Instead, Dāwūd conceived of there being single meanings for individual linguistic phenomena, thereby creating

<sup>4</sup> See Melchert, *The Formation*, pp. 178–86; Vishanoff, *The Formation*, pp. 78–88; Osman, “Zāhiri Madhhab”, pp. 10–93.

<sup>5</sup> Vishanoff, *The Formation*, pp. 68–78.

<sup>6</sup> See above, pp. 99–112.

<sup>7</sup> Osman (“Zāhiri Madhhab”, pp. 163–95) attempts to relate the early Zāhiri notion of *zāhir* with that found in al-Shāfi‘ī’s *al-Risāla*. This is illuminating, but only convincing if we deny Dāwūd himself any distinctive notion of the *zāhir* meaning of the text. He may have adopted elements of al-Shāfi‘ī’s definition, but, as discussed earlier, this was still at a rudimentary stage. It is quite likely that Dāwūd, like many of his contemporary legal theorists, considered the *zāhir* as nothing more than an apparent, first blush meaning informed by “normal” Arabic usage.

<sup>8</sup> Vishanoff speculates that Dāwūd first encountered Shāfi‘ī’s Iraqi teaching, which he found congenial to

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Zahirism  
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MADDE YAYINLANDIKTAN  
SONRA GELEN DOKÜMAN



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230036

64. Carmona, Alfonso.

La doctrine sur l'exercice de la justice : un exemple du désaccord entre Ibn Hāz̄m et les mālikites / Alfonso Carmona González. - 2013. - (Repertorio Español de Bibliografía Árabe e Islámica. 2013.)  
Bibliografía: p. 176-177.. - Es capítulo de: Ibn Hāz̄m of Córdoba. Leiden, 2013. ISBN 978-90-04-23424-6.

1. Ibn Hāz̄m, 'Alī b. Aḥmad - Crítica e interpretación.
2. Zāhiri-es.
3. Fiqh mālikī
4. Derecho islámico - Historia.  
348.97"10"  
348.97Ibn Hāz̄m, 'Alī b. Aḥmad  
ICMA 4-62494 - R.I 73573.

Ibn Hāz̄m  
030435  
Zahiriye  
230036

404. Kaddouri, Samir.

Refutations of Ibn Hāz̄m by Mālikī authors from al-Andalus and North-Africa / Samir Kaddouri. - 2013. - (Repertorio Español de Bibliografía Árabe e Islámica. 2013.)  
Bibliografía: p. 596-599.. - Es capítulo de: Ibn Hāz̄m of Córdoba. Leiden, 2013. ISBN 978-90-04-23424-6.

1. Ibn Hāz̄m, 'Alī b. Aḥmad.
2. Zāhiri-es.
3. Fiqh mālikī - Andalus Al-
4. Fiqh mālikī - Magreb.  
348.97  
ICMA 4-62494 - R.I 73573.

Ibn Hāz̄m 030435  
Zahiriye 230036  
Maliki deyy - 180272

03 Mayıs 2014

MADDE YAYIMLANDIKTAN  
SONRA GELEN DOKÜMAN

Goldziher  
Zahiriyye

15 OCAK 1989

Goldziher, I. *Die Zahiriten, ihre Lehrsystem und ihre Geschichte*. Leipzig: 1884.

- ZAHIRIYYE
- I. Goldziher, *Die Richtungen der islamischen Koranauslegung*, Leiden, 1920.
  - I. Goldziher, *Die Zahiriten, ihr Lehrsystem und ihre Geschichte*, Leipzig, 1884.
  - I. Goldziher, *Vorlesungen über den Islam*; tr. fr. Arin: *Le Dogme et la loi de l'Islam*.
  - I. Goldziher, *Le Culte des Saints chez les Musulmans*. Paris, 1880 (RHR)

Malik - Şafii - Ezzâi - Ehlü'l-Medine  
Ehlü'z-Zahiriyye (Ehl-i Hadis'tan) → Ahmed b. Hanbel - İshak b. Rahavi  
(Müteakkininden) Haris b. Esed et-Muhassibi - Ebu'l-Abbas et-Kalanisi  
Ebu Ali es-Sakafi

الإيمان هو المعرفة بالقلب والاقرار بالسان والعمل  
بالأركان

17 TEMMUZ 2000  
19 TEMMUZ 2000

Nesefi, Tabira, R.Ef. 245-6

- Hamdani, Sumaiya Abbas. "From Da'wa to Dawla: Qadi al-Nu'man's Zāhiri Construction of Fatimid Legitimacy" (Ph.D. thesis, Princeton University, 1995). pp. vi + 270. Zahiriyye

107 MAKIN, A. The influence of Zāhiri theory on Ibn Hazm's theology: the case of his interpretation of the anthropomorphic text "the hand of God". *Medieval Encounters*, 5 i (1999) pp.112-120

02 FYLOL 2000

Ehlü'z-Zahir (Zahiriler)

Nesefi, Tabira, Ras.Ef. 99/25

19 TEMMUZ 2000

- Zahiriler  
- Hanefi Meshebi

ARAŞTIRMACI	: Zehriyya Güler
TEZİN ADI	: Zahir Madhhabında Hanefi Fıkıhleri Arasındaki Mücahazeler ve İhtilaf Sebepleri
TÜRÜ	: Doktor
DANIŞMAN	: Prof. Dr. N. Osman Koçulu
ÜNİVERSİTE ve BÖLÜM	: Selçuk Üni. Sosyal Bil. Enst. Temel İslam Bilimleri Bölümü
BİTİŞ TARİHİ	: 1999
BASILDIĞI YER-TARİH	: 29 HAZİRAN 1999
veya	
BULUNDUĞU KÜTÜPHANE	: Selçuk Üni. Sosyal Bil. Enst.

LES

- ADANG, Camilla. The spread of Zāhirism in post-caliphal al-Andalus: the evidence from the biographical dictionaries. *Ideas, images, and methods of portrayal: insights into classical Arabic literature and Islam*. Edited by Sebastian Günther. Leiden: Brill, 2005, (Islamic History and Civilization: Studies and texts, 58), pp.297-346.

- 1445 ADANG, Camilla. The beginnings of the Zāhiri madhhab in al-Andalus. *The Islamic school of law: evolution, devolution, and progress*. Ed. Peri Bearman, Rudolph Peters, Frank E. Vogel. Cambridge (USA): Islamic Legal Studies Program, Harvard Law School, 2005, (Harvard Series in Islamic Law, 2), pp.117-125;241-244.

02 MARE 2000

Galunizze 96-97

# الصَّاحِبُ الْمَذْهَبِيُّ بِإِفْرِيقِيَّةٍ إِلَى قِيَامِ الدَّوَلِ النَّزْرِيَّةِ

مكتبة جامعة تونس

11

تقديم  
عبد الشَّابِي  
أستاذ بكلية الشريعة وأصول الدين بالجامعة التونسية

Tunisie

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الدار التونسية للنشر

ابن مسألة : « فقيل له : إن داود قال فيها كذا وكذا ، فقال : لو كان نومي  
كيقظة داود ما تكلمت في العلم » (5) .

فنوم ابن الحداد يقظة وإنتاج وإشعاع ، أما يقظة داود فلا تعدو كونها نوما أو  
نون ذلك ، لأنها يقظة عقيم لا شأن لها ولا تأثير .

وهكذا يتمحض الأمر ويخلو الجو للمالكية الذين غالوا في تعصبهم كما رأينا ،  
وسنرى ذلك واضحا بيننا في غير موضع من الكتاب .

## مذهب داود

داود هو أبو سليمان بن علي الأصبهاني ثم البغدادي 200-270/815-883 . يقوم مذهبه على منافاة كل اجتهاد ومجانبة أي تأويل ، إذ المعول عنده وعند أصحابه أن يأخذوا بظاهر نصوص الآيات والأحاديث . ويتلخص مذهبهم في أنهم « جعلوا مدارك الشرع كلها منحصرة في النصوص والاجماع ، وردوا القياس الجلي ، والعلة المنصوصة إلى النص ، لأن النص على العلة نص على الحكم في جميع محالها ... » (1) .

وقد وجد هذا المذهب مجالا للظهور بإفريقية (2) على أيدي أفراد قلائل لم يكن لهم شأن في نظر الناس . منهم أبو القاسم بن مسرور المعروف بابن المشاط الذي مال إلى مذاهب كثيرة بل إلى كافة المذاهب تقريبا (3) .

وأبو جعفر بن خيرون الذي سعى به المروزي لدى عبید الله ، فقتله ، كان مالكيا « وأدخل بعض كتب داود القيروان » (4) .

ويبدو أن سطحية هذا المذهب جعلت فقهاء إفريقية يستصغرون شأن داود ويسخرون منه ، ويعتبرونه عقيم المدارك محدود المعارف ، فقد تكلم ابن الحداد يوما

(1) مقدمة ابن خلدون : 799 .

(2) المدارك (مخطوط) : 1 / ورقة 8 وجه .

(3) تراجم أغلبية : 415-416 .

(4) الحشني طبقات علماء إفريقية 175 .

(5) تراجم غلبية : 353 .

الدكتور  
محمد طه الحاجري

ابن حزم

صورة اندلسية

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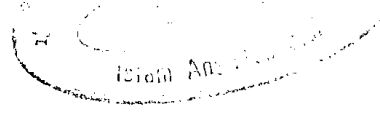
من الطبيعي أن تظهر النزعة المعارضة لذلك ، نراها عند أحمد بن حنبل في صورة ، وعند داود بن علي هذا في صورة أخرى .  
بهذا التفسير لنشأة المذهب الظاهري نستطيع أن نفسر تحول ابن حزم إليه .

وقد أتيج لابن حزم أن يدرس « الفقه » في مذاهبه المختلفة ، وأن يقرأ من كتب المذاهب المعتبرة طائفة غير قليلة ، نستطيع أن نعرفها في رسالته التي أورد المصنف نصها ، في فضل علماء أهل الأندلس ، وأن يعين في الأحكام التشريعية المختلفة التي جاءت بها هذه المذاهب ، ودونها هذه الكتب ، نظراً وتأملاً وتنبها ، بتعرف مصادرها ومواردها ، وأسباب التخالف بينها ، واختلاف السبل بها ، وكيف كان هذا التفاوت البعيد فيها ، إذا كانت تصدر عن أصول لم يختلف المسادون عليها ، وهي كتاب الله الذي لا يأتيه الباطل من بين يديه ولا من خلفه ، وسنة رسول الله ( صلى الله عليه وسلم ) الصحيحة بصحة أسانيدها ، وعدالة روايتها ونقلها ، فما بال هذا الاختلاف البعيد والافتراق الشديد إذن ؟ إنما هو القياس والرأي ، يحكمونه في هذه النصوص ، ويعنون في هذا التحكيم ، فإذا هي خاضعة ، أو هي في حقيقة الأمر خاضعة لهم هم ، إذ كان هذا القياس شيئاً مختلفاً ، لا ميزاناً ثابتاً عادلاً ، فهم إنما يصدرون إذن في هذه الأحكام التشريعية عن الهوى الذي يسمونه قياساً ورأياً . ومن ذلك كان اختلاف هذه الأحكام ذلك الاختلاف المتبادلاً الأطراف ، وذلك التشتت الذي لا يكاد يضبطه ضابط .  
« وجميع أهل النياس مختلفون في قياساتهم ، لا تكاد توجد مسألة إلا وكل

مواجهة الأذى والتعرض للسكره . عندنا أن جملة العوائل ترجع إلى أصلين كبيرين ، يتصل أحدهما بزاجه الشخصي ، ويتصل الآخر بالبيئة الدينية وما يداخها ، وذلك إلى جانب بعض الملابس التي كان لها - ولأريب - أثرها الحافظ إلى اعتناق هذا المذهب والدعوة إليه والنضال دونه .

وتفسير المذهب الظاهري عندنا هو أنه رد فعل طبيعي للمذهب القياسي والإسراف فيه ، على النحو الذي نراه باطراد في تاريخ العلم الإسلامي فالوقوف عند النص يقابل الإسراف في تجاوزه ، والمبالغة في الاستنتاج منه وتحميه الكثير المختلف ، مما يحتمل ومالا يحتمل ، كالذي نراه في تفسير القرآن ، عند ابن عمر ثم عند ابن المسيب مثلاً ، بعد أن استفاض القول في القرآن ، من تحميل آياته ما تطبق ومالا تطبق ، واجتلاب الأخبار والآراء من هنا ، والتسكّر من ذلك ، لإحكامها في تفسير القرآن ؛ كالذي نراه في رواية الحديث من تخرج قوم عن الرواية جملة ، نتيجة تكثر قوم منها ، وتجاوزهم الحدود الواجبة فيها ، واعتبارهم هذا التكثر غاية في نفسه يتحرونها

والأمر في تاريخ الفقه شبيه بذلك ، ومن هذا الباب جاء المذهب الظاهري الذي نراه أولاً ، في صورة ما ، عند معتزلة البصرة ، إزاء أهل الرأي في الكوفة ، ثم لانبث حتى نراه يتخذ صورة مذهب شرعي كامل مستقل في القرن الثالث للهجرة ، في بغداد ، على يد أبي سليمان ، داود بن علي الأصماني ، بعد أن أخذت صناعة القياس تبسط سلطانها ، ويشد إغراؤها للفقهاء ، فيذهبون بها للمذاهب المختلفة في التشريع والإفتاء ، فكان



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# ظَاهِرُ النَّهْضَةِ الْمَرْيُوتِيَّةِ

فِي

## عَرْنَدِ يَعْقُوبِ الْمَنْصُورِ الْمَرْيُوتِيِّ

(595-554 هـ / 1159-1198 م.)

تأليف:

عبد الهادي أحمد الحسين

أستاذ بكلية أصول الدين بتطوان

### الجزء الأول

طبع هذا الكتاب تحت إشراف اللجنة المشتركة لحياء التراث الإسلامي  
بين المملكة المغربية ودولة الإمارات العربية المتحدة

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« ويعقوب المنصور ، هو الذي حرق كتب المالكية ، وترك الفروع ، وألزم العلماء بالاجتهاد ، فظهر في وقته ، حفاظ وعلماء مجتهدون ، يلحقون الفرع بأصله ، أو ظاهرية ، مثل ابن الخطاب ابن دحية ، وأخيه أبي عمرو عثمان ، ومحمي الدين بن العربي الحاتمي وغيرهم (1) ، لكن أخيراً رجح الحجوي المذهب الظاهري ، يعقوب المنصور ، على الاجتهاد ، وصار يثبت له المذهب الظاهري ، بحجج واهية (2) .

وهكذا وقعت هاته التبعية ، من بعض الدارسين ، في إلصاق - الظاهرية الحزمية - يعقوب المنصور ، من دون تمعن ، فجاء الاستاذ ملين (3) من بعد هؤلاء وقال : « أراد يعقوب ، أن يحمل علماء عصره ، على القول بمذهب الظاهرية » .

والاستاذ المنونفي البجائة (4) ذهب هو بدوره مع من يقول بظاهرية المنصور : « وهذا المذهب الظاهري ، كان محبوباً من طرف الخلفاء الموحدين ، وبصفة أخص ، لدى يعقوب المنصور . فقد بلغ من اعجابه به ، إلى حد أن

(1) ابن العربي الحاتمي ، يبرأ من الظاهرية ، وهو ممن رمي بها ، يقول :  
نسبوني إلى ابن حزم وإنسي لست ممن يقول قال ابن حزم  
بـل ولا غيره فان كلامي قال نص الكتاب ذلك علمي  
أو يقول الرسول أو أجمع الخلق على ما أقول ذلك حكمي  
انظر النبوغ . ج . 1 . ص : 125 ط 2 . وكتاب « الفقه » عند الشيخ الاكبر . محيي الدين

ابن العربي . ص : 9 ط 1981 دمشق . تأليف : محمد محمود الغراب .

(2) « الفكر السامي » ج . 4 : 2 - 4 - 213 - 214 ط 1 .

(3) أنظر « عصر المنصور المريني » ملين ص : 258 .

(4) « العلوم والآداب والفنون على عهد الموحدين » ص : 50 ط 1 ، المنونفي .

Tasbeeh  
Mubarak

يدران أبو العيسين بدران  
استاذ الشريعة الإسلامية في كلية الحقوق  
بجامعة الإسكندرية وبيرت العربية

Zahriyye (166-169)

## نسخ الفقه الإسلامي

وتنظير الملكية والعقود

Türkiye İlgili Mevzuat İslem Anlatım ve Uygulama Kurumu	
Kayıt No. :	10747
Tasvif No. :	297.59 ZENT

دار النهضة العربية  
للطباعة والنشر  
بيروت - لبنان

13 MAYIS 1991

المعروف بأبي سليمان الظاهري ، ولد بالكوفة سنة ٢٠٠ هـ أو سنة ٢٠٢ هـ ، ونشأ ببيداد ثم توفي بها سنة ٢٧٠ هـ ، وقد تفقه أولاً على المذهب الشافعي ، وأخذ العلم عن تلاميذ الإمام الشافعي ، ثم سمع من محدثي عهده ، ورحل إلى نيسابور ليسمع المحدثين ، وكان قوي الحجية حاضر البديهة ، كما أخذ العلم أيضاً عن أبي ثور وغيرهما ، وإسحاق بن راهويه ، وكان أكثر الناس تمصباً للشافعي ، وصنف في فضائله والثناء عليه كتابين ، ثم انتحل لنفسه مذهباً خاصاً عرف بالمذهب الظاهري . لأنه كان يأخذ بظاهر الكتاب والسنة ، واختط لنفسه طريقاً جديداً جريئاً . وقد لقن تلاميذه الذين كانوا يحضرون مجلسه وبروون عنه هذا المذهب الذي كان أساسه العمل بظاهر كتاب الله وسنة رسوله ، ما لم يدل دليل منها أو من الإجماع على أنه يراد به غير الظاهر - فإن لم يوجد نص عمل بالإجماع بشرط أن يكون إجماع علماء الأمة جميعاً ، وهيئات أن يتحقق هذا الشرط فكانه رفض الرجوع للإجماع ، كما رفض القياس رفضاً باتاً ، وقسال إن في عمومات النصوص من الكتاب والسنة ما يفي بجواب كل مسألة ، ولم يأخذ بالرأي ولا الاستحسان وما إلى ذلك من الأدلة بل رفضها أيضاً ، فلا يعتبر شيئاً من ذلك من أدلة الأحكام<sup>(١)</sup> ، واتخذ قوله تعالى « فَإِن تَنَازَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللَّهِ وَالرَّسُولِ » (سورة النساء / ٥٩) أساساً لمذهبه .

وقد كان داود من حفاظ الحديث ، لكن قام بتصنيف كثير من الكتب على أبواب الفقه ، فله في الأصول كتاب إبطال التقليد ، و كتاب إبطال القياس ، و كتاب خبر الواحد ، و كتاب الموجب للعلم ، و كتاب الحجية ، و كتاب التفسير والمجمل .

وقد اتبع مذهب كثيرين ، اشتهر منهم ولده محمد بن داود المتوفي سنة ٢٩٧ هـ ، وابن المغلس المتوفي سنة ٣٢٤ هـ ، وانتشر هذا المذهب في الأندلس ،

١ - ابن خلكان - ص ١٧٥ .

وللطائفة الدرزية في لبنان محاكم مذهبية خاصة ، تشرف عليها الدولة ، وتخضع لأصول معينة ، ولها أيضاً قانون خاص بالأحوال الشخصية ، قد صدر في ٢٤ شباط سنة ١٩٤٨ ، وهذا القانون نص فيه على بعض الأحكام الخاصة بهم ، ونص فيها على ذلك على وجوب اتباع المذهب الحنفي . ومن أحكامه الخاصة منع تعدد الزوجات ، ومنع إعادة الرجل مطلقته ، ووجوب اقتران الطلاق بحكم القاضي ، وتعيين أقصى مدة الحمل بثلاثمائة يوم ، وجواز الوصية بأي مقدار ، وللوارث وغير الوارث ، ومنها قاعدة التنزيل في الأثر . وهي أنه إذا توفي الفرع قبل موته قامت فروع الفرع مقامه وأخذت نصيبه كما لو كان حياً ، وكذلك اختلاف الدين والملة عندهم لا يمنع صحة الوصية ، ولا يجوز زواج الدرزية من غير الدرزي ولا زواج الدرزي من غير الدرزية ، فإذا حدث زواج من ذلك فإنه يكون باطلاً ، ولا يجوز الطلاق إلا مرة واحدة ، ولا رجعة للزوجة عندهم أبداً ، فلا يجوز للسلطة أن تعود إلى مطلقها أبداً حتى ولو بعد زواجها من غيره<sup>(١)</sup> .

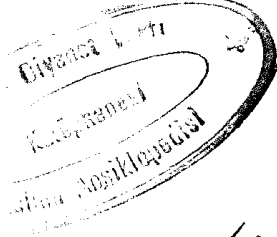
### الفصل الثالث

المذاهب المنفردة « البيانة »

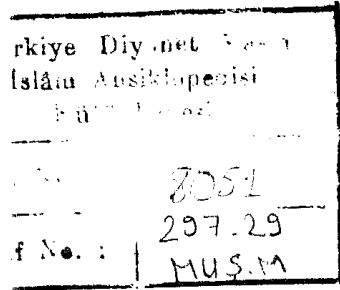
#### ١ - المذهب الظاهري

نشأ هذا المذهب في بغداد في منتصف القرن الثالث الهجري ، وظهر إلى الوجود على يد مؤسسه وداعيته الأول : داود بن عسلي بن خلف الأصفهاني ،

١ - لكن يوجد من بين الدرور الآن من يحافظ على الصلاة بالكيفية التي يمارسها جميع المسلمين ويترددون على المساجد لأداء الصلاة ، كما وجد من بينهم من يقوم بأداء الزكاة برضى وإيمان ، بل إن عدداً غير قليل من الدرور يؤدي كل عام فريضة الحج ، ويطوف بالبيت الحرام ، حتى لقد بلغ في سنة ١٣٧٤ هـ عددهم ٣٦ درزياً من قرى محافظة دمشق وحدها ، وكذا يوجد من بينهم من يصوم رمضان صياماً صحيحاً ، ويحضون غيرهم على صومه والتصدق في أيامه .



# مَدْرَسَةُ التَّيْسِيَّةِ فِي الْأَنْدَلُسِ



تَأليف  
مُصْطَفَىٰ اِبْرَاهِيمَ الشَّيْبَانِي

مؤسسة الرسالة

بين مراكز العلم، فرحل إلى الحجاز، وبغداد، والموصل، وأخذ فيها عن أكابر العلماء، حتى شهد له علماء عصره بالرياسة والعلم، قال ابن حزم: (لولم يكن لأصحاب المذهب المالكي بعد عبد الوهاب إلا مثل أبي الوليد الباجي لكفاهم).

مصنفاته:

(إحكام الفصول في أحكام الأصول) (المنتقى) شرح الموطأ، وكتاب (السراج في علم الحجاج) وكتاب (المهذب في اختصار المدونة) وكتاب (التسديد إلى معرفة التوحيد) وكتاب (الناسخ والمنسوخ) وتوفي (٤٧٤هـ).

٦- القاضي أبو الوليد بن رشد المالكي (١):

قاضي الجماعة بقرطبة، كان فقيهاً عالماً له مؤلفات كثيرة أهمها (المقدمات لأوائل كتب المدونة)، (البيان والتحصيل لما في المستخرجة من التوجيه والتعليل) (بداية المجتهد ونهاية المقتصد) توفي سنة ٥٢٠هـ.

المذهب الظاهري: *Zahiriyye*

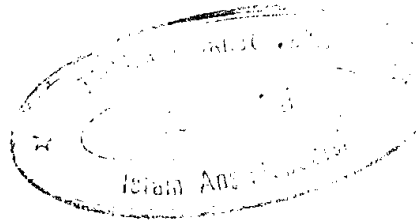
يُنسب المذهب الظاهري إلى داوود بن علي بن خلف الأصبهاني (٢) المشهور بالظاهري، ولد بالكوفة سنة (٢٠٢هـ) ونشأ في بغداد، وكان شافعي المذهب، وصنّف في فضائل الشافعي وشماله (٣)، وهو أول من قال بالظاهر في الشريعة الإسلامية (٤)، ونعى القول بالقياس في الأحكام

(١) ابن بشكوال - الصلة - قسم ٢ ص ٥٧٦، ترجمته في: الضبي - بغية الملتمس - ص ٥٠، ابن فرحون - الديباج المذهب - ج ٢ ص ٢٨٥.

(٢) ابن خلكان - وفيات الأعيان - ج ٢ ص ٢٥٥.

(٣) نفس المصدر السابق بنفس الجزء والصفحة.

(٤) الخطيب البغدادي - تاريخ بغداد - ج ٨ ص ٣٧٤.



ZAHIRIYYE

ظَاهِرُ التَّوَضُّعِ المَدِينِيَّةِ (177-180)

فِي

عِنْدَ يَعْقُوبَ المَنْصُورِ المَوْجِدِي

(554-595 هـ / 1159-1198 م.)

تأليف:

عبد الهادي أحمد الحسين

أستاذ بكلية أصول الدين بتطوان

الجزء الاول

طبع هذا الكتاب تحت إشراف اللجنة المشتركة لاهياء التراث الاسلامي

بين المملكة المغربية ودولة الامارات العربية المتحدة

1402 - 1982 م

اللهم ان توأصينا بيدك، لم تملكنا منها شيئاً، فكما فعلت ذلك بنا ،  
فكن أنت وائنا ومولانا ، واهدنا الى سواء السبيل ، إنك نعم المولى ونعم  
النصير ، والحمد لله رب العالمين .

فهذا الدعاء في حد ذاته، سني محض ، لا يرى منه أدنى شائبة، لا  
شيعية، ولا غيرها من الفرق الضالة .

ب - يعقوب المنصور والمذهب الظاهري :

المذهب الظاهري، يرجع الى القرن الثالث الهجري، ومؤسس هذا المذهب،  
هو أبو سليمان، داود بن علي، بن خلف الاصبهاني، (ت سنة 270 هـ 883 م) .  
أخذ بظاهر الكتاب والسنة ، وألغى ما سوى ذلك ، من رأي وقياس ،  
وضيق حدود الاجماع ، فلم يأخذ إلا بما أجمع عليه صحابة رسول الله  
صلى الله عليه وسلم ، ونهى عن التقليد ، ودعا إلى دراسة الكتاب والسنة ،  
دراسة تعمق ، وتفسيرهما تفسيراً حرفياً ، بحسب ما يرد من معاني الكلمات ،  
في معاجم اللغة ، وما تقتضيه قواعد النحو (1) .

ان داود الظاهري ، من العلماء العارفين بعلم الحديث ، لا تنكر  
إمامته فيه ، لكن لا تسلم له الامامة في الفقه ، ولا جودة النظر في مأخذ :

(1) انظر «مقدمة» ابن خلدون، ص: 446-447 ط، التجارية. و«رسالة في المفاضلة بين الصحابة» لابن  
حزم، ص: 66 ط. 2، 1965. تحقيق سعيد الافغاني. «تاريخ الفكر الاندلسي» ص: 414 - 415  
لانخيل بالنيثيا. ترجمة د، حسين مؤنس. و«عصر المرابطين والموحدين» لعنان. ج 2، ص: 240 .



ZAHIRIYAH WA  
Ibn Qasbi

In the Name of Allah, the Most Gracious, the Dispenser of Grace!

No 2

## ISLAMIC JURISPRUDENCE IN THE MODERN WORLD

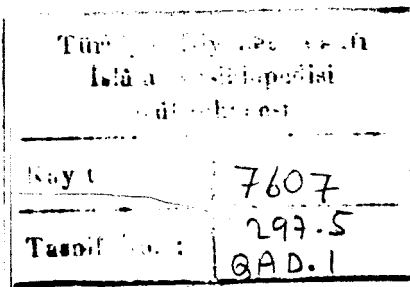
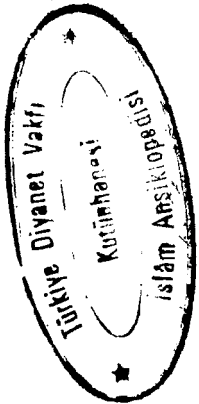
علم الفقه في العالم المعاصر

[‘Ilm al-Fiqh fi’l-‘Ālam al-‘Aṣrī]

BY

ANWAR A. QADRI

B.A., LL.B.; M.L.J. (Wisconsin) U.S.A.;  
C.C.L. (UISC) Luxembourg



TAJ COMPANY

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*Islamic Jurisprudence in the Modern World*

*Zuhd*, etc.<sup>136</sup>

### Section 5: The Extinguished Schools

The teachings of the schools discussed above were accepted by the general public as against the teachings of other Sunnī schools which became extinct due to their not having enjoyed common appeal and patronage. However, contributions made by the extinct schools to Islamic jurisprudence are not small; the most important of them will be surveyed in the following pages.

**The Zāhiri School.**<sup>137</sup> This school was founded by Dāwūd ibn ‘Alī al-Iṣfahānī (d. 270 H.), better known as Abū Sulaimān al-Zāhiri who was born in Kūfah in 202 H. He studied with Ishāq b. Rāhuwayh and Abū Thaur; he popularised the thoughts of Imām Shāfi‘ī. Later, he founded his own school by restricting his thinking to the literal texts of the Qur’ān and the *Sunnah*. He rejected *Qiyās*, but accepted *Ijmā‘* approved by all jurists. He believed that the literal meanings of the texts give out solutions to all legal problems. He used to repeat in his support the Qur’ānic text: “If you disagree over an issue, then refer it to God and the Prophet...” (iv. 59). He wrote many books on the bases of the law, the most famous among them being: *Kitāb Abṭāl al-Taqlīd*, *Kitāb Abṭāl al-Qiyās*, *Kitāb al-Khabar al-Wāhid*, *Kitāb Khair Mujīb al-‘Ilm*, *Kitāb al-Mufasir al-Mujmal*, etc. Abū’l-Hasan ‘Abdullah b. Aḥmad b. Muḥammad b. al-Mukhlāṣ (d. 324 H.) wrote on the school. The school spread westward to Spain where a great jurist Abū Muḥammad ‘Alī b. Aḥmad b. Sa‘īd b. Ḥazm Andalusī (d. 456 H.) wrote many works, especially the most famous *al-Iḥkām li Uṣūl al-Aḥiām* and *al-Fiṣal fi’l-Milāl w’l-Ahwā w’l-Niḥal*. Ibn Ḥazm was a prodigious writer and a great and harsh debator. His thought-provoking method of research, along with his intolerably harsh criticism of others, did not allow the Zāhiri school to acquire a large following. His theories often look closer to Western thought. The adherents of the school had a large following until the fifth century Hijrah when it started declining. The school was dead by the eighth century H.

**Illustration 1.** No divorce by agency, by oath, by delegation, etc. (Imām Zāhiri’s views: Khudrī, op. cit., 365 f.)

**Illustration 2:** On the basis of the Qur’ān (ii. 233), Ibn Ḥazm argued that

136. Ibn Jawzī, *Manāqib*, and Zahrah, op. cit., 271-85. *Dalil al-Ṭalīb fi’l-an Najī al-Maḥālib* by Shaikh Ibrāhīm b. Muḥammad b. Salīm b. Duyan is an explanation of an earlier work by Shaikh Marī b. Yūsuf al-Karmī al-Maqdisī al-Ḥanbalī, which is a summary of the basic work *Ghāyat al-Muntahā*. These works are used in Saudi Arabia. The work *Manār al-Sabil* as an explanation of the text of *al-Dalil* of Salīm b. Duyan has been translated into English by George M. Baroody and printed in 1961.

137. Khudrī, op. cit., 364-9; Ibn Khallikān, *Wafayāt*, I, 175.

Schools and Sects

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“in case the husband is poor and unable to maintain himself while his wife is rich, the latter is obliged to spend on him, the legal ground being the fact that she is his heir after his death”. (Cf. *al-Muḥallā*, [Cairo, 1352-67 H.], X, 92).

**The Awzā‘i School.**<sup>138</sup> It was founded by ‘Abd al-Raḥmān b. ‘Amr Abū ‘Amr (d. 157 H.), born in Ba‘labak (now in Lebanon) in 88 H. He was given to ascetic habits, possessed good character and was called the Imām of Syria, where it is said he was also a judge. He was a traditionist and rejected *Qiyās*. According to Ḥiql, who was the most reliable of persons who quoted from Imām Awzā‘i, the Imām decided 10,000, and according to another version 80,000, legal questions (see *Tahdhīb*, 384). An original writer and an essayist, the Imām’s *Rasā’il* are quite well known. He used to say: “When God desires the decay of any nation, he opens to them debating competitions and closes the door of action.” His independence led him to criticise and remind the assassins of the Umayyads of the unlawfulness of murder in law. ‘Abd al-Raḥmān b. Mahdī said: “The Imāms of Ḥadīth are four: al-Awzā‘i, Mālik, Sufyān al-Thawrī, and Ḥammād b. Zaid.” The school made its way towards *maghrib* in Spain. However, it extinguished after the second century of Hijrah with the emergence of the Shāfi‘ī school in Syria and the Mālikī school in Muslim Spain.

**The Thawrī School.**<sup>139</sup> It was founded by Abū ‘Abdullah Sufyān b. Sa‘īd (d. 161 H.) of Kūfah. Among those who quoted from him were Imām Mālik, Imām Awzā‘i, Imām Ḥanbal and others. He had a similarity of views with his contemporary Imām Abū Ḥanīfah, differing from him on his acceptance of *Qiyās* and *Istiḥsān*. He was well known for his piety and for his deep knowledge of the Traditions of the Prophet. Thus Abū ‘Āṣim said: “Thawrī is the commander of the believers in the matter of Ḥadīth.” The Imām leaned in favour of Caliph ‘Alī while in Syria; at Iraq he praised Caliph ‘Uthmān; and at Kūfah, he complimented Caliph ‘Umar and Caliph Abū Bakr. He was bold to proclaim the truth and it is reported that in the Masjid Ḥaram, when asked by Abbasid Maṣūf, the Imām declared Maṣūf one of the worst men. Imām Aḥmad praised him and attempted to follow his teachings all his life. The Imām always preached for the cause of the law and unbiased legal scholarship without authoritative favours.<sup>140</sup>

**The Tabarī School.**<sup>141</sup> It was founded by Abū Ja‘far Muḥammad b. Jarīr

138. See Ibn Khallikān, op. cit., I, 275; Ibn Nadīm, *al-Fihrist*, 318; Khudrī, op. cit., 362-5; Abū Zahrah, *Ibn Ḥazm* (Pakistan edn., 1964).

139. See Khaṭīb, op. cit., IX, 160; Ibn Athīr, op. cit., I, 134; *Tahdhīb*, 286 ff.

140. See Zahrah’s works on individual Imāms.

141. See Khudrī, op. cit., 369-71. It should be remembered that, apart from the above enumeration, there were other noted jurists and *Muḥaddithin* who independently exercised *Ijtihād*. Among them may be mentioned the names of Imām Mālik’s friends Laith b. Sa‘d (d. 175 H.), Ibn Shbīrimad (d. 144 H.) and Ibn Abī Laylā (d. 148 H.).

# The Nature of the Islamic State

A CRITICAL STUDY OF MUSLIM POLITICAL THOUGHT

by

-Zahiriyah

MUHAMMAD HADI HUSSAIN  
ABDUL HAMEED KAMALI

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Hanbalism was the spearhead of the libertarian movement. It looked on every emerging situation as if it were a new deal between members of the congregation of Islam with complete freedom of contract and the obligation of fulfilment. But, although it stood for freedom from restraint, yet in its categories man as a person had no place: indeed, to it parties to a deal were not flesh and blood human individuals, but mere parties (*fariqain* or *tarafain*). Thus, it took no cognizance of the inherent rights of individuals. Consequently, it readily served as one of the major instruments by which Islam as a code of life was adjusted to the rise of those constellations of mutual dealings which represented the rebirth of Sassanianism in Islam. It produced a feudal order which was devoid of every thought of human rights and of the dignity of the common man. The libertarian mind, nurtured on Hanbalism, did not feel any aversion to things like traffic in slaves, the rise of the leisured class on the basis of exploitation, the discriminatory magisterial system of the Naqib al-Ashraf, and the overlordship of amirs and sultans. It hailed every new social phenomenon unconcernedly as yet another relationship between some or all parties in Muslim society.

Zahirism, which flourished in the fourth and fifth centuries, shaped the religious thought of the people of Andalusia. Besides its founder, Abū-Dāwūd b. 'Alī (d. 200/815), its important exponents were Abū 'Abd-Allāh b. Waddāh (d. 386/996), Qāsim b. Asbagh (d. 340/951), Mundhir b. Sa'īd al-Balūṭī (d. 403/1012), Ibn Ḥazm (d. 456/1063), and Abu'l Khayar Mas'ūd b. Sulaimān (d. 466/1073). The greatest of them all was Ibn Ḥazm. Zahirism also orientated Muslim thought in the direction we have just described. It was called Zāhirīya (apparentism) by its adherents because it founded its constructs on the apparent meanings of the verses of the Qur'ān, maintaining that the references in the words of the Qur'ān were specified by the traditions of the Prophet and the Companions. Its intellectual activity consisted mainly in (a) collecting different verses of the Qur'ān on the same subjects, (b) determining their meanings by comparison and contrast in the light of the traditions of the Prophet and *akhbār* (reports) of the Companions, and (c) drawing immediate inferences on the basis of these. Thus, confining itself to immediate inferences, Zahirism rejected analogical reasoning as a means of extending the application of the *Sharī'a*. It was therefore essentially conservative in its spirit and logic. But it reconciled itself to the growing good and bad innovations in *mu'āmalāt* by treating as

*mubāh* (permitted) everything which did not clash with the obvious ordinances. The evolution of Zāhirite thought illustrates how a closed school was yet wide open to innovations.

Expounding the Zāhirite doctrine that the validity of anything lies in its root, Ibn Ḥazm said: "Adam was sent to this world as a messenger. When he was made to descend, God said to him: 'For you on the earth is a station to live in and wealth (*matā'*) until a time' (2:36). God thus validated things (of the world) by pronouncing them *matā'*, then made illicit those of them which He willed. And all this happened in the light of the *Sharī'a*.<sup>12</sup> Thus, according to Ibn Ḥazm, permission is the basis of all affairs and consequently the *sharī'ī* groundwork of all social phenomena and institutions. Things continue to exist as licit until it is proved that the *Sharī'a* has declared them either obligatory or prohibited by revelation. If they are proved obligatory, they must be promulgated; if they are proved prohibited, their door shall be necessarily closed. Thus was defined the concept of permission in Zāhirism. According to that concept, the obligatoriness and prohibitedness attributed to things are to be determined by arguments from the *Sharī'a*, while things (including *mu'āmalāt*) primarily possess the property of permissibility by virtue of the declaration: "For you on the earth is a station to live in and wealth till a time" (2:36).

Thus, Zāhirism, like Hanbalism, was destined to grow into a libertarian movement supporting as permissible from the Islamic point of view all such changes as were not proved either obligatory or prohibited by demonstration from the *nuṣūṣ* of the Qur'ān and the *Sunna*. As a result of this outlook it failed to develop principles for sound orientation of the social system to guard it against different kinds of aberrations and innovations that cropped up in it. It was ever ready to put the seal of validity upon every public order which emerged in the Muslim dominions.

### III. Public Expediency and the *Sharī'a*

Just as a circle in Euclidean geometry can be reduced to a denumerable set of equilateral triangles, so is the social process in Islam reducible to a denumerable set of bonds and commitments between individuals. To this extent, both libertarianism and authoritarianism remained true to the original credo of Islam and drew upon the fountain-head of its primary feeling. Beyond this, however, they had their own logic, independently

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# مَوْسُوعَةٌ الأديان والمذاهب

## الفصل السابع المذهب الظاهري

تأليف  
العميد عبد الرزاق محمد أسود

Türkiye Diyanet Vakfı İslâm Araştırmaları Merkezi Kütüphanesi	
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## BİBLİYOGRAFYA

El-Sam'ani, *el-Ensâb*, İbnu'l-Esir, *el-Lubâb*; Ahmed Emin, *Zuhr el-İslâm*, Cilt I; el-Mâturidi, *Kitâb el-Tevhid*, yazma, Cambridge, Varak 1; Seyyid Murtaza *Şerh İhyâ*; Cilt II; Abdulkadir Karaşi, *el-Cevâhir el-Mud'îyye*, yazma, Kahire Mahmud el-Kûfevi, *Ketâ'ib A'lâm el-Ahyâr*, yazma, Kahire; Kâsım b.Kutluboğa *Tâc el-Terâcim*, Leipzig, 1862; Taşköprüzade, *Miftâh el-Sa'âde*, *Haydarabad 1928*; *Abdulhayy Lahnavi, el-Fevâ'id el-Bâhiyye*, Kahire, 1324/1906; Kemaleddin Biyâdi, *İşarat el-Merâm*, Kahire, 1949; Hacı Halife (Kâtip Çelebi) *Keşf el-Zunûn* İstanbul, 1943; Aliyu'l-Kâri, *Şerh el-Fikh el-Ekber*, Kahire, 1323/1905; Zühd Hasan, *el-Mutezile*, Kahire, 1947; el-Eş'âri, *Kitâb el-Luma*; *Makâlât*, Kahire İmam el-Haremeyn, *el-Akidet el-Nizamiyye*; *Şerh el-Akaid el-Adüdiyye*; el-Bağdadi *el-Fark*; Muhammed b. el-Murtaza el-Yemceni, *İsâr el-Hakk*; İbn el-Nedim, *el-Fihrist*; el-Şehristânî, *Milel*; Abdurrahim, *Nazm el-Ferâiz*, Kahire; el-Mekki ve Bezzâz, *el-Menâkıb*; Abdullah b. Osman, *Risale fî el-Hilâf beyn el-Eş'ariyye ve'l-Maturidiyye*, yazma, Kahire; Goldziher, *Vorlesungen über den Islam*, Heidelberg, 1910; *Islamische Philosophie des Mittelalters in Kultur des Gegenwart*; T.J.d. Boer, *Geschichte der Philosophie im Islam*, Stuttgart, 1901; Maimonides, *Le Guide des Egres*, editör ve çeviren S.Munk, Paris, 1856-66; S.Harowitz, *Über den Einfluss der griech. Philosophie auf die Entwicklung des Kelâm*, Breslav, 1909. K.Lasswitz, *Geschichte der Atomistik*, Hamburg/Leipzig, 1890.

## ZAHİRİLİK

A  
ARKAPLAN

İkinci/altıncı yüzyıldan itibaren, kelim ve fıkıh meselelerinde, hadis ehli ile rey ehli arasında sıkıcı bir tartışma uzun bir müddet devam etmiştir.

İbn Haldun'un *Mukaddime*'de belirttiği gibi, Hicaz ahalisinin, özellikle Medinelilerin, Hadis ilminde üstün olmaları beklenen bir şeydir. Abbasi hilafetinin yükselmesiyle ve siyasi iktidar ile dini liderliğin tamamıyla Hz.Peygamber'in (sav) hadislerinin ulaşma imkanının az olduğu ve tarımsal sorunlar gibi, hayatın bir parçası olan unsurların başlangıçtan itibaren başarılı uygarlıkların yükselmesi ve çökmesiyle karmaşıklaştığı Irak'a kaymasıyla birlikte, yeni bir ekolün, rey ekolünün ortaya çıkması kaçınılmaz oldu. Bununla birlikte rey ehli hadisi tamamen ihmal etmemiş; fakat onu örfle ve cari olan kullanımlarla ya da kendi yeni çevrelerindeki fiili şartların üzerinde düşünülmesiyle şekillenen ilavelerle tamamlamayı gerekli görmüşlerdir.

Aynı zamanda da Şiiler arasında en yaygın olanı (vahyin batını ya da manevi yorumu üzerinde duran) Batınıyye<sup>1</sup> olan, çeşitli isimler altında batını (esoteric) bir hareket başladı. Bu mezhebin oluşması, ataları hakkında hiçbir şey bilmediğimiz Me'mun adında birine atfedilir.

Batını hareket, ismini, takipçilerinin her bir zahir'in (nesnelere görünen durumunun), özellikle vahy ile bağı bakımından<sup>2</sup> bir batını (içsel, allegorik, saklı ya da gizli anlamı) olduğuna dair görüşünden almıştır. Sudur<sup>3</sup> gibi, Yunan felsefesinin bazı yönlerini kabul ettiğinden bu hareketin takipçileri, Sünni alimlerce ya sapık ya da kafir olarak değerlendirilmiştir<sup>4</sup>. Me'mun'un hilafeti boyunca (198/813-218/833), Batını hareketi oldukça güçlüydü<sup>5</sup>; yarım yüzyıl kadar sonra

1- Şehristânî, c.II, s.29; bkz.s.5.

2- *A.g.e.*, s.29, bkz.s.31 vd.

3- *A.g.e.*, s.29 vd.

4- *Fark*, s.14, 142; bkz.s.152, 169, 177, 182, 216; bkz.Şehristânî, c.II, s.31 vd.

5- *Nubaz*, Giriş, s.4.

## الظاهرية

المفلس توفى سنة ٣٢٤ هـ.

وقد استمر مذهب داود متبعاً إلى منتصف القرن الخامس الهجرى ثم اضمحل، وله آراء خالف فيها الجمهور نتجت من ترك القياس والعمل بظاهر الكتاب والسنة، ومن يطلع على كتاب المحلى لأبى محمد على بن أحمد بن سعيد بن حزم الأندلسى المتوفى سنة ٤٥٦ هـ. يرى فيه كثيراً من تلك المسائل، وصار إلى مذهب أهل الظاهر ومهر فيه باجتهاد زعمه فى أقوالهم، وخالف إمامهم داود.

وفى طبقات الشافعية لابن السبكي هل يعتد بخلاف الظاهرية فى الفروع أم لا؟ وحكى فى ذلك ثلاثة أقوال:

أحدها: اعتباره مطلقاً وهو الصحيح.

والثانى : عدم اعتباره مطلقاً ونسبه الأستاذ أبو إسحق إلى الجمهور.

والثالث: اعتباره إلا فيما خالف القياس الجلى.

وحكى ابن السبكي عن والده أن داود لا ينكر القياس الجلى وإنما ينكر الخفى فقط.

قال عنه الذهبى : داود بن على بصير بالفقه، عالم بالقرآن، حافظ للأثر، رأس فى معرفة الخلاف من أوعية العلم، له ذكاء

الظاهرية: مذهب من المذاهب الفقهية

البائدة تنسب إلى أبى سليمان داود بن على ابن خلف الأصبهانى المعروف بالظاهرى<sup>(١)</sup>، ولد بالكوفة سنة ٢٠٢ هـ. وأخذ العلم عن إسحاق بن راهويه وأبى ثور وغيرهما.

وكان أكثر الناس تعصباً للشافعى وصنف فى فضائله والثناء عليه كتابين، وانتهت إليه رئاسة العلم ببغداد، ثم انتحل لنفسه مذهباً خاصاً أساسه العمل بظاهر الكتاب والسنة ما لم يدل دليل منهما أو من الإجماع على أنه يراد به غير الظاهر، فإن لم يوجد نص عمل بالإجماع ورفض القياس رفضاً باتاً وقال: إن فى عمومات النصوص من الكتاب والسنة ما يضى بكل جواب.

صنّف داود كثيراً من الكتب منها كتبه فى أبواب الفقه ومنها فى الأصول كتاب إبطال التقليد، وكتاب إبطال القياس، وكتاب خبر الواحد وكتاب الخبر الموجب للعلم، وكتاب الحجّة، وكتاب الخصوص والعموم، وكتاب المفسر والمجمل وغير ذلك من الكتب، وقد انتهت إليه رئاسة العلم فى بغداد.

وممن أخذ عنه وسار على مذهبه ابنه محمد وكان فاضلاً صنّف كثيراً من الكتب، ومن متبعى داود والمؤلفين على مذهبه أبو الحسن عبد الله بن أحمد بن محمد بن

الأشعار والأخبار والطُرف وما إلى ذلك. وكان قد شرع في تأليفه أيام الفتوة والشباب، وظل يضيف إليه ما يظفر به في كتب الأدب والنقد والتاريخ، ويتناوله بالتهذيب والتنقيح حتى تناسبت أبوابه واطُردت فصوله وحوى كل جميل وطريف من غرر الأخبار ورائق الأشعار وروائع القصص، وقد يورد في كتابه بعض أشعاره وأخباره وسيرته الذاتية مع معاصريه مستخدماً في أسلوبه المحسنات البيديعية من لفظية ومعنوية: كالجناس والطباق والمقابلة والتورية وما إلى ذلك.

توفي ابن ظافر الأزدي على أصح الأقوال سنة ٦١٣هـ، وبعض المصادر تجعل وفاته سنة ٦٢٣هـ، ولعل فيها تصحيفاً.

محمود فاخوري

ولابن ظافر شعر مفرق في الكتب ولاسيما كتابه «بدائع البدائه» ومعظمه في الوصف والغزل والمساجلات الشعرية مع بعض أصدقائه من الشعراء. ومن شعره قوله:

إني لأعجب من حبي أكتّمه  
جهدي، وجفني بفيض الدمع يعلنه  
وكون من أنا أهواه وأعشقه  
يخرب القلب عمداً وهو يسكنه  
وأعجب الكلّ أمراً أن ميسمه  
من أصغر الدرّ جرمًا وهو أئمنه  
أما مؤلفاته فمنها: «أخبار  
الشجعان»، «أخبار ملوك الدولة  
السلجوقية والدول المنقطعة» وكتاب  
«التشبهات». وأشهر كتبه كتاب «بدائع  
البدائه»: يتضمن أخبار من قال شعراً  
على البيهية، وهو على صغر حجمه  
نال حظوة كبيرة عند أهل الأدب، ودار  
على الألسنة ما رواه صاحبه من

جلدي، وعلقت فيه توائمي، فالله تعالى يحقق الرجاء ويكمل الأمل، بمثته وطوّله». وهكذا شد ركابه إلى القاهرة وسار إليها يحدوه الأمل المعسول والحنين الشديد إلى لقاء مفاتن بلاده وملاعب حداثته ومحراب كتبه. وولي هناك وكالة بيت المال مدة، ثم أقبل في آخر عمره على مطالعة الأحاديث النبوية وكتب الأدب وأخلد إلى الراحة والاطمئنان، وعاوده الأتس والابتهاج، وأخذ في التأليف والتصنيف وقول الشعر فيما يعرض له من المناسبات.

كان ابن ظافر الأزدي، كما قال فيه ياقوت، «نعم الرجل له علوم جمة وفضائل كثيرة»، وقال فيه ابن شاعر الكتبي «كان متوقد الخاطر، طلق العبارة، ومع تعلقه بالدنيا له ميل كثير إلى أهل الآخرة، محباً لأهل الدين والصلاح».

#### مراجع للاستزادة:

- علي بن ظافر الأزدي (بدائع البدائه) ومقدمة المحقق، تحقيق محمد أبو القاسم إبراهيم (القاهرة، ١٩٧٠م).  
- ابن شاعر الكتبي، فوات الوفيات، تحقيق إحسان عباس (بيروت، ١٩٧٤م).  
- ياقوت الحموي، معجم الأديباء (دار المستشرق، بيروت، د.ت).

■ **الظاهر (علي بن منصور) - الفاطميون**

■ **الظاهر (غازي بن يوسف) - الأيوبيون**

■ **الظاهر بالله (محمد بن أحمد) - العباسيون**

■ **الظاهر ببيرس (الملك) - ببيرس (الملك الظاهر)**

■ **الظاهر جقمق (الملك) - المماليك**

■ **الظاهري (داود بن علي) - داود بن علي الظاهري**

■ **الظاهري (محمد بن داود) - محمد بن داود**

■ **الظاهرية (دار الكتب) - دار الكتب الظاهرية**

■ **الظاهرية (مذهب..)**

يتخلف عن هذا الانطباع من صور، وما يترتب عليها من أفكار، وعلى ذلك يكون الحديث عن الشيء، حديثاً في الواقع عن انطباعات عنه، وليس عن الشيء

المادي. ويزعم أصحاب هذا المذهب أن الإدراك لا يكون إلا بظواهر الأشياء، أي بما تبدو عليه، بمعنى أنه إدراك بما ينطبع من الظواهر على الحس، وما

الظاهريّة (أو الظواهرية أو الظاهراتية) Phenomenalism في الفلسفة هي المذهب القائل بالوجود الحقيقي للظواهر وانكار الجوهر

celui du *Tawq al-ḥamāma*, ont connu plusieurs éditions et traductions <sup>(1)</sup>. Ce qui donne une idée du travail considérable effectué jusqu'à ce jour.

Ces quelques notes, présentées sous cette rubrique de date assez récente, sont consacrées à I. 'Abbās, le chercheur qui a certainement donné, en éditions plus ou moins critiques — la qualité variant selon le nombre de manuscrits découverts pour le seul ouvrage et leur qualité — la plus grande quantité de *rasā'il* d'Ibn Ḥazm. C'est ainsi que, depuis un quart de siècle et inlassablement, il ne cesse de nous présenter cet ensemble d'épîtres, le plus souvent inédites et dont la longueur varie de quelques pages jusqu'à 200 ou 300 pp. Et voilà, et comme pour couronner une carrière de recherches ḥazmiennes, qu'il fait paraître, coup sur coup, les quatre premiers volumes d'une série qui n'est pas encore terminée et où il réunit toutes les épîtres du zāhirite connues. Nous allons les présenter assez rapidement avant de nous arrêter sur le *Taqrib*, cette épître par laquelle il entama l'édition de l'œuvre ḥazmienne en 1959, mais aussi il meubla l'essentiel du quatrième volume des *rasā'il*, le dernier en date, paru il y a juste une année <sup>(2)</sup>. Ce qui nous donnera l'occasion de livrer au lecteur quelques réflexions sur l'ouvrage et son importance pour caractériser l'évolution du zāhirisme d'Ibn Ḥazm.

Le tome premier des *Rasā'il*, paru en 1980, à Beyrouth comme les autres tomes, est présenté comme étant d'un caractère autobiographique (*dhātīyya*). Comprenant 486 pp., il présente 4 épîtres dont 3 déjà éditées par I. 'A., alors que le *Tawq*, plusieurs fois réédité, est donné ici pour la première fois.

(1) I. 'Abbās (*Rasā'il*, t. I, pp. 20-22, Beyrouth 1980) n'a pas dénombré moins de 9 éditions dont la sienne et 6 traductions en langues européennes, sans parler de 7 études en arabe et de 10 recherches plus ou moins longues en d'autres langues. Compléter cette liste par celle de Q. al-Samarri, « New remarks on the text of Ibn Ḥazm's *Tawq al-ḥamāna* », in *Arabica*, XXX/1, 1983, p. 58 ; il faut donc ajouter les traductions de A. J. Arberry, Londres 1953 et de R. Kruk et J. J. Witkam, Amsterdam 1977, ainsi que le c. r. de l'édition de Pétrouf par I. Goldziher in *ZDMG* 69, 1915, pp. 192-207.

(2) Il est significatif qu'I. 'A. mit en tête du 1<sup>er</sup> des 4 volumes, paru il y a près de 4 ans, l'édition, la première pour lui, du *Tawq*. Pour ce travail, il profita de la presque totalité des éditions et traductions antérieures valables, tout en prenant soin de la faire précéder d'une introduction de 85 pp. Sur l'appréciation de sa valeur, voir l'intéressante présentation critique de Q. al-Samarri in *op. cit.*, pp. 57-72. Tout en la jugeant la meilleure jamais parue jusqu'à ce jour, Q. S. ne propose pas moins de 32 corrections en faisant appel à un ensemble de considérations lexicographiques ou littéraires. Qu'il nous permette de signaler 2 erreurs — coquilles ! — assez légères. Il lui a semblé (p. 59) qu'I. 'A. a lu (p. 83) : *fa-hadhā min al-faqr* en suivant en cela L. Bercher, alors que les deux éditeurs avaient lu : *fa-hadhā min al-'afw* que l'arabisant français traduit d'ailleurs par : « En effet, cela fait partie des actions superflues » (p. 5). Cette lecture a été par contre attribuée par Q. S. aux éditions de Pétrouf, Ṣayrafi et Makki. Et lui de proposer comme lecture : *fa-hadhā min al-laghw* qu'il traduit par *idle talk*, c'est-à-dire propos vains. D'autre part, Q. S. affirme (p. 60) qu'I. 'A. (p. 111), toujours à la suite de L. B., lit : *an yadhab taḥammuluhu*, alors que tous les deux avaient opté pour *taḥāmuluhu*, le second prenant soin de donner, en note, la lecture de l'édition de Pétrouf : *taḥammuluhu*.

STUDIA ISLAMICA, c. LIX, s. 175-185, 1984 (PARIS)

## NOTES ET COMMENTAIRES

Notes sur l'évolution du zāhirisme d'Ibn Ḥazm (456/1063)  
du *Taqrib* à l'*Iḥkām* <sup>(1)</sup>

Les études ḥazmiennes, en langues européennes, lancées il y a juste un siècle par I. Goldziher avec son *Die Zāhiriten*, reprises près d'un demi-siècle plus tard par M. Asín Palacios avec son *Abenḥázem*, reparties de nouveau avec R. Arnaldez dans *Grammaire*, paru moins de trois décennies après, se poursuivent régulièrement aussi bien sous forme d'articles que d'ouvrages. Il faut donc signaler l'étude de R. Brunschvig, publiée la première fois en 1971 <sup>(2)</sup>, et nous-mêmes dans ce sillage ḥazmien avons fait paraître en 1976 un ouvrage de polémique en matière de méthodologie juridique <sup>(3)</sup>.

En langue arabe, l'intérêt n'est pas moins manifeste, bien que plus tardif. Sans parler des articles, et ils sont très nombreux et de niveaux très variables, citons les ouvrages d'A. Zahra, de T. al-Ḥājiri et de Z. Ibrāhīnī, parus au cours des trente dernières années, et celui tout récent d'A. 'A. Ibn 'Aqīl al-Zāhiri <sup>(4)</sup>.

D'autre part, l'œuvre ḥazmienne, proprement dite, ne cesse depuis un siècle d'intéresser les éditeurs qui la livrent au public savant, voire à un plus large public curieux et cultivé ; certains manuscrits, tels que

(1) A propos de la parution récente de quatre volumes de ses *rasā'il* éditées ou rééditées par I. 'Abbās.

(2) Il s'agit d'une étude à laquelle nous aurons l'occasion de revenir assez longuement, préparée en 1969, parue la première fois à Rome et la deuxième à Paris en 1976 dans *Études d'Islamologie*, t. I, pp. 303-338 ; le titre en est : « Pour ou contre la logique grecque chez les théologiens-juristes de l'Islam : Ibn Ḥazm, al-Ghazālī, Ibn Taimiyya ».

(3) Voir *Polémiques entre Ibn Ḥazm et Bājt sur les principes de la loi musulmane, essai sur le littéralisme zāhirite et la finalité malikite*, Alger. On voudra bien consulter ce travail pour plus de détails sur une bibliographie ḥazmienne. Dans un ouvrage plus récent, paru à Paris en 1982, *Théologiens et juristes de l'Espagne musulmane, aspects polémiques*, nous avons reproduit trois études ḥazmiennes (pp. 69-198), parues au cours de 1978 et 1979.

(4) Il s'agit de son recueil de textes biographiques, *Ibn Ḥazm khilāl al-f'ām*, 4 t. en 2 vol., 948 pp., Beyrouth 1982. Pour plus de détails sur les ouvrages en arabe, voir *Polémiques*, Bibliographie.

Zahīr al-Dīn stemmed from the main branch of the Mar'ashīs, that of Kamāl al-Dīn b. Kīwām al-Dīn (d. 801/1379). He owned estates at Bāzargāh in Gīlān, and was employed by Sultan Muḥammad II of the Kār Kiyā line in Gīlān and then by his son and successor Mīrẓā 'Alī (r. 881 or 883/1476-8 to 909 or 910/1503-5). He was sent to resolve militarily a succession dispute in adjacent Rustamdār and he led other expeditions, including an unsuccessful siege of Nūr in 868/1463. It was for Mīrẓā 'Alī that Zahīr al-Dīn wrote his *Tārīkh-i Tabaristān u Rūyān u Māzandarān*, extending from the origins of the local dynasties up to 881/1476 (ed. B. Dorn, St. Petersburg 1850; ed. 'Abbās Shāyān, Tehran 1333/1954-5), and his *Tārīkh-i Gīlān u Daylamistān*, carried up to 894/1489 (ed. H.L. Rabino, Rasht 1330/1912), both valuable for the intricate history of the petty principalities of the Caspian region. Another work of his that is mentioned, but not apparently extant, is a *Tārīkh-i Gurgān u Rayy*, and he wrote verse, probably under the pen-name of Zahīr, which are quoted by him in his histories.

*Bibliography:* Dorn, *Sehir-eddin's Geschichte von Tabaristan, Rujan und Masanderan*, St. Petersburg 1850, 13-22; Rabino, *Māzandarān and Astarābād*, GMS, London 1928, p. xxiii (résumé of the *Tārīkh-i Gīlān*); Storey, i, 361-2; Storey-Bregel, ii, 1073-4, 1076.

(C.E. BOSWORTH)

AL-ZĀHIRA, "the rearwards region", conventionally Dhahirah, the name given to the interior, landwards part of 'Umān, that lying behind the Djabal Akhdār range and merging into the desert fringes of the Empty Quarter [see AL-RUB' AL-KHĀLĪ]. The term al-Zāhira contrasts with that of al-Bāṭina, the coastlands of 'Umān. The religious and political history of this "inner 'Umān", and its social and cultural development, with local Ibādī elements mingled with Sunnīs, have frequently diverged from that of the Sultanate of Muscat and Oman established for over two centuries in the coastal region [see BŪ SA'ĪD].

*Bibliography:* J.G. Lorimer, *Gazeteer of the Persian Gulf, Oman and Central Arabia*, Calcutta 1908-15, ii.A, 427-30; and see 'UMĀN.

(Ed.)

AL-ZĀHIRĪ, KHALĪL B. SHĀHĪN [see IBN SHĀHĪN].

AL-ZĀHIRIYYA, a theologico-juridical school in mediaeval Islam which may be situated, among *madhhab*s as a whole, "at the furthest limit of orthodoxy" (R. Brunschvig, *Polémiques médiévales autour du rite de Mālik*, in *Études d'Islamologie*, ii [1976], 83). It is, furthermore, the only school that owes its existence and its name to a principle of law, Zāhirī in this case. Thus it relies exclusively on the literal (*zāhir*) sense of the Qur'ān and of Tradition, rejecting *ra'y*, but also *kiyās* [q.v.], although the latter is retained by al-Shāfi'ī (d. 204/820 [q.v.]) who is regularly cited as the point of departure of Zāhirī methodology (J. Schacht, *An introduction to Islamic law*, Oxford 1964, 63-4, Fr. tr. Paris 1983, 59). In other words, and to quote R. Arnaldez in *Grammaire et théologie chez Ibn Ḥazm de Cordoue*, Paris 1956, 199, Zāhirism "accepts only the facts clearly revealed by sensible, rational and linguistic intuitions, controlled and corroborated by Qur'ānic revelation".

*Sources.* As the best means of reconstructing Zāhirī thought, recourse should be had to the writings of its founder, the traditionist Dāwūd b. Khalaf (d. 270/884 [q.v.]). But it has long been known that nothing of his work has survived into the present day (I. Goldziher, *Die Zāhiriten*, Leipzig 1884, Eng. tr., Leiden 1971, 26-30). We must therefore be content with the works

of authors who quote him, in particular al-Nawawī (d. 676/1277 [q.v.]), al-Shā'rānī (d. 973/1565 [q.v.]) and, most of all, the earlier authority Ibn Ḥazm (d. 456/1063 [q.v.]) (Goldziher, *op. cit.*, 30-157). Following the lead of the Hungarian scholar, it has become customary to refer primarily to this Cordovan thinker who "illuminated, almost single-handedly in the Mālikī milieu, the literalist or Zāhirī school" (R. Brunschvig, *Pour ou contre la logique grecque chez les théologiens-juristes de l'Islam: Ibn Ḥazm, al-Ghazālī, Ibn Taymiyya*, in *Études d'Islamologie*, i, 304-5).

For the constantly-burgeoning interest witnessed over more than a century in Ḥazmian studies, especially from the angle of Zāhirism, see A.-M. Turki, *Notes sur l'évolution du zāhirisme d'Ibn Ḥazm de Cordoue, du Taqrīb à l'Ihkām*, in *SI*, lix (1984), 175-7. As to the credibility of recourse to Ibn Ḥazm, in view of this rehabilitation, see also, by the same author, *Polémiques entre Ibn Ḥazm et Bādī'ī sur les principes de la loi musulmane*, Algiers 1976, Ar. tr. Beirut 1994; see especially the index of this edition, 551; here are to be found 16 references to Dāwūd, 14 in which Ibn Ḥazm is in agreement with his master, the two others showing rather a convergence with the son of Dāwūd, known to be a Zāhirī himself. This is useful for the *uṣūl al-fikh* [q.v.] which are the subject at issue here, but it will be seen that this is also the case for the applied *fikh* [q.v.] where Ibn Ḥazm notes a scarce point of disagreement with the master.

*Theological aspects.* Here our exclusive source is Ibn Ḥazm in his *Faṣl fi 'l-mīlāl wa 'l-ahwā' wa 'l-niḥāl*, 2 vols., Cairo 1317-21/1899-1903 (Sp. tr. M. Asín Palacios, *Abenḥāzam de Córdoba y su historia crítica de las ideas religiosas*, 5 vols. Madrid 1927-32). In *Die Zāhiriten*, Goldziher drew substantially from the *Faṣl*, at that time still in manuscript. He stressed negation of the attributes (*ṣifāt*) except those mentioned in the Qur'ān; to underline Ibn Ḥazm's original contribution, he recalled that the Zāhirīyya were never called anything other than a *madhhab fikhī* and that it therefore does not figure among the *madhāhib kalāmīyya* (*op. cit.*, 123-56). Goldziher also dealt with this subject in his *Le livre de Moh. Ibn Toumert, Maḥdī des Almohades*, introd. and Fr. tr., Algiers 1903, where he stated that the history of Muslim theology shows that Zāhirī *fikh* was in accordance with the most diverse dogmatic tendencies, and he insisted once more on the exclusive contribution of Ibn Ḥazm in creating a synthesis of Zāhirī *fikh* and of dogmatic Zāhirism.

M. Abū Zahra will serve as a guide for a considerable portion of this article; in his work on *Ibn Ḥazm, ḥayātuh wa-'aṣnuh, arā'uh wa-fikhuh*, Cairo 1393/1954, he analyses the various aspects of Ḥazmian thought, while underlining its originality by means of a brief but informative comparative study. He refers to the *Faṣl*, naturally, but also to the *Ihkām fi uṣūl al-ahkām*, 8 vols. in 2, Cairo 1345-7/1927-9; as well as to the *Muhallā fi 'l-fikh al-zāhirī*, 11 vols. in 8, Cairo 1347-52/1929-33. The principal and characteristic aspects of the Ḥazmian, and thus Zāhirī, credo are as follows. First of all, to exalt the oneness of God, while acknowledging the exclusive privilege enjoyed by His Prophets and Messengers in terms of the manifestation of miracles, the sign of sanctity and of keeping God free from anthropomorphism (*tanzīh*); and then to declare that God is one by means of His essence, while stressing the worth of His names, to the detriment of that of His attributes. In short, Ibn Ḥazm seeks to strip his credo of any trace of anthropomorphism (*tashbīh*). God, he further maintains, is unique in His creative action (*khalk wa-takwīn*). Also, the power



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JURIDICAL, SOCIAL AND MORAL VALUES IN  
THE ZĀHIRITE LAW OF MUĀ'MALĀT OF  
IBN HAZM OF CODROVA\*

ROGER ANNALDEZ

The juridical thought of Ibn Hazm is characterized by the clarity and distinction of its principles as well as by the perfect logical coherence of its method. In accordance with his Zāhīrite ideal Ibn Hazm thinks that God alone legislates, that is to say, He alone can impose obligatory laws for all men; He alone commands and prohibits; He alone defines what is commendable and what is inadvisable. No human being, no group of men, has the right or the legitimate power to oblige another man or group of men to obey a law which is not formulated by a *Qur'ānic* or prophetic text, a *naṣṣ*, or to observe a condition which is not in the Book of God (*sharṭ laisa fī kitābi'llāh*). Individual freedom, justice, international law are all based on the fact that only one Lord exists who is the Lord of all, God. The authority which a person receives in the community is not a personal power at his own command which he can exercise according to his own will, his own judgment and his own point of view. If the Caliph derives his functions from God, it does not follow that he therefore is in possession of a power of divine right: no absolutism is admitted. The person in authority, on all levels, i.e. those who receive a delegation from the Caliph and the Caliph himself as well as those who by their knowledge and prestige can lay claim to playing a role in the affairs of the *umma*, equally have to efface themselves in front of the divine law, the *sharī'a* which they apply without adding anything to it and without subtracting anything from it. The personal effort does not consist in extending the Law by human decisions, however wise they may be and however inspired they may claim to be, by the meditation of the *Qur'ān* and the *ḥadīth* of the Prophet; this personal effort (*ijtihād*) can only consist in the will directed towards an ever more exact understanding of the Will of God. It is, therefore, always God who speaks, who commands and reigns. The divine and universal law frees from all tyrannies, from all human arbitrariness. Man after all, has only to give account to God.

\* Translated by C.W. Troll from the original French text.

a man; and the high degree of selectiveness evinced in the treatment of the facts. None the less, the biographies are of great value, containing data (often anecdotic) which are not to be found in the chronicles.

Little draws attention to some of the more frequent—and more irksome—features of Mamlūk historical literature: e.g. the repetition, from source to source, of the same topics (a characteristic arising from the reliance on a small number of 'basic' authors); the presence, in the chronicles, of much confusion and negligence in quotation from earlier works; the discrepancies of fact, of dates, and of figures (born of mere carelessness); and the recurrent failure to distinguish between the important and the trivial. And yet the literature is so rich that the modern historian, through a process (alas! laborious) of collation and analysis, is able not infrequently 'to compensate for the sins and errors of his sources' (p. 98).

As Little observes, it is of small advantage to publish the Mamlūk chronicles without a close research into their interdependence and into the extent of the original material embodied in them. Only through monographs and studies of the kind now under discussion can the modern scholar hope, in the course of time, to have before him a corpus of Mamlūk historical and biographical literature which will serve as a sure foundation for his own inquiries. Little has made here a most valuable and significant advance towards the achievement of that ideal.

V. J. PARRY

x Zahiriter  
 IGNAZ GOLDZIHNER: *The Zāhirīs, their doctrine and their history: a contribution to the history of Islamic theology*. Translated and edited by Wolfgang Behn. xvi, 227 pp. Leiden: E. J. Brill, 1971. Guilders 58.

It is good after nearly 90 years to have an English translation of Goldziher's *Zāhiriten*. His sub-title *a contribution to the history of Islamic theology* expresses his conviction (cf. p. xiii) that much is to be learnt about the development of Islam, including that of Islamic theological thinking, by a study of *uṣūl al-fiqh*. Perhaps the publication of this translation will help to strengthen the feeling which is growing among occidental scholars of Islam that it is time some Islamists—historians of ideas by training rather than lawyers—made an intensive study of this topic of *uṣūl al-fiqh*.

Despite the decades that have passed since Goldziher wrote, there is still much of value

in his work. The studies of Islamic law by Joseph Schacht, in so far as his conclusions are accepted, will necessitate some minor changes in the first two dozen pages; but the rest of the book deals with Dāwūd b. 'Alī and his followers, notably Ibn Ḥazm, and these later periods are not greatly affected by Schacht's views. From this translation the scholar who does not know German will be able to appreciate the thought of the master and the extensiveness of his knowledge of the relevant material. A valuable addition is the full index of names, and, since the original paging is given in the margins, this index may also be used for the German edition, which lacked an index.

Unfortunately it must also be recorded that the translation is not all that might be desired. In general it represents accurately what Goldziher wrote—and some of his German is admittedly very crabbed—and the reader will receive a correct general impression. On practically every page, however, there are three or four infelicities, and occasionally these misrepresent the original. A few examples must suffice. Thus on p. 6 in the first sentence, which speaks of 'an inevitable postulate of the realities of practical legal affairs in the practice of judgeship', one could replace the last phrase by 'the exercise of the office of judge', and this would be closer to the German. In the third sentence 'a practising legist' should be 'a practising judge' (*Richter*). In the fourth sentence it was not al-Shāhristānī's 'observation' which 'gave the initiative toward the introduction of speculative elements in the deduction of law', but 'the fact' (*die Tatsache*) which al-Shāhristānī described in the words quoted.

Again on p. 83 a sentence about Abū Ḥanīfa, which has an awkward reference to Mālik, goes on to say that he 'applies the tradition to one specific case', where what is meant is that he 'interprets it of a specific case'. A few words later there is a separate sentence: 'The Prophet himself did not purchase the personal freedom, but bought only the services of the purchased *mudabbar* slave'. This is made to sound like Goldziher's own assertion, but the German subjunctive *habe* shows that it is Abū Ḥanīfa's interpretation of the tradition. Next we hear of a slave-girl Badhl 'famous by a host of poetical transmissions which she made', where what seems to be meant is that she was 'famous for the great amount of poetical material which she possessed (in memory)'.

Yet again on p. 167 the words 'considers their science as the secular sciences' should read 'reckons their science among the secular disciplines'. At the top of the page 'diametrically juxtaposes the "science of drawing near

Diğer bir menkıbe ise Hacı Bektaş-ı Veli'nin Anadolu'ya gelişi ile ilgilidir.

-Ahmet Yesevi Hacı Bektaş-ı Veli'ye dönerek bu meşalenin düştüğü yere git ve oraya yerleş der. Yesevi Hazretleri elindeki meşaleyi Horasan'dan fırlatır. Meşale Nevşehir Hacıbektaş'a düşer. Bunun üzerine Hacı Bektaş-ı Veli Anadolu'ya gelerek Hacıbektaş'ı yurt tutar ve insanlara ilim öğretmeye başlar.

Genel olarak Hacı Bektaş-ı Veli ile ilgili anlatılan menkıbelere bakıldığında Geleneksel Türk Dininde şaman (kam)'ların göstermiş olduğu olağanüstü davranışlar ile büyük benzerlikler arz ettiği görülmektedir. Çünkü, yalnızca Türk Sünniliği değil, Türk Alevi- Bektaşiliği de kültürel temel kaynakları bakımından Orta Asya'ya uzanmakta ve her iki anlayış da aynı kaynaklardan beslenmektedir.<sup>34</sup>

### Sonuç

Bu araştırmada Ermenek'teki Tahtacıların kısa bir tarihçesi, yaşadıkları coğrafya, dini folkloru ve halk inanışları ortaya konulmaya çalışılmıştır. Ermenek Tahtacılarının İslamın inanç ve ibadet şekillerine bakışı, anlayışı ve uygulayışında çeşitli farklılıkların bulunduğu tespit edilmiştir. Diğer Alevi topluluklarında olduğu gibi Ermenek Tahtacılarında da cem ayininin olduğu, fakat çeşitli sebeplerden dolayı bu ayinin yapılamadığı belirtilmiştir.

Ermenek'teki Tahtacı toplumunun halk inanışlarının Geleneksel Türk Dini inanışlarına dayanmakta ve bu inanışların kökeni önemli bir kısmı çeşitli motiflerle günümüzde de yaşatılmaktadır. Ermenek Tahtacılarının İslam dininin inanç ve ibadet esaslarına bakışı, anlayışı ve uygulayışı Sünni Türklerden çeşitli farklılıklar arz etse de, halk inanışları bakımından diğer Türk gruplarıyla büyük oranda ortaklıkları bulunmaktadır. Bu durumu göz önünde bulundurarak Türkiye'de Geleneksel Türk İnanışlarının sadece Alevi kesim tarafından canlı biçimde yaşatıldığı fikrinin yanlış olduğu da iddia edilebilir. Çünkü Türk kültürü bir bütün olarak; Türk milletini oluşturan insanların yaşattığı ortak unsurlardır ve Türk toplumunun her kesiminde paylaşılmaktadır.

<sup>34</sup> Bkz. Harun Güngör-Abdurrahman Küçük, "Türk Alevi-Bektaşî İnançlarında Şamanlığın İzleri", *Millî Bütünlüğümüzün Kaynakları: Asya'dan Anadolu'ya Taşınanlar*, Ankara, 1997, s. 1-18.

## Zahiriliğin Öncüsü İbn Hazm'da Felsefî Meseleler

Müfit Selim SARUHAN\*

### Abstract

*Philosophical Matters in the Ibn Hazm as a Pioneer of Zahirîyya.* İbn Hazm as an outstanding representative of Islamic theological school of zahirîyya also has philosophical views and approaches in his system. From this point, it will be very interesting to deal with his ideas. In the border of this article we will shed lights on his views about, philosophy, his critics for Kindi about the naming God as First cause. İbn Hazm's classification of sciences and his views on soul, intellect, ethics, love will be explained. Logic found itself place in the Islamic sciences due to his instruction very before Al Ghazali. Before Kant he made explanations about the principle of a priori. He hinted tabula Rasa before John Locke. As a result, his works constitutes one of the original and important monuments of Muslim thought.

**Key Words:** İbn Hazm, Islamic Philosophy, God, Soul, Ethics, Knowledge, Love.

### Sunuş

İslam Felsefesinin kapsamının ve temel niteliklerinin tartışılması felsefe yapılan bir zemini ortaya çıkarmaktadır. İnsan, değişen bir varlık olarak, var olan nesnelere ve onlar hakkındaki bilgileri her zaman yeniden yorumlayabilmekte ve yeni anlamlar ve değerler üretebilmektedir. İslam Felsefesinin mahiyetinin ne olduğu, teorik ve pratik boyutlarının neleri kapsadığı hususu felsefi bir araştırma ortamını doğurmaktadır.<sup>1</sup>

\* Dr., Ankara Üniversitesi İlahiyat Fakültesi.

<sup>1</sup> Dağ, Mehmet "İslam Felsefesinin Bazı Temel Sorunları Üzerine Düşünceler", *On Dokuz Mayıs Üniversitesi İlahiyat Fakültesi Dergisi*, Sayı 5, Samsun, 1991, s. 3; Kutluer, İlhan, "Üç Perspektif: Kelam, Felsefe ve Tasavvuf" *İslam Felsefesinin Sorunları Sempozyumu*, Ankara, 2003, s. 3-35 (Elis Yayınları).

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# IDEAS, IMAGES, AND METHODS OF PORTRAYAL

Insights into Classical Arabic Literature  
and Islam

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CHAPTER THIRTEEN

## THE SPREAD OF ZĀHIRISM IN POST-CALIPHAL AL-ANDALUS: THE EVIDENCE FROM THE BIOGRAPHICAL DICTIONARIES<sup>1</sup>

Camilla Adang

The first reprehensible innovation (*bid'ā*) I encountered on my journey was the doctrine of the *bā'in*, but when I returned I found that the whole of the Maghrib had been filled with the doctrine of the *zāhir* by a feeble-minded man by the name of Ibn Ḥazm, from the countryside of Seville [. . .] When I returned from my voyage, I found that my city was teeming with [*Zāhirīs*], and that the fire of their error was scorching. Therefore, I stood up to them, though unaided by my peers and lacking any worthy helpers to follow in my footsteps. Sometimes I would feel attracted by them, then again I bared my teeth at them, hesitating whether to shun them or to take them on.<sup>2</sup>

The author of these lines is the famous Andalusī *qādī* Abū Bakr Muḥammad ibn al-'Arabī (d. 543 A.H./1148 C.E.).<sup>3</sup> This man, a staunch Mālikī, was born in the year 468/1076, to a family of notables in Seville. His father Abū Muḥammad 'Abdallāh ibn al-'Arabī (b. 435/1043)<sup>4</sup> served the 'Abbādid dynasty ruling in Seville as a

<sup>1</sup> Research for this chapter was carried out during a stay at the Institute of Advanced Studies at the Hebrew University of Jerusalem, September 1999–February 2000, as a member of the research group on Islamic law convened by Professor Yohanan Friedmann and Dr. Nurit Tsafrir. My thanks also go to David J. Wasserstein and Avraham Hakim for their valuable comments. In preparing this article, I greatly benefited from the volumes in the *Estudios Onomástico-Biográficos de al-Andalus* (EOBA), an indispensable tool for anyone dealing with the social and religious history of Muslim Iberia.

<sup>2</sup> Al-Dhahabī, *Tadhkira* iii, 1149; *id.*, *Siyar* xviii, 189; for a different translation, see Chéjne, *Ibn Hazm* 9.

<sup>3</sup> On Abū Bakr ibn al-'Arabī, see al-Dabbī, *Bughya* 125–31, n° 180; al-Nubāhī, *Qudāt* 105–7; Ibn Khallikān, *Wafayāt* iv, 296f., n° 626; al-Dhahabī, *Siyar* xx, 197–203, n° 128; *id.*, *Tadhkira* iv, 1294–1298, n° 1081; al-Maqqarī, *Nafh* ii, 25–43; al-Ru'aynī, *Bamāmaj* 117–120; Ibn al-'Imād, *Shadharāt* iv, 141f.; Asín Palacios, *Abenházam* 303f.; A'rāb, *Ma'a l-Qādī Abī Bakr*; Ṭalibī, *Arā' Abī Bakr*; Lagardère, Abū Bakr; *id.*, La haute judicature 195–215; *id.*, *Le vendredi de Zallāqa* 166–175; Drory, *Ibn el-Arabi*.

<sup>4</sup> On Abū Muḥammad 'Abdallāh ibn al-'Arabī, see Ibn Bashkuwāl, *Šila* 438f., n° 640; al-Dhahabī, *Siyar* xix, 130f., n° 68; Ibn Khallikān, *Wafayāt* iv, 297; al-Šafādī,

Sh. 297-346

# الدليل عميد الظاهري

(النص - الإجماع - القياس - الاستصحاب - مفهوم الموافقة  
مفهوم المخالفة - الحكم الشرعي - العموم والخصوص  
الترافق المشترك - أقل ما قيل ...)

بسم الله الرحمن الرحيم

Türkiye Diyanet Vakfı İslâm Araştırmaları Merkezi Kütüphanesi.	
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تأليف

الدكتور نور الدين الخادمي

عضو هيئة التدريس بجامعة الإمام محمد بن سعود الإسلامية بالرياض حالياً  
والمدرب سابقاً بجامعة الزيتونة، وبطليّة العالمين بمكة المكرمة  
وبطليّة العلوم القانونية والسياسية بتونس

دار ابن حزم

1421/2000 Beirut

أصل هذا الكتاب رسالة مقدمة إلى جامعة الزيتونة بتونس -  
المعهد الأعلى للشريعة - لنيل درجة دكتوراه الحلقة الثالثة تخصص  
أصول الفقه. وقد أشرف عليها فضيلة الشيخ الأستاذ الدكتور محمد  
الشريف الرحموني. وقد تمت المناقشة يوم الخميس ١٣ ماي  
١٩٩٣م. ونال صاحبها أحسن تقدير وهو حسن جداً.

## داود الأصبهاني وحقيقة المذهب الظاهري

أبو نور الدين عمر

إستاذ للتفسير والحديث بجامعة دمشق وحلب

Dergi / Kitap  
Kütüphanesinde Mevsutlu

29 TEMMUZ 1992

يلحظ المدقق في بحوث كثير من المشتغلين بكتابة بحوث إسلامية في عصرنا، وفي مجال الفقه والفتوى خاصة ممن يدعون التشبث بالسنة والاعتماد عليها، ويزعمون الاجتهاد في الدين والاستقلال عن أئمة الإسلام المعتمدين، وعن مناهجهم، يلاحظ توجه هؤلاء إلى الوقوف عند ظاهر النصوص، وإهمال التعمق في فقهاها، لقصورهم العلمي، أو لجمودهم، أو لكونهم يودون إيجاد تيار خاص بهم في صف المسلمين المتلائم المنسجم باتباع المذاهب المتبوعة.

ويلحظ المدقق لعمل هؤلاء أنهم إن أظهروا أو لم يظهروا يتأثرون من وجه صريح أو غير صريح بمنهج الظاهرية، حتى وجدت بعض العوام، أو من هم في مستوى العوام قد عرف طريقه إلى بعض كتب الظاهرية، فبُهِتَ أمام أسلوبها، أو وجد في أسلوبها هذا وسيلة يتظاهر بها بالعلم، فمن أين جاء هذا المذهب، وما حقيقته؟ وما موقف العلماء منه؟ وما نتائجه العلمية؟

ذلك ما يجب على المسلم المثقف أن يكون على وعي تام به وبأبعاد هذه الخطة في حياة المسلمين، ومستقبلهم الحضاري.

ولنبدأ بالتعريف بمؤسس هذا المذهب، وهو داود بن علي الاصبهاني.

## المذهب الظاهري

### نشأته ومناهجه الأصولية

### وأشهر رجاله

د . عبدالحليم عويس

#### معنى الظاهرية :

تفهم الظاهرية - من مدلولها العابر - على أنها فهم النصوص وفق دلالتها التي تدل عليها الفاظ اللفظة، دون تأويل أو مجاز .  
بيد أن ( الظاهرية ) قد أصبحت اتجاها فقهيا معروفا له أتباعه وأقطابه ومع ذلك فان مصطلح الظاهرية لم يوقف عنده - حتى من أبناء المذهب - الوقفة التحليلية اللغوية والاصلاحية الشافية .  
وعندما عقد ابن حزم \* فصلا خاصا عن حمل الاوامر والاختبار على ظواهرها (١) ، اكتفى بتقديم أدلته، ونقض أدلة المخالفين، دون أن يشهد لذلك ببيان معنى الظاهر (٢) ولعل مرجع ذلك الى وضوح معنى الظاهر في ذهنه أو لانه شرح معنى الظاهر في بعض كتبه المفقودة (٣) مثل كشف الالتباس أو الايصال أو غيرهما .

\* الامام أبو محمد علي بن أحمد بن سعيد بن حزم الظاهري ت ٤٥٦ هـ .

### ضيوف العدد

الدكتور عبدالحليم عويس  
أستاذ الفقه الاسلامي بجامعة  
الامام محمد بن سعود الاسلامية  
 بالرياض - المملكة العربية السعودية  
\* \*

الدكتور خالد محمود  
أستاذ الدراسات الاسلامية  
جامعة جموں و كشمير الحرّة  
مظفر آباد  
\* \* \*

الأستاذ غلام مرتضى آزاد  
رفيق باحث بمجمع البحوث الاسلامية  
\* \* \* \*

الحافظ احسان الحق  
أستاذ مساعد  
قسم اللغة العربية  
جامعة كراتشي  
\* \* \* \*

## IV

## CARAITES ET ZAHIRITES.

A l'indication que nous venons de donner, de l'influence ju-daïque sur la théologie de l'Islam, nous joindrons la correction d'une conception erronée et qui s'est récemment produite dans cet ordre d'études. Dès 1872, on avait signalé à plusieurs reprises la polémique dirigée par le Mahométan andalou Ibn Hazm contre les écrits religieux du judaïsme. Récemment, M. Hartwig Hirschfeld s'est de nouveau occupé de cette littérature polémique<sup>1</sup>.

En passant, il touche aussi à la position zâhiritique d'Ibn Hazm dans la théologie islamique. « Comme on le conçoit facilement, dit M. H., il existe une certaine analogie entre le mouvement zahirite et les tendances des Caraïtes<sup>2</sup>. » Or cela n'est pas si facile que cela à comprendre, attendu qu'on ne trouverait pas aisément d'opposition plus marquée que celle qui existe entre les principes de ces deux écoles. Les Zahirites partent de cette idée que, dans la déduction de la Loi, tous les éléments spéculatifs sont exclus a priori. Ce principe constitue sa différence spécifique en face des autres écoles. Rien ne lui répugne comme le *kiyâs* (l'analogie), la poursuite de la *ratio legis* ('illa) et l'emploi de moyens spéculatifs en matière de théologie. La science religieuse des Caraïtes, au contraire, use, dès l'abord, du *hâk* et d'autres méthodes spéculatives. Comme on le sait, ils ont admis de très bonne heure les *Treize middot* de R. Ismaël. Ils ne reculent pas devant l'opinio, que la théologie mahométane appelle *ra'y* et qu'ils traduisent par דעה. A l'instar des écoles de Ra'y, combattus par les Zahirites, leur déduction de la Loi se fonde sur ce qui est écrit, sur l'analogie et le consensus (= *idj'mâ'*, קבוץ ou עדה<sup>3</sup>). Al-Kirkisâni commence son *Livre des lumières* par un chapitre « sur la nécessité de la recherche et de la spéculation et de la détermination de l'argument rationnel et analogique<sup>4</sup> ». C'est seulement contre

<sup>1</sup> *Mohammedan criticism of the Bible, J. Q. R.*, XIII, p. 222-240.

<sup>2</sup> *L. c.*, p. 225, 5.

<sup>3</sup> Par exemple, Sahl b. Mazliah, dans *Eschhol*, n° 468, et surtout Schreiner, *Studien über Jeschu 'a ben Jehuda* (Berlin, 1900), p. 69 et suiv. — Menahem Gizni dans *Likkoute Kadmonijjoth*, notes, p. 51, en bas, dit : בחוקך עדתו ; גדל הש"י בחוקך עדתו ; ובהשגת אנשים חכמים וכו' ; יודעים בחקון הקדמות ובעשיית ההקש ובהשגת התולדה על פי החקירה.

<sup>4</sup> Poznanski, *Steinschneider-Festschrift*, p. 196, 19.

l'exagération de l'analogie, l'emploi de l'« analogie du second degré », comme elle apparaît, par exemple dans les lois matrimoniales des partisans de la théorie du רכוב, que proteste le caraïsme orthodoxe. Mais leur méthodologie pose la justification, et même la nécessité des raisonnements analogiques. Or, ce point de vue diffère *toto caelo* de celui des Zâhirites ; il est donc impossible de parler d'une parenté ou seulement d'une ressemblance entre ces deux écoles.

C'est précisément en cela que consiste le reproche que Juda Lévi ne se lasse pas de répéter dans sa polémique contre les Caraïtes<sup>5</sup>. Il leur en veut, parce qu'en face de la stabilité d'une tradition intangible, comme elle se présente dans le rabbinisme, ils se permettent une trop libre *idjtihad* (השהדלוח) et une trop grande spéculation indépendante. De leur emploi immodéré du *Kiyâs* il dérive la multiplicité divergente de leurs doctrines et le manque d'unité de leurs pratiques religieuses ; le même reproche leur a été adressé de la part des Rabbanites à diverses époques<sup>6</sup>.

Donc il n'y a pas eu d'influence exercée sur le mouvement zâhirite par les tendances caraïtes ; il faut en écarter jusqu'à l'hypothèse.

A ce propos, nous signalerons une petite correction de texte<sup>4</sup> dans l'étude de M. Hirschfeld. Parmi les expressions anthropomorphiques de la Bible, on cite, p. 240, 1 : اصنع الى سمعك ; M. H., p. 231, note 3, tient cela pour une méprise de עשה אהי למען שמך (Ps., cix, 21). Mais il faut corriger en اصغ الى سمعك et y voir la traduction de דעה אלי אונק.

## V

## LE JUGE CORRUPTIBLE.

De nombreux traits mentionnés dans la littérature mahométane témoignent du peu d'estime que le peuple professait pour la ma-

<sup>4</sup> *Likk. Kadm.*, *ibid.*, p. 147 : אלקיאה עלי אלקיאה.

<sup>5</sup> *Kouzarî*, III, ch. xxiii et suiv. (éd. H. Hirschfeld, p. 177 et suiv.).

<sup>6</sup> Consultations du רדב"ן, n° 774, sur les Caraïtes : הפח רוחו אם כן הורחם : בחיריה תופשים מה שהוא נאות לכם ומנוחים מה שאינו נאות נמצא כל אחד מפרש במצות הכתוב מה שירצה וכו'.

<sup>7</sup> P. 235, avant-dernière ligne : يقولون, lis. المقربى, 236, 8, المقربى, lis. المغربى, lis. ونسوها, 239, 6, عجزى = عجزى, 237, 16, فجزى, lis. ونزل, *ibid.*, l. 15, ويرى, lis. ونشورها.

Ignaz Goldziher  
GESAMMELTE SCHRIFTEN

Herausgegeben: Joseph Desomogyi  
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# THE ZĀHIRĪS

## THEIR DOCTRINE AND THEIR HISTORY

A CONTRIBUTION  
TO THE HISTORY OF ISLAMIC THEOLOGY

BY

Dr. IGNAZ GOLDZIHNER

TRANSLATED AND EDITED BY  
WOLFGANG BEHN

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THE INFLUENCE OF ZĀHIRĪ THEORY ON IBN ḤAZM'S  
THEOLOGY: THE CASE OF HIS INTERPRETATION  
OF THE ANTHROPOMORPHIC TEXT  
"THE HAND OF GOD"

AL MAKIN  
McGill University

ABSTRACT

Both the Bible and the Qurʾān contain anthropomorphic passages, and so a theological debate over their interpretation is very common in Judaism, Christianity and Islam. In the Qurʾān, there are several anthropomorphic texts which describe God as having bodily features like those of human beings. For instance, God is said to have a face, eyes, feet, and hands. Various attempts were made to interpret such texts, either literally by accepting the corporeality of God or metaphorically by avoiding the implication of anthropomorphic texts. It is interesting how Ibn Ḥazm, who upheld Zāhirī theory (maintaining the literal meaning), tried to interpret Qur. 38:76, 5:67, 48:10 and 36:70 where reference is made to "the Hand of God." On the one hand, he felt he should maintain the literal meaning, according to which god is supposed to have hands. On the other hand, he declared himself to be a defender of *taḥḥīd* (the unity of God), which demanded that he reject all possibility of similarities between God and any of his creatures. This paper will focus on Ibn Ḥazm's argument by looking at his *al-Fiṣal wa al-Mīl wa al-Nihāl*.

Ibn Ḥazm, a theologian, philosopher, jurist, and moralist, was born at Cordova in 384 A.H. (994 A.D.) and died at Manta Lisham in 456 A.H. (1064 A.D.).<sup>1</sup> From childhood onwards he lived through several

<sup>1</sup> There are many versions of Ibn Ḥazm's genealogy; for instance according to al-Ḥumaydī his name was 'Alī ibn Aḥmad, while according to Ibn Bashkuwāl the name is 'Alī ibn Isma'īl, and according to al-Qāḍī al-Sa'īd al-Jayānī, his name is 'Alī ibn Muḥammad; see Yāqūt, *Irshād al-'Arab ilā Ma'rifa al-Adīb: al-Ma'rifa bi Ahljam al-Udabā aw Tabaqāt al-Udabā*, ed. D.S. Margoliouth, vol. 5 (Cairo: Maṭba'ah Hindīyah, 1925), 84-86; al-Ḥumaydī, *Jadhwat al-Muqtabis fi Tārīkh 'Ulamā' al-Andalus*, ed. Ibrāhīm al-Abyārī, vol. 2 (Beirut: Dār al-Kitāb al-Lubnānī, 1983), 489-90; al-Ḍabbī, *Bughyat al-Mullamīs fi Tārīkh Rijāl Ahl al-Andalus*, ed. Ibrāhīm al-Abyārī, vol. 2 (Cairo: Dār al-Kitāb al-Miṣrī, 1989), 543-44; Ibn al-Bashkuwāl, *al-Silah fi Tārīkh A'imnat al-Andalus wa Ulamā'ihim wa Muḥaddithihim wa Fuqahā'ihim wa Udabā'ihim*, ed. 'Izzat al-Aḥṭār al-Ḥusayn, vol. 2 (Cairo: Maktab Nashr al-Thaqāfah al-Islamīyah, 1955), 395-96. There is also another version of Ibn Ḥazm's genealogy: Aḥmad ibn Sa'īd ibn Ḥazm ibn Ghālīb ibn Ṣāliḥ ibn Khalāf

traumatic experiences. For instance, during the political struggle among Andalusians, Berbers and Slavs, his father fell into disgrace after the fall of the 'Amirids and the replacement of the Caliph Hishām II by Muḥammad al-Mahdi. He was even forced to flee the country with his family when Madīnat al-Zahrah was attacked. Ibn Ḥazm himself was very active politically, and was jailed or exiled many times. Under the reign of Hishām II, for example, he was imprisoned by the Slav general Wādī. Furthermore, Ibn Ḥazm was exiled to Almeria and his house in Balāt Mughīth destroyed. Later, he was once again imprisoned because he was suspected of being a supporter of the Umayyad dynasty.<sup>2</sup> Having had several bad experiences in political life, he decided to devote himself to intellectual work, such as writing and teaching.<sup>3</sup>

In terms of character, Ibn Ḥazm was a sensitive man. Later on it was very obvious that he always favored frankness and mutual understanding and felt repugnance for any kind of falseness, deceit, or simulation in political, social, scientific, and religious life. Ibn Ḥazm, as a moralist, confronted all the inconsistencies of mankind. He was a passionate defender of the truth, and tried to base all his theories on incontrovertible evidence.<sup>4</sup>

ibn Ma'dān ibn Sufyān ibn Yazīd; see Ibn Khallikān, *Ibn Khallikān's Waḥyāt al-A'yān*, trans. Moinul Haq, vol. 3 (Karachi: Pakistan Historical Society, 1961), 320-26. His ancestor was the *marwā* (client of) the Umayyads. However, for Dozy Ibn Ḥazm's ancestors were Spanish Christians; this was accepted by García Gomez and Simonet; see A.G. Chejne, *Ibn Ḥazm* (Chicago: Kazi Publications, 1982), 20-22. For a further account of Ibn Ḥazm's biography see also R. Arnaldez, "Ibn Ḥazm," in *The Encyclopaedia of Islam*, eds. B. Lewis, V.L. Menage, C.H. Pellat, J. Schacht, vol. 3 (Leiden: E.J. Brill, 1971), 790-99; idem, "Ibn Ḥazm," in *The Encyclopedia of Religion*, ed. Mircea Eliade, vol. 6 (New York: Macmillan Publishing Company, 1987), 564-65.

<sup>2</sup> These terrible events were recorded in his *Tawq al-Hamamah fi al-Uṣṣāh wa al-Ullāf* (Beirut: al-Muassasah al-'Arabīyah li al-Dirāsah wa al-Nashr, 1993; trans. into English by A.J. Arberry, *The Ring of the Dove by Ibn Ḥazm: A Treatise on the Art and Practice of Arab Love* (London: Luzac and Company, 1953).

<sup>3</sup> He wrote many works; for instance, in *fiqh*, *al-Muhalla* (Cairo: Idārat al-Ṭibā'ah al-Muniriyyah, 1933); in theology *al-Fiṣal*; in Qur'ānic studies, *Kitāb fi Ma'rifa Nāsikh wa al-Mansūkh*; on the Margin of Firuzabadī, *Tawq al-Miqbās min Taḥḥīd ibn 'Abbās* (Egypt: Mustafā al-Bābī al-Ḥalabī, 1951); in psychology, *Tawq al-Hamamah*; in ethics *Aḥbāq wa al-Siyār fi Mudāwāt al-Niḥās* (Beirut: Dār al-Ālāq al-Jadīdah, 1980); and in philosophy, *Mawātib al-'ulūm*. See C. Brockleman, *Geschichte des arabischen Literaturs*, vol. 1 (Leiden: E.J. Brill, 1937), 400, Supplementband 1, 692; Chejne lists 137 works; see his *Ibn Ḥazm*, 301-13.

<sup>4</sup> Later, this attitude of frankness on the part of Ibn Ḥazm influenced his expression of Zāhirī theory; see, Arnaldez, "Ibn Ḥazm," 729.

shared senior posts, and divided positions of power in the religious establishment and administration, and were at times able to attract scholars from other schools to convert to theirs. Such converts seem to have integrated easily into the older Hanafi-Shafi'i elite. Still, it would be incorrect to disregard dividing lines and even rivalry between Hanafis and Shafi'is. A glimpse of that rivalry is revealed in polemical works and their political undertones, and in occasional clashes at the popular level, especially during tense junctures such as the ascent of new rulers.

In general the relations among the madhhabs were peaceful during most of the Zangid and Ayyubid period; the occasional skirmishes and exchanges of insults between Hanafis and Shafi'is, or Shafi'is and Hanbalis, were a far cry from the violent uprisings that disrupted life in the cities of Iran and Iraq from the tenth to the twelfth centuries. In this situation, the preservation of the distinctions between the madhhabs in thirteenth-century Syria should not be attributed merely to "negative" loyalties.

A largely "positive" loyalty was that of scholars. They, on the most part, deemed the continuing study and application of the legal system and method of reasoning of the founding fathers and earlier teachers of their school of law to be of primary importance. My impression is that their attitude trickled down to commoners and up to rulers, to serve as yet another example of what I find to be a central feature of religious life in medieval Syria: the symbiosis between scholars and society. Belonging to a madhhab must have had a different meaning for scholars and for commoners, but it united them under common identities. Hence, despite varying degrees of fidelity to the applied law of each school, varying levels of social cohesion in the areas of marriage, prayer, and study within the community, and varying measures of conformity within the madhhab, conditions were more favorable—notwithstanding the power of familial ties and personal loyalties—to the preservation of the separate madhhab identities in the social and intellectual spheres than to their dissolution.

Edited by: Per Bearman, Rudolph Peters, Frank E. Vogel, *The Islamic School of Law, Evolution, Devolution and Progress*, Cambridge - 2005, s. 117-125.

## Chapter Eight

Zahiriyah

### THE BEGINNINGS OF THE ZAHIRI MADHAB IN AL-ANDALUS<sup>1</sup>

Camilla Adang

#### Introduction

In his recent work on the formation of the Sunni schools of law,<sup>2</sup> Christopher Melchert states that one of the explanations for the disappearance of the Zahiri, or literalist, madhhab is the failure of its adherents to develop a regular course of study. In his view, the Zahiris were associated with high literary circles and dispensed with direct, oral transmission, which led not only to a break in communication with ordinary Muslims, but also to a tendency to rely on books alone.<sup>3</sup> As a case in point, Melchert refers to Ibn Ḥazm, the famous jurist and theologian from Cordoba (d. 456/1064), who, so he says, "founded the Andalusian school [of Zahirism] on books he had read" (p. 186) and was "known to have learnt his Zāhirī jurisprudence from books" (pp. 189f.). These statements are based on a passage in Ibn Khaldūn's *Muqaddima*, which I quote here in the translation by Franz Rosenthal:

[Zahirism] survives only in books (. . .). Worthless persons occasionally feel obliged to follow this school and study these books in the desire to learn the (Zahirite) system of jurisprudence from them, but they get nowhere and encounter the opposition and disapproval of the great mass of Muslims. In doing so, they are often considered innovators, *as they accept knowledge from books for which no key is provided by teachers* (italics mine, CA). That was done by Ibn Ḥazm al-Andalusī, although he occupies a high rank in the expert knowledge of traditions.<sup>4</sup>

Melchert seems to suggest that the books studied by Ibn Ḥazm were the works of the "founder" of the literalist school, which were brought to al-Andalus in the early tenth century (as he mentions on p. 190), and that there was no continuous transmission of Zahiri thought in al-Andalus from the moment these works were imported until the days of Ibn Ḥazm, whose adoption of Zahirism may be assumed to have occurred by the year 421/1030 at the very latest.<sup>5</sup>

**İBN HAZM  
VE  
ZAHİRİLİK**

**Doç. Dr. AHMET DEMİRCİ**

**KAYSERİ-1996**

## TWO SCHOOLS THAT DID NOT LAST

## THE ORIGINAL ZĀHIRI SCHOOL

The Māliki school was ultimately successful only in the Maghrib. Another leading unsuccessful school of law was the Zāhiri, following the principles of Dāwūd ibn 'Alī (d. Baghdad, 270/884). For a century and a half, it looked like a strong competitor. Covering the later tenth century, Ibn al-Nadīm devotes separate sections of his annotated bibliography to eight schools of law<sup>1</sup>:

Mālik and his followers;  
the Iraqi *aṣḥāb al-ra'y*;  
al-Shāfi'ī and his followers;  
Dāwūd and his followers;  
jurisprudents of the Shī'ah;  
jurisprudents of the traditionists;  
al-Ṭabarī and his followers; and  
jurisprudents of the *shurāh* (Kharijites).

(The school of Abū Thawr he treats under the larger head of the Shāfi'īyah, of Aḥmad ibn Ḥanbal under the larger head of traditionist-jurisprudents.) His Khurasani contemporary al-Kh<sup>w</sup>ārizmī, as we have seen, includes the Dāwūdīyah among the four juridical schools of *aṣḥāb al-ḥadīth*.<sup>2</sup> A century later, Abū Ishāq al-Shīrāzī would divide the later subjects of his biographical dictionary of jurisprudents among five schools: Shāfi'īyah, Ḥanafīyah, Mālikīyah, Ḥanābilah, and Zāhirīyah. He notes, however, that the Zāhiri school had died out in Baghdad: Abū Ishāq knew of its survival only in Shiraz.<sup>3</sup> How did

<sup>1</sup> Ibn al-Nadīm, *Kitāb al-Fihrist*, ed. Gustav Flügel, w/ Johannes Roediger & August Mueller (Leipzig: F. C. W. Vogel, 1872), 198-237 = *maqālah* 6.

<sup>2</sup> Al-Kh<sup>w</sup>ārizmī, *Liber Mafāṭih al-olūm*, ed. G. Van Vloten (Leiden: E. J. Brill, 1895, repr. 1968), 26.

<sup>3</sup> Abū Ishāq al-Shīrāzī, *Ṭabaqāt al-fuqahā'*, ed. Iḥsān 'Abbās (Beirut: Dār al-Rā'id al-'Arabī, 1970), 179.

it come to be strong in the tenth century, then, but die away in the eleventh?

Dāwūd was born in Kufa in 200/815-816 or 202/817-818.<sup>4</sup> He is often called "al-Iṣbahānī," but only his mother was from Isfahan. His father was an adherent of the nascent Ḥanafī school.<sup>5</sup> The only man whom I have seen expressly identified as his teacher in jurisprudence is al-Shāfi'ī's Baghdadi student Abū 'Abd al-Raḥmān al-Shāfi'ī (fl. 219/834).<sup>6</sup> Dāwūd wrote about al-Shāfi'ī's solutions to various juridical problems and corresponded with students of his in Mecca and Old Cairo, besides writing two versions of *Manāqib al-Shāfi'ī*, the first monographs devoted to the virtues of al-Shāfi'ī or, indeed, any major jurist.<sup>7</sup>

Dāwūd has often been referred to as an extreme traditionalist, like Aḥmad ibn Ḥanbal but carrying his principles yet further. There is admittedly some warrant in the sources for classifying Dāwūd with the traditionalists. "He was the first to employ advocacy of the literal meaning," says Ibn al-Nadīm, "holding to the Book and the Sunnah and nullifying all else by way of *ra'y* and *qiyās*."<sup>8</sup> Aḥmad ibn Ḥanbal could likewise be quoted, as we have seen, in total rejection of *ra'y* (opinion) and *qiyās* (analogy).<sup>9</sup> Dāwūd staunchly rejected *taqlīd*, speaking on someone else's authority, and wrote against it.<sup>10</sup> Likewise, as we have seen, Aḥmad and other traditionalists held that one should study the pronouncements of the Prophet, the Companions, and the Successors, not of late jurisprudents such as Mālik, Ibn al-Mubārak, and al-Shāfi'ī.<sup>11</sup> Dāwūd shared with the traditionalists

<sup>4</sup> Al-Khaṭīb al-Baghdādī, *Tārīkh Baghdād*, 14 vols. (Cairo: al-Khānjī, 1931), 8:375; Abū Ishāq, *Ṭabaqāt*, 92.

<sup>5</sup> Ibn Ḥazm, *apud* al-Dhahabī, *Siyar a'lām al-nubalā'* 13 (ed. 'Alī Abū Zayd, Beirut: Mu'assasat al-Risālah, 1983):98.

<sup>6</sup> Al-Dhahabī, *Siyar* 10 (ed. Muḥammad Nu'aym al-'Araqūsī, 1982):555. Abū Ishāq states that he learnt from Ishāq ibn Rāhawayh and Abū Thawr (*Ṭabaqāt*, 92), but his expression (*akhadha al-'ilm 'an*) might equally refer to the transmission of hadith.

<sup>7</sup> Ibn al-Nadīm, *Fihrist*, 217, ll. 15, 20f = *fann* 4, *maqālah* 6; Ibn 'Abd al-Barr, *al-Intiqā' fī faḍl al-thalāthah al-'immah al-fuqahā'* (Cairo: Maktabat al-Qudsī, 1350), 105; Kātib Ḥalabī, *Kashf al-zunūn*, ed. Şerefettin Yalçınkaya & Rifat Bilge, 2 vols. (Istanbul: Maarif Matbaası, 1941, 1943), 2:1839.

<sup>8</sup> Ibn al-Nadīm, *Fihrist*, 216 = f. 4, q. 6.

<sup>9</sup> Ibn Abī Ya'lā, *Ṭabaqāt al-ḥanābilah*, ed. Muḥammad Ḥamid al-Fiqrī, 2 vols. (Cairo: Maṭba'at al-Sunnah al-Muḥammadiyah, 1952), 1:31, 241, 2:19.

<sup>10</sup> Ibn al-Nadīm, *Fihrist*, 217, l. 13 = f. 4, q. 6.

<sup>11</sup> Ibn Abī Ya'lā, *Ṭabaqāt* 1:327, 329, 2:15f; Ibn al-Jawzī, *Manāqib al-imām*

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ESTUDIOS ONOMÁSTICO-BIOGRÁFICOS DE AL-ANDALUS, X

Zahiris  
- Muwahhidles

9 MAR 2000

ZĀHIRĪS OF ALMOHAD TIMES<sup>1</sup>

MARÍA LUISA ÁVILA y MARIBEL FIERRO, eds.

Camilla ADANG  
Tel Aviv University

## BIOGRAFÍAS ALMOHADES. II

## INTRODUCTION

In his *History of the Arab Peoples*<sup>2</sup>, the late Albert Hourani has the following statement about the religious outlook of the Almohads: «Ibn Tumart and the Almohads ... encouraged *kalam*, mainly in its Ash'ari form, although in jurisprudence they were strict literalists of the Zahiri school».

Hourani is not alone in assuming a close link between Almohads and Zāhirīs. Thus, for example, in the section on the output of the legal schools in his *Geschichte der arabischen Litteratur*, Carl Brockelmann discusses the two groups together under the heading «Zāhiriten und Almohaden»<sup>3</sup>. However, more in-depth scholarship on the Almohad movement has shown that to suggest that *all* the Almohad rulers adhered to the Zāhiri *madhhab* is an unwarranted generalization, and that the

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<sup>1</sup> Research for this article was carried out at the Departamento de Estudios Arabes of the Consejo Superior de Investigaciones Científicas in Madrid, in the framework of a project entitled «Jueces en acción: la práctica jurídica en al-Andalus» [PB 96-0867], directed by Maribel Fierro. I thank her, Kees Versteegh, Heather L. Ecker and Rachid El Hour for bringing various publications to my attention. I am grateful to David J. Wasserstein and Maribel Fierro for their valuable comments on an earlier version of this text. The earlier volumes of *EOBA* were a most useful source of biographical references, and greatly facilitated the preparation of this study, whose conclusions are, however, still tentative. On the whole, I have retained the transliteration system used throughout the *EOBA* series. However, I use *j* instead of *ǰ* and *ḳ* instead of *j*, as is common in English-language publications, so as not to confuse the reader.

<sup>2</sup> Cambridge, Mass., 1991, 167.

<sup>3</sup> *GAL*, I, 505-7/399-401; S I, 692-697.

413-480

Zāhirī, M. Y. A. M. 22 h. 51  
Z. A. H. 22 h. 51

RONARI, Stephan and Naidy CEAC-5.573-574 573

1955 (AMSTERDAM)

ZĀHIRITES, literalists, the followers of a juridico-theological school of thought which insisted on the strict adherence to the letter (*zāhir*, outward, manifest) of the Koran and *hadith*\* (the tradition of Muhammad's sayings and actions) as the sole source of divine and human law. Contrary to the Bātinītes\* (*bātin*, esoteric, occult), who believed in a deeper, hidden meaning of the sacred text, the Zāhirites repudiated any other but its rigorously literal explanation and refused to recognize whatsoever authority or opinion of the religious doctors as to analogical reasoning regarding the application of God's or the Prophet's Word.

The Zāhirite doctrine was founded, or at least received its scholarly framework, in the IXth century by Dāwūd ibn Khalaf al-Isfahānī the Baghdad theologian (†883), and was further expounded by his son abu Bakr Muhammad, the well-known compiler and analyst of Arabic love poetry. It gained ground in Iraq and Persia, and especially in North Africa where it degenerated, however, into a casuistical, hair-splitting anthropomorphism appealing to the zealous and narrow-minded populace, but devoid of all spiritual sense. For a short period (end of the XIIth cent.) the Berber Almohades régime introduced the Zāhirite viewpoint also in Spain, excluding as heretical all other ways of interpreting or applying the Law. Everywhere else it was most vehemently attacked by orthodox scholastic theology; nevertheless it survived for some five hundred years under various, though more refined forms within narrower circles. The scholar ibn-Hazm (XIth cent.), the mystic ibn-ʿArabī\* (XIIIth cent.) and the historian al-Maqrīzī\* (XIVth/XVth cent.) belonged to the sphere of Zāhirite thinking.

## الاجتهاد في المذهب الظاهري

- ٣٢٢- أبو عبيد، عارف خليل محمد. الامام داود الظاهري وأثره في الفقه الاسلامي. ط ١: الكويت: دار الارقم، ١٩٨٤م، ٧١٢ص، ٢٤سم (دكتوراه).
- ٣٢٣- عبدالمجيد، عبدالمجيد محمود. الاتجاهات الفقهية عند أصحاب الحديث في القرن الثالث الهجري. القاهرة: مكتبة الخانجي، ١٩٧٩م، ٦٧٠ص.
- ٣٢٤- عويس، عبدالحليم. المذهب الظاهري: نشأته ومناهجه الاصولية وأشهر رجاله. في: الملتقى السابع عشر للفكر الاسلامي (قسنطينة- الجزائر: وزارة الشؤون الدينية، شوال ١٤٠٣هـ = يوليو ١٩٨٣م).

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19 APR 2010



**ظاهرية:** الظاهرية مذهب من مذاهب أهل السنة، إمامه داود بن علي الأصبهاني<sup>(١)</sup>، ومن أشهر أئمته: ابن حزم الأندلسي، صاحب كتاب المحلى، وغيره من الكتب الكثيرة.

سمي الظاهرية بهذا الاسم، لأخذهم بظواهر النصوص الشرعية، وعدم تفتيشهم عن العلل، ولذلك تركوا العمل بالقياس إلا في حالتين، الأولى: إذا كانت العلة قد ورد بها النص. والثانية: أن يكون الحكم في الفرع المقيس أظهر وأولى منه

في الأصل المقيس عليه، وهو ما يسمى بـ «قياس الأولى» ومنه قوله تعالى في سورة الإسراء/ ٢٣ ﴿فَلَا تَقُلْ لَهُمَا أُفٍّ وَلَا نَهْرُهُمَا وَقُلْ لَهُمَا قَوْلًا كَرِيمًا﴾ قالوا: لقد حرم الله تعالى على الولد إن يقول لوالديه كلمة «أف» تضجراً، فيحرم عليه ضربهما من باب أولى.

al-Subki's *Jam' al-jawami'* (The Compendium of Compendia) came to be used as a basic text not only by Shafi'is but also by scholars of other schools, both Sunni and Shi'i, and al-Zarkashi's *Al-bahr al-muhit* (The All-Encompassing Ocean) continues to serve as a standard reference work.

By the later Middle Ages, Shafi'ism had reached Southeast Asia, spreading to Malaysia and Indonesia via travelers and traders from Gujarat and Yemen. The Shafi'i school has remained predominant in these countries to the present day. It has also retained a prominent position in parts of the Middle East, particularly Yemen, Syria, and Egypt. However, in the modern age the importance and influence of Shafi'ism, especially in the Middle East, has been weakened by two factors that, with certain exceptions, have affected all Sunni schools of law. The first of these is the erosion of the school's independence and perceived authority that followed the founding of centralized nation-states in the colonial and post-colonial period, and the appropriation by the state of key functions related to the definition and enforcement of law. Second, the insistence of Islamic modernists on fresh *ijtihād* or legal reasoning, and their hostility to the perceived intellectual rigidity of the established legal schools, has undermined the legitimacy of the Shafi'i school's foundation, namely its members' loyalty to the legacy of its founder.

[See also Egypt, *subentry on Islamic Law in Egypt*; Ghazali, Abu Hamid Muhammad; Iran, *Islamic Law in*; Iraq, *Islamic Law in*; Islamic Law, *subentry on Sources and Methodology of the Law*; Juwayni, 'Abd al-Malik ibn Abi Muhammad, Iman al-Haramayn; Muzani, Abu Ibrahim Ismail ibn Yahya; Shafi'i, Muhammad ibn Idris al-; and Subki, 'Abd al-Wahhab ibn 'Ali al-.]

#### BIBLIOGRAPHY

- Halm, Heinz. *Die Ausbreitung der safi'itischen Rechtsschule von den Anfängen bis zum 8./14. Jahrhundert*. Wiesbaden, Germany: L. Reichert, 1974. The standard account of the spread of the Shafi'i school (available only in German).
- Melchert, Christopher. *The Formation of the Sunni Schools of Law, 9th–10th Centuries C.E.* Leiden, Netherlands: E. J. Brill, 1997. An influential revisionist history of the early Shafi'i school; focuses primarily on the institutional self-reproduction of the school.
- Schacht, Joseph. *The Origins of Muhammadan Jurisprudence*. Oxford, U.K.: Clarendon Press, 1953. A good introduction to the legal thought of the school founder, al-Shafi'i.
- Wüstenfeld, Ferdinand. *Der Imam el-Schafi'i: Seine Schüler und Anhänger bis zum J. 300 d.H.* 3 vols. Göttingen, Germany: Dieterich, 1890–1891. A collection of short biographies of early Shafi'is from medieval Muslim sources (available only in German).

AHMED EL SHAMSY

### The Zahiri School of Law

One of the six major Sunni Islamic legal schools established in the ninth and tenth centuries, the Zahiri school

owes its name to a hermeneutic system that emphasized the *prima facie* meaning—the *ẓāhir*—of scriptural texts, shunning all methods of discovery of God's legal rulings that depended on human interpretive subjectivity. The school was founded in Baghdad, the capital of the Abbasid Caliphate and the foremost intellectual center of the Islamic world, by Da'ud al-Isbahani (802–884), and for this reason the school is also referred to as the Da'udi legal school. It flourished for nearly two centuries but subsequently died out, like the Jariri legal school founded by Muhammad ibn Jarir al-Tabari (d. 923).

Da'ud began as a follower of the methods of Muhammad ibn Idris al-Shafi'i (d. 820), eponym of the Shafi'i legal school. Da'ud wrote two works in praise of al-Shafi'i and contended with al-Muzani (d. 864) and other disciples of al-Shafi'i to be recognized as the chief proponent of the master's scholarly legacy and the truest adherent to his hermeneutic principles. Da'ud understood that al-Shafi'i had intended to limit the sources of law to scripture alone—the Qur'an and hadith, transmitted reports of what the Prophet Muhammad had said or done—eschewing recourse to *ra'y* (considered opinion) and *istihsān* (juristic preference) on the grounds that they were subjective and fallible. The Zahiris rejected not only *ra'y* and *istihsān* but also *qiyās* (legal analogy) as inadequate methods of discovering the law, for the rulings of the sacred law had to be known by *tawqīf* (divine designation). This approach tended to limit the extrapolation of legal rules to cases that were not explicitly addressed in scripture, on the grounds that men could not determine the underlying cause or principle on which a particular ruling was based.

In place of these methods, Da'ud and later Zahiris proposed the concept of *istidlāl*, which they took to mean determining the full set of implications behind a given scriptural text. In their view, this was not the same as subjective inquiry, because *istidlāl* only retrieved meanings already contained in the linguistic construction of the text. Under this rubric Da'ud and the Zahiris used a number of rational arguments that other jurists included under the rubric of *qiyās*, such as *reductio ad absurdum* and arguments *a fortiori*. Reports transmitted through a single chain by authorities with a record of moral integrity were held to provide certainty, so Zahiri jurisprudence relied heavily on hadith. The opinions of the companions of the Prophet were fallible individually, and so were unacceptable as legal proof on their own, but a consensus (*ijmā'*) of the Prophet's companions was binding because it was presumed to discover the Prophet's opinion. The unanimous agreement of later generations, however, was not taken into consideration.

Unlike the Hanbalis and other traditionalists, the Zahiris were not antitheoretical, as has often been supposed.

Miguel Hernando de Larramendi  
Salvador Peña Martín  
(coords.)

## *El Corán ayer y hoy*

*Perspectivas actuales sobre el islam*

*Estudios en honor al profesor Julio Cortés*

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Berenice

Córdoba 2008

-Ibn Hazm  
Zahiriyeye  
(230036)

## ALCANCE Y LÍMITES DE LA RAZÓN PRÁCTICA EN EL SISTEMA ZĀHIRĪ DE IBN ḤAZM<sup>1</sup>

Emilio Tornero  
Universidad Complutense de Madrid

La razón práctica no tiene ninguna función, en principio, en el sistema *zāhirī* de Ibn Ḥazm; es negada totalmente por dos motivos fundamentales: por su incapacidad para guiar la actuación del hombre y por su incapacidad para obligarnos a la acción. Y de aquí la necesidad que ve Ibn Ḥazm de una revelación religiosa que nos guíe y nos obligue.

Una vez establecida esa revelación religiosa en su monumental obra, *Fīṣal*, la función de la razón sólo va a consistir en entender dicha revelación, en hacerse cargo de ella, para cumplir escrupulosamente lo prescrito allí. Pero la obligación no pasa más allá de cumplir lo explícita y claramente prescrito en ella. Sobre lo que allí no esté literalmente expresado no pesa ninguna obligación, lo cual va a proporcionar, paradójicamente, una absoluta libertad a la razón en todo lo que caiga fuera de la revelación, que con el paso del tiempo va a ser mucho, sin duda, y en donde la razón práctica sí tendrá su función y alcance, sólo que no habrá en todo ello idea de obligación alguna.

Ciertamente la fundamentación de la ética no es posible para Ibn Ḥazm, pero tal vez esta manera de entender las cosas, si hubiera tenido continuación el *zāhirismo*, hubiera podido dar paso a una ética de

<sup>1</sup> Con modificaciones y con una estructuración distinta el contenido de estas páginas se halla incluido en mi «Introducción a Ibn Ḥazm de Córdoba», *El libro de los caracteres y las conductas*, Madrid, 2007.