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THE AKBARĪ *MADHHAB*: IBN ‘ARABĪ’S SCHOOL OF MERCY

The previous chapter examined Ibn ‘Arabī’s Traditionalism and its relationship to his Sufism. We will now look in detail at Ibn ‘Arabī’s approach to jurisprudence to see where he could be situated within the broad Traditionalist school of thought, but more importantly to arrive at a clear picture of his legal method and interpretive framework. Ibn ‘Arabī, like every author of *uṣūl al-fiqh* works, made his own choices in terms of legal principles, which meant that he effectively created his own *madhhab* or school of law.¹ Most authors of *uṣūl* works, however, could still be classified as followers of one of the five main Sunni schools – the Ḥanafī, Mālikī, Shāfi‘ī, Ḥanbalī or Zāhirī schools – because they usually agreed with and defended the major legal principles upheld by one of those schools and may have differed from them only on minor matters. As Suyūṭī would later explain, many of these scholars could be classified (and indeed viewed themselves) as fully independent *mujtahids* who were still ascribed to one of the main schools by virtue of the fact that they generally agreed with the major principles of that school; this is called a *mujtahid muṭlaq muntasib* (fully independent and capable *mujtahid* with an affiliation to one of the schools).

As for Ibn ‘Arabī, he should be classified as fully independent *mujtahid* with his unique set of major jurisprudential principles, much like his predecessors Ibn Ḥanbal, Bukhārī and other Traditionist-Jurists. His own principles brought him very close to the Zāhirīs, again much like Bukhārī

before him, but were not identical to those of that school. Due to the superficial similarity between his school and that of the *Zāhirīs*, Ibn ʿArabī was frequently confused for a *Zāhirī*, both in his own lifetime and today. A major factor behind this confusion is the general lack of awareness of the existence of the specific school of Traditionist-Jurisprudents which flourished for a short while and then for the most part died out and whose figures were falsely appropriated by the later *madhhabs*. There was consequently a lack of awareness of the history of the Traditionist-Jurisprudent approach in al-Andalus, especially among the Sufis. However, a detailed comparison of Ibn ʿArabī's legal methodology to that of the *Zāhirīs* will show the vast underlying differences between both schools in terms of their general understanding of the *sharīʿa*. It will reveal how Ibn ʿArabī adopted many of the principles espoused by the *Zāhirīs* when fashioning his own legal method, but he did so for very different reasons than the *Zāhirīs* themselves. Ibn ʿArabī was aiming to create a legal methodology that was as loyal as possible not only to the outward prescriptions of the scripture, but also to what he believed was the spirit of the *sharīʿa*: mercy.

Ibn ʿArabī and *Zāhirism*

None of the Ibn ʿArabī specialists who attempted to show that Ibn ʿArabī created his own unique methodology or school of jurisprudence have made a sustained or organised effort to compare the principles of Ibn ʿArabī with those of the *Zāhirīs* in general, or the principles of Ibn Ḥazm in particular.² It was left to Aron Zysow, an *uṣūl al-fiqh* specialist, to point out that such comparisons could be the key to unlocking a *madhhab*'s inner logic. Zysow showed how a seemingly minor disagreement in legal principles can point to a much deeper difference below the surface. He used as his example the status of what is known as the *khābar al-wāḥid*.³

Differences in Principles of Jurisprudence and What They Reveal:

The Khābar al-Wāḥid as an Example

The '*khābar al-wāḥid*' is a term that refers to *ḥadīth* reports; it is based on a theoretical classification of *ḥadīth* reports invented not by *ḥadīth* specialists but by theologians. Theologians, in their concern for epistemology (sources of knowledge), argued that the Qur'ān has been transmitted by so many people

in every generation in a way that gives us certain knowledge of its authenticity, a condition they call ‘*tawātur*’. As for the *ḥadīth*, theologians argued that, if a *ḥadīth* was also *mutawātir* (transmitted in such a way as to remove the possibility of fabrication), then its authenticity was as certain as that of the Qur’ān. If, however, a *ḥadīth* is not *mutawātir*, then it will be classified as a *khābar al-wāḥid* (plural *akhbār al-āḥād*), which, despite the name meaning ‘reports from individual authorities’, simply refers to a non-*mutawātir* report, even if it was transmitted by multiple authorities. This division was invented by theologians, not by *ḥadīth* scholars, and only entered the field of Sunni *ḥadīth* criticism in the fifth/eleventh century. As the most famous scholar of *ḥadīth* criticism in the later period, Ibn al-Ṣalāḥ (d. 643/1245) wrote, there is only one single *ḥadīth* which *might* qualify as *mutawātir*.⁴ This means that all *ḥadīth* reports are essentially *akhbār al-āḥād* and that the usage of this term is strictly theoretical.

The status of the *khābar al-wāḥid* was of central importance to Ibn Ḥazm and Dāwūd, and it set the Zāhirīs apart from all other Sunnis. Acting upon the import of *khābar al-wāḥid* reports is agreed upon by the vast majority of Muslim jurists. Only in the early centuries of Islam were there some, mostly Mu‘tazilīs, who rejected acting upon them.⁵ Dāwūd is reported to have vehemently debated a scholar who rejected acting upon these traditions in Baghdad, and the people in the mosque supported Dāwūd and pelted his opponent with stones.⁶ However, it seems that Dāwūd stood out from the majority of the scholars in arguing that such traditions, as long as their narrators were all trustworthy, were good enough not only as a basis for action, but also as sources of certain knowledge.⁷ According to the list by Ibn al-Nadīm, Dāwūd wrote two works on this subject: *Kitāb al-khābar al-wāḥid* and *Kitāb al-khābar al-mūjib lil-‘ilm* (*A Treatise on the Traditions that Provide Certain Knowledge*).⁸ This was also the position of Ibn Ḥazm.⁹ However, there had been an early group of Zāhirīs influenced by Mu‘tazilī thought who rejected the use of the *khābar al-wāḥid* completely.¹⁰

Zysow categorised the schools of law based on epistemological grounds, classifying them into two broad groups: those *madhhabs*, like the four surviving Sunni schools, that allowed for probability (the *mujtahid* needed not reach a level of absolute certainty that his position is correct), and those, like the Zāhirīs and the Twelver Shī‘īs, who demanded certainty. As Zysow and

others showed in their studies, the basis for the principles adopted by the Zāhirīs was the desire to remove all probability in the formulation of the law. Their insistence that all general words are to be taken as unrestricted, that all commands are obligatory, that nothing is inferred from the text that is not clearly stated, that an authentic *ḥadīth* gave certain and not probable knowledge, as well as their rules on linguistic interpretation – these were all because they believed that the law had no place for probability.¹¹

As Zysow noted, the Zāhirīs, because of their insistence on certainty, either accepted the use of the *khābar al-wāḥid* and held that it provided certain knowledge (like Dāwūd, Ibn Ḥazm and most Zāhirīs), or they rejected its use because they denied that it provided certain knowledge (like the minority group mentioned above). Ibn ‘Arabī took the position of the rest of the Sunnis: He acted upon *ḥadīth* reports while accepting that they did not provide certain knowledge, which made him different from both groups of Zāhirīs.¹² Ibn ‘Arabī’s disagreement with the Zāhirīs on this shows that the whole edifice that his own approach was based upon differed greatly from that of the Zāhirīs, whose methodology was based on the search for certain knowledge. Zysow concluded that Ibn ‘Arabī had a ‘very personal legal theory’ which was ‘only a part of an all-encompassing mystical system’,¹³ but did not attempt to investigate it much further.¹⁴

Zysow’s approach points the way to the key to understanding Ibn ‘Arabī’s legal system, which is to search for an underlying reason that may explain all the differences between Ibn ‘Arabī’s principles of jurisprudence and those of the Zāhirīs. If such a reason is found, it would help us truly understand the inner logic of Ibn ‘Arabī’s *madhhab* and the goals it aims to achieve. Therefore, we cannot proceed without first properly investigating the main principles of jurisprudence in the Zāhirī legal tradition in order to compare that school’s principles to those of Ibn ‘Arabī.

The Zāhirī School’s Principles of Jurisprudence

We have discussed the main pillars of Zāhirī thought in Chapter 1. There we also saw that there was a similar movement within the broader Traditionalist movement, known as the Traditionist-Jurisprudents, and that many of their main figures explicitly rejected *qiyās* and the other major non-textual sources of law also rejected by the Zāhirīs. Among these figures were Aḥmad

ibn Ḥanbal, Bukhārī and Abū Muḥammad al-Dārimī whose *ḥadīth* collection *Sunan al-Dārimī* contains a large introductory chapter full of quotations against *ra'y* and *qiyās* by early authorities.¹⁵ We have also seen in Chapter 2 that there were Sufis such as Ibn Abī 'Āṣim who were explicitly described as 'zāhirīs' or of the 'ahl al-zāhir' even though they disagreed with, and sometimes criticised, Dāwūd al-Zāhirī. Similarly, we saw that the Central Asian mystic al-Ḥakīm al-Tirmidhī also criticised *qiyās* at length but wrote even lengthier criticisms of those who – like the Zāhirīs – rejected the existence of legal causes ('*ilal*') for the different stipulations of the *shari'a*.

Therefore, the school founded by Dāwūd al-Zāhirī represents the distinct methodology and vision of the founder and does not represent all those who rejected *qiyās* or all textualists, although it does appear to have attracted into its fold a great number of the early textualists. Still, it is important to note that, in the fourth/tenth century, the Zāhirī legal tradition was often referred to as the Dāwūdī *madhhab*, and more followers of that school were identified as 'Dāwūdī' rather than as 'Zāhirī'. The latter term gradually became more popular until it came to dominate after Ibn Ḥazm.¹⁶

It is important to clarify in greater detail the principles of the Dāwūdī-Zāhirī legal tradition and list its main principles. Even within the school there are differences of opinion on certain principles.¹⁷ Below is a list of the core Zāhirī principles of jurisprudence: the first nine are those for which Ibn Ḥazm claimed complete agreement among all Zāhirīs, and while I found no such explicit claim for the last two, they were certainly a major principle of the Zāhirī method as presented by Ibn Ḥazm and as Ibn 'Arabī would have known it.¹⁸ These will be useful for making a quick comparison with Ibn 'Arabī in order to ascertain the extent to which he matched this criteria made by Ibn Ḥazm, whose works were the source of Zāhirī influence on Ibn 'Arabī. These principles are:

- 1) The rejection of *taqlīd*. Ibn 'Arabī agreed with this.¹⁹
- 2) The Qur'ān and *ḥadīth* are the only sound basis of legal rulings. Ibn 'Arabī agreed.²⁰
- 3) The rejection of *qiyās*. Ibn 'Arabī agreed on this, but also allowed others to use it, which is completely unacceptable to Zāhirīs. This will be dealt with in more depth below.

- 4) The rejection of *dalil al-khiṭāb* and the insistence that statements only meant what they stated, without the use of any inference. Ibn ʿArabī agreed, but his position was not as strong and categorical as the Zāhirīs', stating that argument based on the *mafhūm* (implied or inferred meaning) of a text is weak evidence because it is not correct in every case.²¹
- 5) Terms are to be interpreted according to their general and unrestricted meaning, unless there is evidence otherwise. Ibn ʿArabī seems to have agreed with this.²²
- 6) Commands and prohibitions indicate absolute obligation (*wujūb*) unless a revealed text or consensus stated otherwise. Ibn ʿArabī agreed.²³
- 7) The Prophet's actions are not obligatory, only his commandments indicate obligation. Ibn ʿArabī agreed.²⁴
- 8) The only acceptable consensus is that of the Companions. Ibn ʿArabī agreed.²⁵
- 9) No divine prescription is tied to any cause in any way. Ibn Ḥazm declared that Dāwūd and all of his followers believe this, while some other rejectors of analogy do not.²⁶ We have already seen that Tirmidhī was one of those rejectors of analogy who did believe that each divine prescription had a cause and dedicated books to explaining the wisdom behind the rituals. Ibn ʿArabī affirmed the existence of causes for divine prescriptions; like Tirmidhī, he explained the wisdom (*ḥikma*) behind the different acts of worship at length. He would therefore be excluded from the followers of Dāwūd by Ibn Ḥazm's criterion. Also, unlike the Zāhirīs, for whom this matter was central to their rejection of analogical reasoning, this issue was not of great importance to Ibn ʿArabī.²⁷ When he did discuss it, he was more concerned with the matter's theological rather than jurisprudential implications.²⁸
- 10) Disagreement between scholars is blameworthy. Ibn Ḥazm held that differences of opinion were not a source of mercy or flexibility for the community, but rather a blight and a cause for division and misguidance. He dedicated a chapter of his major work on jurisprudence, *al-Iḥkām fī uṣūl al-aḥkām*, to this issue.²⁹ As will be discussed later in this chapter, Ibn ʿArabī saw that the different opinions of the jurists were a source of mercy for the community.

- 11) If a commandment or prohibition that is connected to, or part of, another act is contravened, the whole act becomes invalid. This principle is perhaps the most distinctive difference between the Zāhirī method and the others, and this led the Zāhirī positive law to differ often from all schools, including the Traditionist-Jurisprudents who otherwise very often agreed with the Zāhirīs. For example, the Prophet taught his Companions a specific supplication to say at the end of the ritual prayer, and Ibn Ḥazm was the only scholar known to hold that failing to recite this supplication – a supplication that most schools do not emphasise or teach at all – invalidates the whole prayer. Similarly, the Prophet forbade his Companions from glancing upward during the prayer, and again Ibn Ḥazm was alone in saying that glancing upward during the prayer invalidated the whole prayer. Likewise, if a Muslim intentionally commits a sin while he is fasting, Ibn Ḥazm held that his fast was no longer valid.³⁰ This principle was likely upheld by Dāwūd as well, as Ibn Ḥazm states that Dāwūd and all his followers are in agreement that, if a person is able to pray in the mosque in congregation but prays by himself, his prayer is invalid.³¹ Ibn ‘Arabī disagreed with the Zāhirīs on such positions.³²

There are other significant differences still. We have seen above the difference between Ibn ‘Arabī and the Zāhirīs on the epistemological status of *khābar al-wāḥid ḥadīth* reports (which, again, are practically speaking all *ḥadīth* reports). This disagreement led to another difference in methodology. For Ibn Ḥazm, if there seemed to be a contradiction between an authentic *khābar al-wāḥid* and the Qur’ān, both remained equal, and a way had to be found to reconcile the two.³³ For Ibn ‘Arabī, however, the tradition would be dropped because it only gave *ẓann* (a strong likelihood of truth), whereas the Qur’ānic verse gave certain knowledge.³⁴ Regarding a scenario with two contrary texts of equal strength (such as two Qur’ānic verses or two authentic traditions),³⁵ both Ibn ‘Arabī and Ibn Ḥazm agreed on a number of ways to attempt to reconcile and use both texts. However, they disagreed on the very last resort when all other attempts to reconcile the two had failed and only one text was to be chosen. For Ibn Ḥazm, the final solution was to act upon the teaching that contravened the original state of things (all things originally being permissible). For example, there is a *ḥadīth* against drinking while standing and

another stating that the Prophet drank while standing. We therefore know that the Prophet at some point told people not to drink while standing. The *ḥadīth* showing him drinking while standing was either describing something that happened before the prohibition, in which case the prohibition stands, or afterwards, in which case the prohibition was abrogated. Since there is no way to know for sure, it is safer to preserve the prohibition. One must follow the certain knowledge which is obtained by going contrary to the original state of things.³⁶

Ibn ʿArabī's solution to this scenario was radically different: in such cases, it is the easiest, most accommodating option that should be acted upon. This is because it is supported by a host of Qurʾānic verses and *ḥadīths* about God's wish for ease for His servants, not hardship; these tip the scale in favour of the easier option.³⁷ If both options were easy, Ibn ʿArabī held that the believer had a choice in the matter and could act upon whichever of the two verses or traditions he wished.³⁸ In such cases, Ibn ʿArabī often interpreted the more difficult course of action to represent a recommendation, not a strict obligation or prohibition. In other words, he would say regarding this case that the Prophet did not intend to make drinking while standing impermissible, that he merely discouraged it, but his action showed that it remained permissible (this type of interpretation is the subject of Part 2 of this book).³⁹ This use of ease as a tool for giving preponderance (*tarjīḥ*) to one out of two contrary judgements is a minority position attributed in books of *uṣūl al-fiqh* to two Shāfiʿī jurists: Tāj al-Dīn al-Armawī (d. 653/1255) and Nāṣir al-Dīn al-Bayḍāwī (d. 685/1286).⁴⁰ Ibn ʿArabī died before both of these figures and therefore may have been the first to hold this position.

Original Licitness and The Ease Principle

The principle of ease in religion is a very powerful one in Ibn ʿArabī's understanding, not only because of the many Qurʾānic verses and *ḥadīth* reports that the religion is easy, but because ease accords with the original state of affairs in which God placed mankind: the state of no obligation. Muslim jurists understand the teachings of the *sharīʿa* as a set of divine judgements regarding all possible human actions: is action X obligatory, recommended, permissible, disliked, or prohibited? A question that jurists have asked and debated at length is: what was the status of acts before the coming of the

sharīʿa?⁴¹ Was the original status of all things permissibility until the *sharīʿa* said otherwise? Or was it prohibition? Although there was a great amount of disagreement on this topic in the first centuries of Islam, once the theological implications of each answer were worked out, a majority position appeared, which held that the original status of all acts was that of no judgement. This was the position upheld by the jurists associated with the Ashʿarī theological school (the Shāfiʿīs, Mālikīs and some Ḥanafīs), as well as Ḥanbalī and Zāhiri jurists, and it was also the position of Ibn ʿArabi.⁴²

A question now arises: once the Revelation had come and the *sharīʿa* had given its judgements on all acts covered by the Qurʾān and *sunna*, what was the status of all things on which the *sharīʿa* remained silent? The majority position of the four schools held that after the coming of the Revelation, there was now a divine judgement for every conceivable act. Since the Qurʾān and *ḥadīth* were finite texts, they could not be expected to cover all possible acts explicitly, but God had revealed in them all that was needed for jurists to discover the rest of His judgements by means of extension to the law – extension such as analogical reasoning. Others have put it slightly differently: everything is, in fact, in the Qurʾān, it just remains to be discovered.

Ibn Ḥazm agreed that Revelation had given a judgement on every act, but he disagreed that the *sharīʿa* was in fact silent about anything. According to Ibn Ḥazm, there is a verse in the Qurʾān that applies to everything not given a specific treatment by the *sharīʿa*: ‘He created all that is on the Earth for you’ (Q 2:29). This meant that everything is permissible except what God specifically forbade. This is further explained by the following verse: ‘He has explained for you in detail what He has made prohibited for you’ (Q 6:119). There are therefore no matters about which the Qurʾān or *sunna* did not speak. To make something prohibited or obligatory by any tool of extension or ‘discovery’ is to change God’s own ruling of permissibility, and this is a grave transgression against God’s authority. This idea became the basis of the principle of ‘original licitness’ which held that, after the coming of the Revelation, everything was assumed to be permitted unless a text stated otherwise. This assumption was based on verses of the Qurʾān stipulating licitness, and therefore this assumption could not be changed except by *ḥadīths* of unquestionable authenticity. Only *ḥadīths* of unquestionable authenticity

could change the status of an act from permitted to otherwise and take it outside the domain of those Qurʾānic verses above.

Dāwūd al-Zāhirī sometimes referred to what was not specifically mentioned in the texts as ‘permissible’, like his follower Ibn Ḥazm, but more often his answer indicated a more nuanced position. Dāwūd’s position seems to be that, when Revelation came it only gave God’s judgements on a limited number of issues: those issues specifically and explicitly mentioned in the Qurʾān and *sunna*. Everything not covered by Revelation retained its original pre-Revelation status of ‘no judgement’. The *sharīʿa* according to Dāwūd was meant to be simple and never intended to cover all conceivable acts, as those covered by Revelation were sufficient guidance. By virtue of Divine Pardon, God kept everything else without judgement and made it *in effect* permissible. He took the term ‘pardon’ (‘*afw*’) from several *ḥadīth* narrations, to which we will turn below.⁴³ The word ‘*afw*’ could mean two things in Arabic: 1) to be left without treatment (hence, in this context one could call it ‘exemption from judgement’), or 2) pardon (if an act has been exempt from judgement, then it naturally follows that a person is pardoned for doing it). This accords with Ibn ʿArabī’s position.

Ibn ʿArabī held that all acts were originally without Divine Judgement, the primary principle by which human beings freely act as their human nature demands of them to act. Then Divine Judgement was assigned to many acts in order to test us: to see if we will obey what is obligatory and refrain from what is prohibited. Everything else was, by virtue of the primary principle, left without judgement and, by virtue of the secondary principle, permissible, as the verse said: ‘He created all that is on the Earth for you’ (Q 2:29).⁴⁴ Unlike Ibn Ḥazm, Ibn ʿArabī held that this verse was not explicit in indicating permissibility, but rather only carried the apparent and preponderant interpretation of permissibility.

Ibn ʿArabī held that ease in the religion accorded with the primary principle – that is, the original state of affairs in which human beings may act according to what their human nature demands of them, without the assignment of judgement to their acts. This was the case for humans when they were first created in Paradise, and this will be the case when they return to Paradise, whereas the testing of humans through prohibitions was only a temporary affair. He wrote:

Those who do *ijtihād* fall into two categories on the Day of Resurrection. The first category is those who make impermissibility preponderant. The second category makes the removal of difficulty (*rafʿ al-ḥaraj*) from this *ummah* preponderant, for they hold on to that verse ('God does not wish to place you in any difficulty' [Q 5:6]) and they return to the primary principle and original nature. This second category will be closer to God and greater in rank than those who make impermissibility preponderant.⁴⁵

Ibn ʿArabī took this principle one step further and made a distinction between divine instructions that God tied to specific occasioning factors or needs and therefore in a sense were secondary teachings, and those that were not tied to any such factors, hence the primary teachings of the *sharīʿa*. He who reaches the truth of the matter (the *muḥaqqiq*) understands that these two types of divine instructions are not the same and knows how to deal with each one. Ibn ʿArabī explained this principle during his discussion of the *fiqh* of the *ḥajj* pilgrimage, and the fact that women are not allowed to cover their faces during the pilgrimage. This, he states, is a return to the original principle, which is that there is no veiling or covering. What Ibn ʿArabī refers to here is that the verse telling women to cover their heads was occasioned by the need to distinguish Muslim women from non-Muslim women, because the early Muslims lived in a mixed society in Medina with Jews and polytheists, some free and others as slaves. Young non-Muslim men in that city used to make sexual advances on the streets to servants or slaves, but sometimes mistook Muslim women for them. The Qurʾān came with a revelation instructing Muslim women to cover their heads 'so that they are recognised and not harmed' (Q 33:59). Another verse came down to instruct men who entered the Prophet's house not to speak to his wives except from behind a curtain (*ḥijāb*). That is 'purer for your hearts and their hearts' (Q 33:53). This, according to the canonical *ḥadīth* collections, was because all sorts of men would enter the house of the Prophet to visit him and sometimes overstay their welcome, and so a curtain was needed to make the Prophet's wives feel more at ease inside the home. However, according to the *ḥadīth* collections, the Prophet's wives inferred from this verse that they should (or that it is better to) cover their faces outside the home, which was a way for them to implement the verse of the curtain (*ḥijāb*) outside the home. It seems from the instruction that women should not cover their faces in the *ḥajj*,

and from other indications in the literature that it became a practice among many, but not all, women in Muslim society to also voluntarily cover their faces in imitation of the Prophet's wives.⁴⁶ Ibn ʿArabī explained that, when women were told to keep their faces uncovered during the *ḥajj*, it was a return to the original state of things, which is that women should not be veiled or hidden away from men and that the teachings of veiling and covering were only secondary teachings of the *sharīʿa* necessitated by certain circumstances.

This distinction by Ibn ʿArabī does not have immediate and direct implications in the practice or implementation of *fiqh*, because he did not differentiate between the two grades of divine instruction when it came to implementation. He wrote: 'Let not the fact that God brought some things down because of the needs and questions of some deceive you. Rush to accepting His judgement, whichever type it is, with contentment and pleasure if you want to be a (true) believer'. In other words, all of God's commandments need to be followed, whether they are the core primary teachings of Islam (such as prayer, fasting and the like), or the secondary commandments that were necessitated by the realities of the human condition, such as the covering of women. However, those who truly understand that matter know that there is, in fact, a difference in importance between the two.⁴⁷ For example, some men were unhappy that their wives had to uncover their faces during the pilgrimage. Ibn ʿArabī compared this unhappiness to some men's wish that God and His Messenger had not encouraged women to pray in the mosque. These people think that they feel more jealousy over women than God himself, but this only points to a problem in their understanding.⁴⁸

This distinction, then, does have major theoretical implications with important practical consequences in the social realm as well. Knowing that covering and veiling is not the original state for women negates the idea that 'women's place is in the home', or that women must be hidden away, discreet, or less visible than men. It teaches that, according to the 'primary principle' or 'original state', there is no difference between men and women in terms of social participation and visibility, and that modest clothing which includes a head covering is the only difference between them in this regard. This understanding does not take away the obligation on women to cover their heads, but it undermines the very harmful way in which men came to view women and their place in society.⁴⁹

Divine Pardon and Mercy

As we have seen above, the Zāhirīs rejected the idea of discovering God's hidden judgements based on the idea that nothing was actually hidden and that everything not specifically prohibited was explicitly permitted. Yet, the original impulse behind their rejection was that it entailed the use of rational methods of inference such as *qiyās* and negatively implied meaning, and because it led to uncertain results in the law and disagreement. As for Ibn 'Arabī, his reason for holding this position was rooted not in the rejection of uncertainty or of absolute denial of rational inquiry: rather, it was rooted in the principle of the primacy of ease in the religion and the merciful nature of the *sharī'a*.

Ibn 'Arabī and the Zāhirīs used a number of Qur'ānic verses and *ḥadīths* to support their rejection of the existence of hidden guidance that needed discovering. Ibn 'Arabī made it clear that, unlike the Zāhirīs who in principle completely rejected the use of analogy as a source of legislation, he only rejected it because he feared, just like the Prophet Muḥammad before him, that it would increase the number of legal obligations upon the believers. He said: 'We only stayed away from accepting *qiyās* ourselves because it leads to an increase in legal rulings, and we understood from the Lawgiver that he wanted to lighten the burden of this community'.⁵⁰ The Qur'ān had said:

You who believe, do not ask about matters which, if made known to you, would make things difficult for you – if you ask about them while the Qur'ān is being revealed, they will be made plain to you – for God pardons them (has absolved you of any obligation regarding them). God is most forgiving and forbearing (Q 5:101)

According to early Qur'ān commentators, such as Ṭabarī who quoted Ibn 'Abbās and Abū Hurayra, this verse was revealed when the Prophet told his people that the pilgrimage had been made an obligatory act, at which point a man stood up to ask if it was to be done every year. The Prophet is reported to have replied:

Had I said 'yes' it would have become obligatory upon you to do so, and you would not have been able to fulfil this obligation. Leave me as long as I leave

you [. . .] If I instruct you to do something then fulfil as much of it as you are capable of, and if I forbid you from something then stay away from it (*Ṣaḥīḥ Muslim*).⁵¹

Similarly, the Prophet's cousin Ibn 'Abbās said:

God sent His Messenger and sent down His Book in which He declared what is lawful and what is unlawful. Therefore, what He made lawful is lawful and what He made unlawful is unlawful, and what He remained silent about has been pardoned (or: exempt from judgement) (*Sunan Abū Dāwūd*).⁵²

The two narrations above were considered the most authentic, but there are others attributed to the Prophet as well:

What God made lawful is lawful and what He made unlawful is unlawful, and what He remained silent about has been pardoned [or: exempt from judgement], so accept from God His pardon [or: exemption], for God would not forget a single thing (Al-Ḥākim, *al-Mustadrak*).

And the most famous narration, on account of being part of the famous forty-*ḥadīth* collection of Sharaf al-Dīn al-Nawawī, stated:

God has given you obligations, so do not neglect them; drawn limits, so do not transgress them; prohibited some things, so do not violate them; and remained silent on some things as a mercy for you, not out of forgetfulness, so do not investigate them (Al-Dāraqūṭnī, *Sunan*).⁵³

Based on such texts and others, Ibn 'Arabī rejected analogical reasoning and other forms of *ijtihād* that led to an increase in the obligations upon man. Ibn Ḥazm believed that the acts about which God appeared to be silent were covered by a general verse indicating permissibility, which makes his usage of these traditions to support his stance problematic, as they appear to indicate that God did not reveal His true judgement on these acts. The followers of the four *madhhab*s, however, believed that God had indeed given judgement on everything, a position that is also at odds with these reports. However, these traditions seem to suggest that God *could have* given guidance regarding

all acts but chose not to; rather, He chose to make all acts not covered by the explicit teachings of the Qur'ān or *sunna* exempt from judgement, pardoned by God, out of His mercy. This is the position of Ibn 'Arabī (and Dāwūd before him). From this point of view, those scholars who believed in discovering God's law were attempting to discover what God *would have revealed* if He had wanted to, but which He chose not to reveal.

Ibn 'Arabī argued that God, out of His mercy, kept all actions originally judgement-free and only revealed judgments based on a core of necessary instructions, based on what people asked about. The Prophet therefore many times warned his followers about asking too many questions, fearing that due to their curiosity there might be revealed new instructions that they would then not be able to act upon.⁵⁴ Just as the Prophet disliked (*kariha*) being asked questions, likewise God's ruling on the creation of new laws is that it is *makrūh* (disliked). This is because it leads to an increase in legal obligations. When something is disliked in the law, that means that one will not be punished for doing it (as with something impermissible), and yet those who avoid it will be rewarded for doing so.⁵⁵ For Ibn 'Arabī, therefore, abstaining from the use of analogy is rewarded by God. Yet, Ibn 'Arabī also held that those who use *qiyās* and similar tools of *ijtihād* will still be rewarded for their efforts, especially if they based their analogy on a clear legal cause behind what God did reveal.⁵⁶ This brings us to Ibn 'Arabī's wider discussion of the role and status of *ijtihād*.

Ibn 'Arabī's Position on *Ijtihād*

The Prophet Muḥammad is reported to have said: 'When a judge exercises *ijtihād* and gives a right judgement, he will have two rewards, but if he errs in his judgement, he will still have earned one reward'.⁵⁷ Despite the fact that this *ḥadīth* only speaks about a judge's arbitration between two parties and therefore does not cover a vast amount of the *sharī'a*'s guidance, it became a cornerstone of every discussion on *ijtihād* in books of legal theory. We will look at Ibn 'Arabī's position regarding two key matters related to this tradition: first, is every *mujtahid* correct or not, and second, what does the process of *ijtihād* entail?

According to the vast majority of jurists, this tradition indicates that there is one correct answer in the sight of God and that all others are wrong, but that

the *mujtahid* is rewarded for his effort even if he is mistaken. However, many theologians among the Ashʿarī school, such as al-Bāqillānī (d. 402/1013) and Ghazālī, held that every fully qualified *mujtahid* was correct, a position called Infallibilism. They based this view on the idea that there was no one correct answer in the sight of God before the process of *ijtihād*, and that after the process of *ijtihād*, every result became a correct answer (for more on this, see the Appendix). Ibn ʿArabī believed that there was ultimately only one correct answer in the sight of God. However, since God Himself allowed *ijtihād* as the report stated, then that meant that He gave His stamp of approval (*iqrār*) to its results, and God does not approve of falsehood. Therefore, the end result of one's *ijtihād* was correct because it either happened to arrive at God's particular judgement on the matter, or because God had approved it as correct for the *mujtahid* who reached it. That is why Ibn ʿArabī said: 'The scholars have said that every *mujtahid* is correct'. He therefore gave this statement a different meaning than that intended by the Infallibilist school.⁵⁸ This position is unique to Ibn ʿArabī, although Abū Ḥanīfā's great student Abū Yūsuf (d. 181/798) may have intended the same when he said: 'Every *mujtahid* is correct, but the truth is only with one of them'.⁵⁹

According to Ibn ʿArabī, the truly correct answer is the one that the Prophet would have chosen in his own lifetime.⁶⁰ He wrote in *Fuṣūs al-ḥikam* that the *mujtahids* from among the followers of the Prophet Muḥammad were honoured with the ranks of the Prophets David and Solomon. According to the Qur'ān, both of these figures gave different judgements on the same issue; commenting on that, the Qur'ān states: 'We gave Solomon understanding of it, though we gave sound judgement and knowledge to both of them' (Q 21:79). He concluded from this that the knowledge of David was given to him by God, but that the knowledge of Solomon was as the knowledge of God Himself on the issue. He stated that the judgement of the *mujtahid* is either like that of Solomon, which corresponds to the judgement that God Himself would give or would inspire to His Messenger Muḥammad, or like that of David, which, although not the one chosen by God, was still deemed, in the Qur'ān's own words, 'sound judgement and (correct) knowledge'.⁶¹

Ibn ʿArabī stated that, when the *mahdī* comes, he will be of those whose judgements would correspond to those chosen by God and His Messenger. The *mahdī* will abolish the schools of law and keep only the 'pure religion'.⁶²

The one true answer on every issue is the one that would also be chosen by the saints known as ‘the solitary ones’ (the *afṛād*) who succeed in preparing themselves spiritually for the descent of the true answers upon their hearts, and indeed it is a mark by which they are recognised that they never disagree among each other on any judgement.⁶³ Ibn ‘Arabī, of course, ascribed to himself this type of *ijtihād*, saying that, ‘although the Lawgiver has approved of the *mujtahid*’s judgement even if he was wrong, yet the people of this way (*ṭarīqa*) only take what the Messenger of God himself has judged’.⁶⁴ It should however be pointed out that in the beginning of the same passage he said that he took ‘many’ of Muḥammad’s judgements in this way, indicating that he did not claim to take all of the *sharī‘a*’s judgements by way of inspiration. This would accord with Ibn ‘Arabī’s hesitant tone on the authenticity of several *ḥadīths* or the correct interpretation of some of the revealed texts: he was not afraid to show that he did not have the absolute answer on every issue.⁶⁵ He similarly stated that even the *mahdī* will be veiled from the answers to some questions, at which point he will treat them as if they were in the realm of the permissible because God will protect him from the use of *ra’y* and analogy.⁶⁶

The second question we come to now is what the word *ijtihād* meant to Ibn ‘Arabī and what it entailed as a process. The majority of Sunni scholars advocated the use of *ijtihād*, or the expenditure of effort, in finding divine judgments for actions not mentioned in the divinely revealed sources. They used as evidence the tradition of Mu‘ādh ibn Jabal, the Companion who was sent to Yemen, in which he stated that, if he did not find the answer to a problem that he was adjudicating in the teachings of the Qur’ān or the Prophet, then he would use his *ijtihād* to find an answer. The Prophet was reportedly pleased with this answer. Although the chain for this tradition is broken, it was widely accepted by Sunni scholars as proof of *ijtihād* in general and *qiyās* in particular.⁶⁷ Dāwūd al-Zāhirī, his son Muḥammad, and their followers rejected this tradition because of the fault with its chain of transmission. They also argued that, even if the tradition were to be sound, *ijtihād* would have meant to exert more effort for finding the answer in the revealed sources.⁶⁸ Ibn Ḥazm would later repeat the same arguments in his writings and expand upon them.⁶⁹ The Zāhirīs thus redefined *ijtihād* to signify the expenditure of effort into finding the answer for any problem in the revealed sources, not extrapolating an answer using tools such as *qiyās*.

One of the classic examples used to demonstrate the need for *ijtihād* in general and analogical reasoning in particular was the lack of a verse in the Qurʾān prohibiting people from hitting their parents. Jurists argued that what the Qurʾān did prohibit was to utter the slightest expression of displeasure at one's parents or to rebuke them (Q 17:23). Jurists used this verse as a prime example of where analogy was used, particularly the *a fortiori* type of analogy, to reach the conclusion that, if one may not hurt one's parents verbally, one may not do something worse, such as hurting them physically.⁷⁰ Ibn ʿArabī, however, like the Zāhirīs, argued that recourse to analogy was not needed in this matter – or, in fact, any matter – for anyone possessing deep understanding (*fiqh*) in the religion. Regarding this example, they noted that the Qurʾān already gave the answer in very same verse, although many jurists did not see it. The same verse also instructed the believers 'to treat one's parents with kindness'. Those with understanding know that this general instruction of treating parents with kindness inherently contains within it the prohibition of hitting them; therefore, they did not need to make an analogy between hitting and disrespectful speech. According to them, the religion has been completed and everything that was needed is in the Qurʾān and *sunna*, sometimes in the form of general instructions (*mujmal*) from which specific teachings can be extracted.⁷¹ This is the type of *ijtihād* approved by the Zāhirīs: to find a text that already covers the act in question.

Ibn ʿArabī, approved of both interpretations of the word *ijtihād*, while giving preference to the Zāhirī one. He did this by applying the principle of God's approval of a person's *ijtihād* not only to positive law, but also to the principles of jurisprudence themselves. In other words, the very principles and sources of jurisprudence are reached by way of *ijtihād*, and therefore God has given His approval for any set of juristic principles and sources arrived at by man, such as the acceptance or rejection of *qiyās*, for example. He wrote:

[The Prophet] did not single out the corollaries (*furūʿ*) in *ijtihād* and leave out the principles/sources (*uṣūl*). Rather, he spoke in general terms. Therefore, those who hold that he meant only the corollaries and not the principles, that is a result of their own *ijtihād* and likewise is the case for those who hold that the expression was general. Both will be rewarded for their *ijtihād*.⁷²

Here we see Ibn ‘Arabī taking the position that the judgement on *ijtihād* is the same for both principles and corollaries, combining it with the position that all results of *ijtihād* are acceptable, to reach the conclusion that all positions on principles of jurisprudence arrived at by way of *ijtihād* are correct. By holding this position, Ibn ‘Arabī could approve of both interpretations of the word *ijtihād* and, therefore, approve of the methodologies of both those who approved of *qiyās* and those who did not. Ibn ‘Arabī himself gave preference to the Zāhirī position, but by adopting this stance on *ijtihād* with regard to principles of jurisprudence, he gave himself a position above that of the Zāhirīs and their detractors. Therefore, while his own methodology was very similar to that of the Zāhirīs, it would not be correct to classify him as a Zāhirī because he also approved of a position completely at odds with that of the Zāhirī tradition.

Ibn ‘Arabī agreed with the Zāhirīs that *ijtihād* was not to create new laws but to seek rulings from the Qur’ān, *sunna*, consensus of the Companions, or an understanding of the revealed texts acceptable to the language of the Arabs. As for the consensus of the Companions, it is not seen as something outside these two sources because it is taken to be an indication of an existence of a *sunna* that was known to all the Companions and yet did not reach the later generations by way of narration. He argued that there was nothing for which there is no answer in the Qur’ān and *sunna*, for, as the Qur’ān stated in Q 5:3, the religion has been perfected and perfection does not accept any increase.⁷³ At the same time, he argued that, for those who could not find the answer to everything in the revealed sources, it was acceptable for them to use analogy. This is because analogy is a type of speculative thought or rational inquiry (*naẓar ‘aqlī*), and many verses of the Qur’ān commanded its listeners to use rational inquiry to establish firstly His existence, secondly His oneness and thirdly the truthfulness of His Messenger. If these very cornerstones of the religion were established and strengthened by way of rational inquiry, then how could it not be acceptable in the case of something comparatively minor to this, such as an individual point of law? Therefore, it is rational inquiry itself which proves analogical reasoning to be a source of law in times of necessity. It establishes that analogical reasoning could be used when an act shared the same trait as another that was likely the cause of a Divine Judgement.⁷⁴

For Ibn ʿArabī, it is wrong to reject the opinions of others, whether in principles or corollaries. It is *ijtihād* that led some scholars to approve of analogy and others to reject it, and the *ijtihād* of both is correct for themselves by God's own decree. It is therefore not permissible for the rejectors of analogical reasoning to forbid its practitioners from using it, just as it is not permissible for the practitioners of analogical reasoning to forbid the Zāhirīs from rejecting it.⁷⁵ He wrote:

Therefore, even if the use of analogy was wrong in and of itself, the Lawgiver made it an act of worship for him [because his *ijtihād* led him to accept it as a source of law], and the Lawgiver may choose whatever He wishes as a way of being worshipped by His servants. This is a way which is uniquely ours, as far as we know. We reject analogical reasoning for ourselves but approve of it for those whose *ijtihād* led them to accept it, because the Lawgiver established it [that is, established the result of his *ijtihād*]. Therefore, if he who opposed it were fair, he would remain quiet and not argue on this matter, for it is too obvious to be argued about.⁷⁶

The use of *ijtihād* to make new laws, then, although it is *makrūh*, becomes at the same time an act of worship that is rewarded, whether the results are correct or erroneous! Those who err receive one reward, while those who are correct receive double. God, as the Lawgiver, can make an act of worship for His servants out of anything that He wishes, even something that is *makrūh*, and He did so with *ijtihād* and the use of analogical reasoning. Ibn ʿArabī found a parallel for this position in religious vows (*nadhhr*), where one may make a vow such as the following: 'If God cures my illness, then I will feed my neighbours'. According to the canonical *ḥadīth* literature, the Prophet discouraged people from making such vows and yet made their fulfilment compulsory.⁷⁷ According to Ibn ʿArabī, the Prophet disliked these vows because they created an additional obligation for people, but at the same time made the fulfilment of these vows an obligation. This meant that fulfilling such vows was rewarded, while not fulfilling them was blameworthy and punishable.⁷⁸ For Ibn ʿArabī, then, the use of analogy in *ijtihād* leads to the earning of reward, but not as much as the reward of abstaining from it altogether. He wrote:

Your reward in abstaining from establishing a new *sunna* is far greater than the reward that you would get for establishing a new *sunna*, for the Prophet

disliked the increase of obligations upon his nation. He disliked for them to ask too many questions out of fear that something would be revealed about it that they would not be able to bear, and whoever establishes a new *sunna* establishes a new obligation. The Prophet would have been the most suitable to establish that, but he left it to make things easier. That is why we say: following the Prophet in abstaining [from establishing a new *sunna*] is greater in reward than in making one.⁷⁹

Ibn ‘Arabī, however, did not tolerate a scholar’s use of opinion or analogy where a text had already spoken on an issue. He wrote: ‘If the revealed text appears to him, and he leaves it in favour of his own opinion [*ra’y*] or what he claims to be perspicuous analogy, there is no excuse for him before God, and he is blameworthy’.⁸⁰ As we have stated, Ibn ‘Arabī believed that the position that rejected the use of analogical reasoning was stronger. ‘God is not absent-minded; His silences are not omissions. It is not for man to fill in the “voids” in Revelation’, as Addas summarised his position succinctly.⁸¹

Despite it being unfavourable to extrapolate new laws, the very fact that God even allowed this was a great honour that God bestowed upon Muḥammad’s followers. The act of *ijtihād* was a great honour that God bestowed upon the nation of Muḥammad, for lawgiving is originally an act of the Prophets and Messengers only. In allowing the men of Muḥammad’s community to do *ijtihād*, God was in fact giving them a share of the role of prophethood – without calling it thus. In effect, then, those who practise *ijtihād* are like the Prophets, but they cannot be called Prophets; in any case, it is known that the lawgiving of the Prophets was not based on *ijtihād*. The fact remains, however, that *mujtahids* are in a sense acting like Prophets when they make new laws. The *mujtahids* are the heirs of the Prophets in lawgiving, and the evidence that they gather take the place of the Revelation that came down upon the Prophets, and the differences in the rulings of different *mujtahids* is similar to the differences in laws between different Prophets; however, that does not equate them in any other way to the Prophets and Messengers.⁸² Furthermore, every *mujtahid* is correct, just as every Prophet is *ma’ṣūm* (protected from error).⁸³ This is an honour that God gave this community so that its scholars could be raised on the Day of Resurrection to the ranks of the Prophets and Messengers, with no one ahead of them except the Prophet Muḥammad himself.⁸⁴ Here, Ibn ‘Arabī differs very strongly from

the position of Ibn Ḥazm who completely rejected the notion that God has authorised men to legislate, as he held that legislation belonged only to God.⁸⁵

Ibn ʿArabī defended his position with the *ḥadīths* stating that '[t]he scholars are the inheritors of the Prophets' and '[w]hoever establishes a good practice (*sunna ḥasana*) will have its reward and the reward of those who act upon it'. The Prophet, therefore, had given his stamp of approval to the injunctions that result from the scholars's *ijtihād* and *istiḥsān* (what they deem to be good), meaning that every *ijtihād* performed by a fully qualified jurist was correct.⁸⁶ We see here how Ibn ʿArabī linked the type of *ijtihād* known as *istiḥsān* with the tradition about establishing new practices. Ibn ʿArabī therefore called the judgements in the revealed sources *nubuwwa aṣliyya* (original prophecy), and the judgements added by scholars by way of *ijtihād* he termed *nubuwwa fir'iyya* (derivative prophecy). This is presumably because it was God who allowed scholars to bring new laws like the Prophets, and because these laws were derived from the original laws brought by the Prophets and built upon them. However, having said this, Ibn ʿArabī counselled his reader to strive to only follow original prophecy and never go beyond what is in the original sources, in order to be a perfect follower of Muḥammad himself.⁸⁷ He wrote:

Every *mujtahid* is bound to what his *ijtihād* led him to, but he may not accuse those who disagree with him of being in error [. . .]⁸⁸ We must never criticise the ruling of a *mujtahid* because it is the *sharīʿa* itself, being God's judgement, that approved of [the *mujtahid*s] judgement, so it becomes the law of God by God's approval of it, and this is a matter in which the people of all the schools of law fall into the realm of the prohibited . . .⁸⁹

This is how Ibn ʿArabī could approve of all the different opinions of the schools throughout his jurisprudential discussions in the *Futūḥāt*. The Akbarī *madhhab* embraces all *madhhabs* and gives a justification for each opinion based on its inward secret, its crossover to the interior of man. Ibn ʿArabī was clearly no Zāhirī.

Taqīd, Pluralism and God's Mercy

As we have seen, Ibn ʿArabī argued that *mujtahids* were bound to follow the opinion to which their *ijtihād* or analogy led them, but he argued that others were not bound to follow anything but the Qur'ān and *sunna*.⁹⁰

People likewise had the option of whether they wished to follow what scholars added by way of analogical reasoning. If they followed someone's *ijtihād*, then they were following a law approved by God for that person, and yet this remained a questionable matter. It is better to follow only what is in the texts, for God only commanded the people to ask 'the people of the Remembrance' (Q 21:7), meaning the experts on the Qur'ān and the experts on *sunna*.⁹¹ Furthermore, how could God make an act of worship for people out of the product of someone else's reasoning? Acts of worship can only come from the Qur'ān and *sunna*.⁹² For Ibn 'Arabī, therefore, people would only be taken to account on the Day of Judgement according to what was in the Qur'ān and *sunna* and would not be questioned about anything added by the jurists based on analogy.

For Ibn 'Arabī, as we have shown, *ijtihād* was the search for the answer to a question within the Qur'ān and *sunna*; therefore, the role of the scholars and *mufīis* was simply to transmit the evidence from the Qur'ān, *sunna*, or consensus (of the Companions) to the questioner. The imitation of scholars was only acceptable when the scholar or *mufīi* stated that his answer was the ruling of God and His Messenger, as proven by one of the three above sources, but if he stated that the ruling was based on his opinion or reasoning, then it became impermissible for a person to follow it.⁹³

According to Ibn 'Arabī, like Ibn Ḥazm before him, a layman may not be bound to following a single school of jurisprudence but must search for the scholar who will tell him that he is providing the judgement of God and His Messenger, regardless of what school this scholar follows. He gave this advice to the layperson:

I warn you that you must not bind yourself to following a single school, but must act upon God's commandment, for He has commanded you to 'ask the people of the Remembrance if you do not know', (Q 21:7) and the people of the Remembrance are the experts on the Qur'ān and *sunna*, for the 'Remembrance' is the Qur'ān as stated in the Qur'ān. You must seek the removal of difficulty (*raf' al-ḥaraj*) in your matter, if possible, for God said: 'He has imposed nothing difficult on you in matters of religion' (Q 22:78). And the Prophet said: 'The religion is about ease'. So ask about the easier option (*rukhsa*) in the matter until you find it, and when you find it, act upon it [. . .] If you want to take the harder option (*'azā'im*) in your matters do

so, but only in what applies to yourself (and not others), and know that the removal of hardship is the *sunna*.⁹⁴

At the same time, even though God's mercy meant that no one was obliged to follow the additions of the scholars, Ibn 'Arabī found another type of mercy in their additions. He argued that the learned opinions and *istiḥsān* of the scholars provided people with more opinions to choose from. Thus, while there is mercy in people only being taken into account for what is in the revealed texts, there is another mercy in God's acceptance of other people's *ijtihād* for themselves and whoever wished to follow them. This allowed people to seek the easiest option in any school of thought. The jurists, however, deprived the people of this mercy by restricting them to following a single school of jurisprudence and barring them from searching for easier solutions in other schools, fearing that this would amount to playing with the religion.

For Ibn 'Arabī, God had approved of the *ijtihād* of every *mujtahid* and made it part of the *sharīʿa*; hence, those who wish to seek their solutions in other schools have evidence to do so in this. It is those who forbid people from going beyond a single school of jurisprudence that have no evidence for this position of theirs, except their unfounded fears. Furthermore, the founders of the schools never commanded anyone to follow only them and not any other, and those who now forbid people from doing so were not independent *mujtahids* like the founding *imāms*, by their own admission, and they therefore have no right to make such statements.⁹⁵ He wrote:

Out of divergence in legal questions God has made both a mercy for His servants and a widening [*ittisā*] of what He has prescribed for them to do. But the jurists of our times have restricted and forbidden, for those who follow them, what the Sacred Law had widened for them. They say to one who belongs to their school, if he is a Ḥanafī, for example: 'Do not go looking for al-Shāfi'ī's dispensation in this problem that you have'. And so on for each of them. That is one of the gravest calamities and one of the heaviest constraints in the matter of religion. Now God said that 'He has imposed nothing difficult on you in matters of religion' (Q 22:78). The law has affirmed the validity of the status of he who makes a personal *ijtihād* for himself or for those who follow him. But the jurists of our time have forbidden this, maintaining that it leads to making light of religion. This, from them, is the height of ignorance!⁹⁶

For Ibn ‘Arabī, the *muqallid* (imitator) is *muṭlaq* (has absolute freedom) to choose what he wishes from the different opinions of the *mujtahids*. Jurists usually used the term *muṭlaq* for the independent *mujtahids*, such as the four *imāms* who followed no one, but were to be followed. Ibn ‘Arabī instead cleverly called the imitators *muṭlaq* for being allowed to move freely from one school to another while seeking the easy option, whereas it is the *mujtahid* who was *muqayyad* (restricted) by his evidence and the result of his *ijtihād*.⁹⁷ Ibn ‘Arabī even went so far as to accuse those who restricted God’s *sharī‘a* and made things difficult for Muslims by forcing them to follow a *madhhab* of having left the religion.⁹⁸ For Ibn ‘Arabī, God is merciful and hence placed mercy even in the act of the jurists who transgressed His mercy by adding to His laws. Addas succinctly summarised Ibn ‘Arabī’s position: ‘As soon as the Divine Law leaves the field open to a number of solutions, none of these, and certainly not the easiest, has a right to be discarded, “God imposes upon a soul only that which it can bear” (Q 2:286); Divine Law is strict, but it is not rigid’.⁹⁹

We have seen in the previous chapter that Ibn ‘Arabī was certainly not alone in holding that laymen need not be bound to a single *madhhab*. His contemporary Ibn ‘Abd al-Salām wrote:

People have always been this way: they asked whichever scholar was convenient to ask, without adherence to a specific *madhhab*. No one criticised people for doing this until these *madhhabs* appeared along with their fanatical adherents. Now you see one of them following his *imām* despite that *imām*’s *madhhab* lacking any evidence, blindly following him in what he said, as if he were a Prophet who was sent to him. This behaviour takes one far from the truth and from what is correct and is not acceptable to the intelligent.¹⁰⁰

This stance would be repeated by Sharaf al-Dīn al-Nawawī (d. 676/1277), who was seven years old when Ibn ‘Arabī passed away and is one of the two main authorities of the Shāfi‘ī school. However, Nawawī added that one should not be motivated by the search for dispensations (the easiest options) in the different schools. He wrote:

The evidence indicates that the layman does not have to adhere to a particular *madhhab*. He can ask for a *fatwā* from whomever he wants, or whoever is convenient for him, as long as his aim is not to seek every dispensation.

Perhaps those who forbade this freedom to the layman did so because they did not trust him to not seek every dispensation.¹⁰¹

Nawawī's position came to represent the majority of Shāfi'īs (and other prominent scholars from the other *madhhabs*).¹⁰² The following statement became an oft-repeated principle: 'The layman has no *madhhab*. His *madhhab* (in any particular case) is the *fatwā* of his *muftī* (whom he asked regarding that case)'.¹⁰³

Ibn 'Arabī was parting from the mainstream positions of his time in two respects:

- 1) Ibn 'Arabī did not place any conditions on this freedom for laymen to choose from the different *madhhabs*.
- 2) Ibn 'Arabī actively encouraged the layperson to seek what was easier for them (we must not forget, however, that he also actively encouraged the layperson when seeking a *fatwā* to ask for its evidence in the Qur'ān and *sunna*).

Ibn 'Abd al-Salām agreed with him on the first position of unconditional freedom to choose from the different schools, provided one chose an accepted opinion, which he defined as one that a judge would not reject as invalid. He argued that there was no evidence for such a condition in the revealed texts.¹⁰⁴ As for the second position – that is, Ibn 'Arabī encouraging the layperson to seek the most accommodating position – he appears to be a lone voice in his time-period. But he was not the first to hold this opinion. It was held before him by Ibn Abī Hurayra (d. 345/956), the Baghdadī judge who became the ultimate authority of his age in the Shāfi'ī school.¹⁰⁵ Like Ibn 'Arabī after him, Ibn Abī Hurayra stated that there was no legal basis for forbidding people from seeking the lenient options in every school. He argued that they, in fact, *should* seek the easiest option because the Prophet had wanted ease for God's servants in their obligations.¹⁰⁶ Some Ḥanbalīs also held this position, for Ibn Ḥanbal told his students: 'Do not force people to follow your opinion (*madhhab*)'. This Ibn 'Aqīl al-Ḥanbalī (d. 513/119) explained to mean: 'Let them seek the easier options provided by the opinions of others'.¹⁰⁷ A man once came to Ibn Ḥanbal asking if a

certain action would lead to his being divorced from his wife. Ibn Ḥanbal confirmed that it would. The man asked: 'What if someone gave me a *fatwā* to the contrary?' Ibn Ḥanbal instructed the man to find the Ruṣāfa quarter of Baghdad where migrants from Medina stayed and to ask one of their scholars for a *fatwā* on this matter; he gave the man his blessings for acting upon the Medinan *fatwā* in order to save his marriage.¹⁰⁸

The majority of scholars, however, claimed that one who sought the easier option on every matter was a *fāsiq* (transgressor). They based this on a narration of Ibn Ḥanbal himself, quoting the traditionist Yaḥyā al-Qaṭṭān (d. 198/813) as having said: 'He who follows the scholars of Kufa in allowing intoxicants, the scholars of Medina in allowing listening to singing girls (and music), and the scholars of Mecca in allowing temporary marriages, would be a *fāsiq*'.¹⁰⁹ These, however, are extreme cases (especially if combined in one setting!) from an early time before the above-mentioned Kufan and Meccan positions were abandoned by all Sunnis (the position on music and singing girls survived for much longer with the Zāhirīs). This statement should not be taken as representative of Ibn Ḥanbal's position but must rather be balanced with his other statements above. Ibn Ḥanbal, in fact, used to insist that the differences of the scholars reflected the flexibility given by the *sharī'a* itself (as we will see in Chapter 7).¹¹⁰ Despite the eminence of Ibn Abī Hurayra, however, the Mālikī traditionist Ibn 'Abd al-Barr of Cordoba (d. 464/1071) could claim a century after him that there was a consensus among scholars on the impermissibility of seeking the easier options from the different schools.¹¹¹

The early Zāhiri Sufi Ruwaym ibn Aḥmad had praised the practice of allowing latitude for others as a mark of wisdom and of truly following '*ilm*'. He had said:

From the wisdom of the *ḥakīm* is that he shows latitude for his brothers in legal rulings but constricts his own options. To give latitude (*taṭsi'a*) to others is to follow true knowledge ('*ilm*'), whereas constriction of one's own options (*tadyīq*) is a condition of cautious piety (*wara'*).¹¹²

Ibn 'Arabī agreed. As Addas noted, '[m]ercy towards others, steadfast rigour toward himself: these are the defining poles of Ibn 'Arabī's ethics'.¹¹³ Ibn

‘Arabī linked his own position of allowing the layman to seek the easiest opinions from among the different schools to the concept of spiritual inheritance from the Prophet Muḥammad. He wrote: ‘God has created me a mercy, and made me an inheritor of mercy from the one to whom it was said, “We did not send you but as a mercy to all the worlds”’ (Q 21:107).¹¹⁴ In a sense, this is not unlike Ruwaym’s identification of this approach to ‘ilm, for this word was in Ruwaym’s time mostly associated with knowledge of the inherited body of the Prophet’s teachings, the *ḥadīth*.

Summary

We have shown that Ibn ‘Arabī had his own unique approach to jurisprudence, which as an independent methodology could possibly be termed the Akbarī *madhhab*, as some have called it. Although it shared much with the Zāhirī method and indeed benefited greatly from it, Ibn ‘Arabī’s approach could not truly be described as Zāhirī. Ibn ‘Arabī had his own reasons for adopting many of the key positions of the Zāhirīs that were very different from the reasons that led the Zāhirīs to adopt their own positions. Furthermore, the rejection of *qiyās*, one of the two main cornerstones of Zāhirī thought, was not unique to them and also constituted a key feature of the juristic thought of al-Ḥakīm al-Tirmidhī and other Sufis.

It is in the differences between Ibn ‘Arabī and the Zāhirīs that the guiding principles behind their legal thought emerge. The Zāhirī legal methodology was built around the desire for certainty in every detail of the law. They rejected the use of rational tools such as analogical reasoning, as well as the possibility that the intellect could discover with certainty the legal causes behind God’s injunctions. They also held that a *khābar al-wāḥid* tradition provided certainty. When two texts of equal strength contradicted each other and when they did not know which one abrogated the other, they chose the tradition that they knew with certainty had at first been implemented by the fact that it went against free human norms. Ibn ‘Arabī did not search for certainty in chains of transmission and held that the *khābar al-wāḥid* did not provide certain knowledge. If two texts of equal strength contradicted each other and there was no way to know which one abrogated the other, his position was that the easier option should be chosen. Ibn ‘Arabī’s discussions on analogical reasoning were not linked to the discoverability of legal causes,

the existence of which he did not deny. He rejected analogical reasoning on the basis that it increased the number of commands and prohibitions that people had to follow. He did accept analogical reasoning on the condition that people were not forced to follow the results of this process. Ibn ‘Arabī argued that the founders of the schools of law were divinely inspired saints whose positions were all in a sense correct, given that God gave his stamp of approval to the result of their *ijtihād*. Ibn ‘Arabī urged laymen to freely seek from all schools the positions that caused them the least hardship.

Therefore, Ibn ‘Arabī agreed with the Zāhirīs where their principles led to ease, which is the rejection of additions to the divinely revealed commands and prohibitions, as well as the rejection of confining laity to the opinions of a single school. He did this out of his belief in God’s mercy and his desire to bring ease to people. The Zāhirī rejection of additions to what is strictly mentioned in the texts increases the domain of the permissible and preserves people’s original freedom of action. From the point of view of Ibn Ḥazm and Traditionist-Jurists such as Bukhārī, everything that God did not specifically forbid was permissible, and one cannot take away that permissibility and the human freedom that results from it by using weak *ḥadīths* or fallible reasoning. To put it another way, all things are originally licit and can only be made illicit by means of certain, indisputable evidence; this can only come from an explicit text.¹¹⁵ According to Ibn ‘Arabī, even if this reasoning made a lot of sense, the Prophet himself told us repeatedly that God, with His mercy, had pardoned all that was not explicitly stated in the revealed sources. Ibn ‘Arabī chose those principles of the Zāhirīs that preserved people’s right to act freely outside the limited set of divine prescriptions but rejected those that placed certainty above leniency. We can therefore say that the Akbarī legal system was primarily based on the desire for mercy and ease for God’s servants. Ibn ‘Arabī believed that the Prophet Muḥammad had exactly that same desire, and so did Muḥammad’s perfect heirs, like himself.

Did Ibn ‘Arabī Have his Own *Madhhab*?

Ibn ‘Arabī dedicated Chapter 88 of his *Futūḥāt*, titled ‘On Knowing the Secrets of the Principles of the *Sharī‘a*’s Judgements’, to the exposition of his own choices in legal principles – that is, his own *madhhab*.¹¹⁶ In it he

covered his positions on the major principles of jurisprudence, covering the following topics:

- 1) The sources themselves
- 2) Consensus
- 3) The rules of interpreting the sources
- 4) Conflicts of evidence
- 5) How to understand commands, prohibitions, and the actions of the Prophet (that is, what is their value judgement)
- 6) Abrogation
- 7) Analogy
- 8) The authority of a Companion’s *fatwā*¹¹⁷
- 9) The revealed laws of previous nations
- 10) *Ijtihād* and *taqlīd* for scholars and for the layperson
- 11) Value judgements¹¹⁸
- 12) Seeking easier options and moving between schools

All of these matters he discussed in several places throughout the *Futūḥāt*, adding further detail. It could be said, therefore, that Ibn ‘Arabī had his own complete set of principles, a full *madhhab*. As with the case of Ibn Ḥazm and the Zāhirīs in general, it remains questionable whether one could say they had a *madhhab* in the sense of a school. It might be more accurate to call the principles of Zāhirism a methodology, because the *ahl al-zāhir* also rejected *taqlīd* and considered themselves to be independent *mujtahids*.¹¹⁹ However, since he disagreed with the Zāhirīs on their main philosophy of the law, and only quoted from their texts that which agreed with his own theory and aims, it would be more accurate to say that he had his own independent method which benefitted greatly from the Zāhirīs. One could only consider Ibn ‘Arabī a *zāhirī*, if by *zāhirī* we refer to the textualism espoused by many Sufis before and contemporaneous with Dāwūd al-Zāhirī, who were not affiliated to the Dāwūdī-Zāhirī legal tradition. Still, it would be truer to say that Ibn ‘Arabī had his own methodology that was closer to the early Sufis who were allied to the general Traditionalist movement but remained uniquely different. Although he also came very close to the method of Traditionist-Jurisprudents like Bukhārī, Ibn ‘Arabī did not

have the expertise in finding the hidden faults (*‘ilal*) in chains of transmission that the third/ninth-century Traditionist-Jurisprudents employed. He did not look at *ḥadīth* with the critical eyes of the experts.

If we could establish that there existed subsequent scholars who were influenced by Ibn ‘Arabī, who accepted all his principles and worshipped according to his preferences, then we would be justified in saying that there was an Akbarī school, even if it only had a small number of followers. Our prime example would be the Sufi shaykh and revivalist scholar Aḥmad ibn Idrīs and the movements influenced by his teachings. However, before we jump to future centuries, it would be a mistake to overlook Ibn ‘Arabī’s close circle of disciples. One should assume that at least some of Ibn ‘Arabī’s most dedicated disciples followed his choices and preferences in jurisprudence. A prime example of this is Ibn ‘Arabī’s greatest disciple and son-in-law Ṣadr al-Dīn al-Qūnawī. We see Qūnawī share Ibn ‘Arabī’s attitude to juristic opinions and his strict adherence to traditions in his final will. Qūnawī wrote in his will: ‘I enjoin them to wash my body in keeping with what is mentioned in the books of *ḥadīth*, not in keeping with what is mentioned in the books of jurisprudence’. Equally in keeping with the *ḥadīth* literature and in opposition to later dispensation given by the jurists of the Ḥanafī school and others, he furthermore requested that no structure be built over his grave.¹²⁰ Qūnawī was also described as a great traditionist,¹²¹ and Ibn ‘Arabī most likely would have been the main influence behind Qūnawī’s dedication to *ḥadīth* studies.

Notes

1. On the originality and individuality of the authors of *uṣūl al-fiqh* works, see Hallaq, ‘Uṣūl al-Fiqh’, 172–202.
2. For a discussion of the arguments for and against Ibn ‘Arabī’s affiliation to the Zāhiri tradition, see Dajani, ‘Ibn ‘Arabī’s Conception’, 91–103.
3. Aron Zysow briefly discussed Ibn ‘Arabī in his classic doctoral dissertation ‘The Economy of Certainty: An Introduction to the Typology of Islamic Legal Theory’. As this work remained unpublished from 1984 until 2013 and was mostly of concern to students of *uṣūl al-fiqh*, it has not been noticed in Akbarī studies.
4. Brown, *Hadith*, 104–6.
5. Zysow, *Economy of Certainty*, 25–26, 31.
6. Al-Qurashī, *al-Jawābir*, 1:111.

7. Zysow, *Economy of Certainty*, 29–30. Ibn Ḥazm attributed this position to Dāwūd and two of his contemporaries: al-Ḥārith al-Muḥāsibī (d. 243/857) and al-Ḥusayn ibn ʿAlī al-Karābīsī (d. 245/859) (Ibn Ḥazm, *al-Iḥkām*, 1:119). It is worth noting that all of these figures were closely connected. Muḥāsibī was a teacher of Junayd who, like Dāwūd, was a close student of Abū Thawr. Junayd himself is counted among Dāwūd's teachers (Osman, 'History and Doctrine', 29–30). Karābīsī was a very close associate of Abū Thawr and may have also been a teacher of Dāwūd (Osman, 'History and Doctrine', 32–34). Ibn Ḥazm also noted that one scholar ascribed this view to Mālik ibn Anas as well (Ibn Ḥazm, *al-Iḥkām*, 1:119).
8. Osman, 'History and Doctrine', 22; Stewart, 'Muḥammad ibn Dā'ūd', 132.
9. Ibn Ḥazm, *al-Iḥkām*, 1:119. Abū Zahra understood from Ibn Ḥazm that he believed the *khavar al-wāḥid* produced certain but not immediate knowledge, unlike the *mutawātir* tradition which produced immediate knowledge (Abū Zahra, *Ibn Ḥazm*, 262).
10. Zysow, *Economy of Certainty*, 30–31. As Zysow noted, Ibn Ḥazm avoided mentioning this group of Zāhirīs (see Zysow, *Economy of Certainty*, 31; Ibn Ḥazm, *al-Iḥkām*, 1:113–14). However, Ibn Ḥazm's knowledge of this group would explain why he did not claim the universal agreement of the *ahl al-zāhir* on this issue, despite its centrality to his and Dāwūd's systems.
11. See Zysow, *Economy of Certainty*, 2–3; Osman, 'History and Doctrine', 197–98, 224–25. For Ibn Ḥazm's Zāhirī methodology of linguistic interpretation see Gleave, *Islam and Literalism*, 172–73. For Ibn Ḥazm's Zāhirī methodology of Ḥadīth acceptance, see Abū Zahra, *Ibn Ḥazm*, 258–69; Sabra, 'Ibn Ḥazm's Literalism', part 1, 14–15.
12. Zysow, *Economy of Certainty*, 30–31, 280–81; Ibn ʿArabī, *Futūḥāt*, 2:162–64.
13. Zysow, *Economy of Certainty*, 281.
14. Zysow did also point out some of the other differences mentioned above. His brief treatment of the subject, although only a small part of his epilogue, surpasses that of the other scholars mentioned (see Zysow, *Economy of Certainty*, 280–82).
15. Al-Dārimī, *Sunan*, 1:48–77.
16. Osman, 'History and Doctrine', 70, 87, 104.
17. Osman found that Ibn Ḥazm criticised other Zāhirī scholars on some of their positions in regard to the principles of jurisprudence, but never criticised Dāwūd himself (see Osman, 'History and Doctrine', 95).
18. The first eight principles were compiled by Amr Osman, who searched through Ibn Ḥazm's *al-Iḥkām fī uṣūl al-aḥkām* for every principle about which Ibn Ḥazm

claimed there was total agreement within his school. They are listed, albeit not in the same order, in Osman, 'History and Doctrine', 97–99. I have added principles 9 to 11.

19. Ibn 'Arabī, *Futūḥāt*, 1:373; 2:165. Also in his Qur'ānic commentary *Ījāz al-bayān* when discussing verse 2:170, as quoted by al-Ghurāb in *al-Fiqh*, 66–67.
20. Ibn 'Arabī, *Futūḥāt*, 2:162.
21. Ibn 'Arabī, *Futūḥāt*, 2:149. The word *mafḥūm* literally means 'what is understood' from a text. In its technical meaning in jurisprudence, however, it means linguistic implication or textual inference as discussed above. Ghurāb understood the word *mafḥūm* in this passage by its literal, non-technical meaning 'what is understood' and equated that to 'literal meaning'. He said that, according to Ibn 'Arabī, 'consideration of only the literal meaning (*mafḥūm*) as evidence (*dalāla*) is weak, for it cannot reliably be true in every case' (Al-Ghurāb, 'Ibn al-'Arabī', 200). Al-Ghurāb therefore used this statement of Ibn 'Arabī as evidence that he was not a Zāhirī when in fact the passage, to the contrary, shows that Ibn 'Arabī agreed with the Zāhirīs on this issue.
22. Ibn 'Arabī, *Futūḥāt*, 2:164.
23. Ibn 'Arabī, *Futūḥāt*, 2:164.
24. Ibn 'Arabī, *Futūḥāt*, 2:165.
25. Ibn 'Arabī, *Futūḥāt*, 2:162.
26. Ibn Ḥazm, *al-Iḥkām*, 9:76–77. This important principle was not listed by Osman. Principles 2–6 and 9 would constitute the 'zāhirism' of the school.
27. For the Zāhirī rejection of legal causes, see Ibn Ḥazm, *al-Iḥkām*, 8:76–128.
28. Ibn 'Arabī, *Futūḥāt*, 1:685. See also the section where Ibn 'Arabī explained the pro-*qiyās* argument (Ibn 'Arabī, *Futūḥāt*, 2:163). For a more extended discussion of this topic, see Dajani, 'Ibn 'Arabī's Conception', 124–25.
29. Ibn Ḥazm, *al-Iḥkām*, 5:64–70.
30. On this principle, see 'Abd al-Majīd, *al-Ittijāhāt*, 291–94.
31. The only non-Zāhirī to hold this position was Ibn Taymiyya, who was himself influenced by Ibn Ḥazm.
32. See, for example, Ibn 'Arabī, *Futūḥāt*, 1:494, where Ibn 'Arabī refers to Ibn Ḥazm in support of making an action obligatory, but he disagrees with him in making the *fajr* prayer invalid without it; for the example of the supplication at the end of the prayer, see Ibn 'Arabī, *Futūḥāt*, 1:431.
33. Ibn Ḥazm, *al-Muḥallā*, 1:72; *al-Iḥkām*, 2:21.
34. Ibn 'Arabī, *Futūḥāt*, 2:163.
35. Or, in the case of Ibn Ḥazm, even a Qur'ānic verse versus an authentic Ḥadīth.

36. Ibn Ḥazm, *al-Iḥkām*, 2:30–33.
37. Ibn ʿArabī, *Futūḥāt*, 2:163.
38. Ibn ʿArabī, *Futūḥāt*, 2:163.
39. See Ibn ʿArabī, *Futūḥāt*, 1:355, on a similar case regarding whether touching one's genitals necessitates new ablutions.
40. Al-Armawī, *al-Ḥāṣil*, 2:985; al-Bayḍāwī, *Minhāj al-wuṣūl*, 242. Both of these scholars followed the Shāfiʿī school.
41. This subject is the topic of the book *Before Revelation* by A. Kevin Reinhart.
42. Most Ḥanafis argued for permissibility.
43. According to al-Qāḍī ʿIyāḍ, 'Dāwūd called whatever he did not find within the scope of the plain sense of a text Divine Pardon (ʿ*afw*) and in some instances he referred to it as permission' (al-Qāḍī ʿIyāḍ, *Tartīb al-Madārik*, 1:96). According to a quotation from Dāwūd, '[w]hat is beyond the text, God has remained silent about, and is therefore among those things that are pardoned' (Tāj al-Dīn Subkī, *Ṭabaqāt*, 2:290). See also Zysow, *Economy of Certainty*, 183.
44. Ibn ʿArabī, *Futūḥāt*, 3:195–96.
45. Ibn ʿArabī, *Futūḥāt*, 1:742.
46. ʿĀ'isha makes such an implication when she says about Ṣafwān ibn al-Muʿaṭṭal that 'he recognised me when he saw me, for he had seen me before the verse of the *ḥijāb*'. Furthermore, the fact that faces had to be uncovered during *ḥajj* meant that there were some women who covered their faces. Other sources indicate that face covering remained rare, however, such as the *ḥadīth* of ʿĀ'isha saying that, when the *ḥajr* prayer would finish and the women left the mosque, it would still be so dark that they could not recognise each other. Commentaries on this *ḥadīth* (in all Six Books) often note that this indicates that most women's faces were uncovered, because they would have recognised each other if it were not for the darkness.
47. Ibn ʿArabī, *Futūḥāt*, 1:742.
48. Ibn ʿArabī, *Futūḥāt*, 1:742.
49. Ibn ʿArabī makes a similar point in his discussion of the concept of *ʿawrah*. For this, see Winkel, 'Ibn ʿArabī's *Fiqh*', 63. What is particularly unique here, however, is how his discussion is tied to legal principles and not just positive law, such as the definition of *ʿawrah*.
50. Ibn ʿArabī, *Futūḥāt*, 2:165.
51. Al-Ṭabarī, *Jāmiʿ al-bayān*, verse 5:101; Muslim, *Ṣaḥīḥ*, kitāb al-ḥajj, bāb farḍu l-ḥajji marratan fi l-ʿumri.
52. See Ibn Ḥazm, *al-Iḥkām*, 8:28. This is narrated by Abū Dāwūd in his *Sunan* and regarded as authentic. On these narrations and similar statements attributed to

- prominent scholars among the generation of the Followers, see Ibn Rajab, *Jāmi*‘, 2:149–52.
53. See Ibn Rajab, *Jāmi*‘, 2:149–52.
 54. Ibn ‘Arabī, *Futūḥāt*, 2:164–65.
 55. See the section by Kamali, *Principles*, 424–28.
 56. Ibn ‘Arabī, *Futūḥāt*, 2:165.
 57. Al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, Kitāb al-i‘tiṣām bi l-kitāb wa-l-sunna, bāb ajr al-ḥākīm idhā ijtahada fa aṣāba aw akḥṭa’a.
 58. Ibn ‘Arabī, *Futūḥāt*, 2:165; 3:400.
 59. Al-Shawkānī, *Irshād al-fuḥul*, 2:745.
 60. Ibn ‘Arabī, *Futūḥāt*, 1:472; 4:305.
 61. Ibn ‘Arabī, *Fuṣūṣ*, 1:156.
 62. Ibn ‘Arabī, *Futūḥāt*, 3:337, 327.
 63. Ibn ‘Arabī, *Futūḥāt*, 3:271.
 64. Ibn ‘Arabī, *Futūḥāt*, 1:224–25.
 65. For example, in *Kitāb al-Mubashshirāt*, Ibn ‘Arabī mentions asking the Prophet in a dream about the meaning of the word *qur*’ in the Qur’ān, which some schools understood to refer to the menstrual period and others to its opposite: the period of purification between periods. Ibn ‘Arabī received a hint but not a direct answer as to the correct answer (Ibn ‘Arabī, *al-Mubashshirāt*, 435).
 66. Ibn ‘Arabī, *Futūḥāt*, 3:337.
 67. See Kamali, *Principles*, 288, 474.
 68. Stewart, ‘Muḥammad ibn Dā’ūd’, 155.
 69. Ibn Ḥazm, *al-Iḥkām*, 6:35.
 70. See Kamali, *Principles*, 284–85. *A fortiori* reasoning is where ‘the presence of some factor in mild or moderate form in one case entails that another cause where it exists in extreme form would share the same ruling’ (Brown, *Misquoting Muhammad*, 38). Some scholars even believed that this was not a legal type of inference at all, but a linguistic one; they argued that this is one of the universal rules of speech, that one need not explain every small detail, but could use one example to teach a general rule.
 71. Ibn ‘Arabī, *Futūḥāt*, 1:371.
 72. Ibn ‘Arabī, *Futūḥāt*, 2:477.
 73. Ibn ‘Arabī, *Futūḥāt*, 3:69, 502. Here we see Ibn ‘Arabī accepting any understanding of the text that is approved by the language of the Arabs as proof, a principle which we will address below.
 74. Ibn ‘Arabī, *Futūḥāt*, 2:163.
 75. Ibn ‘Arabī, *Futūḥāt*, 1:472.

76. Ibn ʿArabī, *Futūḥāt*, 2:163.
77. See *Ṣaḥīḥ al-Bukhārī*, Kitāb al-aymān wa l-nudhūr, bāb al-wafāʾ bi l-nadhr, and the following section, bāb ithm man lā yafī bi l-nadhr.
78. Ibn ʿArabī, *Futūḥāt*, 3:230.
79. Ibn ʿArabī, *Futūḥāt*, 4:457; see also 1:696 and 2:188.
80. Ibn ʿArabī, *Futūḥāt*, 1: 499. Obvious analogy (as Kamali translates *ʿqiyās jalī*), or *ʿperspicuous qiyās*, as Hallaq translates it, was considered the strongest type of analogy which was accepted by many of those who rejected *qiyās* on principle. It thus represented the most valid or authoritative form of *qiyās* (see Hallaq, *History*, 102–3, 105; Kamali, *Principles*, 286.). Ibn ʿArabī was referring to those scholars who rejected a *ḥadīth* based on what they claimed to be obvious (and therefore undeniable) analogy from a Qurʾānic text, which would mean that a tradition stating the contrary must necessarily be wrong. For him, they are wrong in thinking that such an analogy is obvious and must hold tightly to the *ḥadīth*, even if it seemed obvious by way of reason that they should not.
81. Addas, *Voyage*, 123. The Zāhirīs also rejected *qiyās* because the Qurʾān, in verse 4:59, instructed those in dispute to return their affairs to God and His messenger if they had faith, which, after the latter’s passing, was understood to refer to the Qurʾān and *sunna*; according to them, then, to solve a dispute by analogy or anything outside the Qurʾān and *sunna* is invalid and amounts to the creation of new law that God did not permit.
82. Ibn ʿArabī, *Futūḥāt*, 1:545; 2:252.
83. Ibn ʿArabī, *Futūḥāt*, 3:400. This does not mean that *mujtahids* are protected from error, as are Prophets. It only means to show a parallel between the two.
84. Ibn ʿArabī, *Futūḥāt*, 2:400.
85. Osman, ‘History and Doctrine’, 231.
86. Ibn ʿArabī, *Futūḥāt*, 2:168–69.
87. Ibn ʿArabī, *Futūḥāt*, 2:169.
88. Ibn ʿArabī, *Futūḥāt*, 1:523.
89. Ibn ʿArabī, *Futūḥāt*, 1:348. In other words, the followers of all schools fall into the sin of rejecting the opinions of others of which God Himself approved.
90. Ibn ʿArabī, *Futūḥāt*, 1:472; 4:305.
91. Ibn ʿArabī, *Futūḥāt*, 3:230. The ‘Remembrance’ meaning the Qurʾān and, by extension, *sunna*.
92. Ibn ʿArabī, *Futūḥāt*, 1:373.
93. Ibn ʿArabī, *Futūḥāt*, 1:373; 2:165. Also from Ibn ʿArabī’s commentary on verse 2:170 in *Ījāz al-bayān*, as quoted by al-Ghurāb in *al-Fiqh*, 66–67.

94. Ibn 'Arabī, *Futūḥāt*, 4:491.
95. Ibn 'Arabī, *Futūḥāt*, 1:392.
96. Ibn 'Arabī, *Futūḥāt*, 1:392. I made use of Chodkiewicz's translation in *Ocean*, 56, with minor improvements.
97. Ibn 'Arabī, *Futūḥāt*, 4:142. This could be seen as a natural consequence of the doctrine of Infallibilism and was accepted by some jurists. However, other Infallibilists such as Ghazālī sought to restrict this freedom by requiring the layperson to follow the scholar that he regards as the most learned (see Zysow, *Economy of Certainty*, 274–75).
98. Ibn 'Arabī, *Futūḥāt*, 4:79.
99. Addas, *Voyage*, 123–24.
100. Ibn 'Abd al-Salām, *Qawā'id*, 2:371.
101. Al-Nawawī, *Rawḍat al-ṭālibin*, 11:117.
102. Al-Zarkashī, *al-Baḥr al-muḥīṭ*, 8:375. For the names of subsequent scholars from different *madhhabs* who held this opinion, see al-Sanūsī, *Īqāz al-wasnān*, 94–98; Brown, 'Reaching into the Obscure Past', 124 n15.
103. Ibn Nujaym, *al-Baḥr al-rā'iq*, 2:90, 2:316.
104. Brown, 'Reaching into the Obscure Past', 104.
105. Al-Luh, *Uṣūl al-fiqh*, 479. On Ibn Abī Hurayra, see al-Dhahabī, *Siyar*, 15:428; Melchert, *Formation*, 105.
106. Al-Luh, *Uṣūl al-fiqh*, 479.
107. Ibn 'Aqīl, *al-Wāḍiḥ fī uṣūl al-fiqh*, 1:279.
108. Abū Ya' lā, *al-Udda*, 4:1226, 5:1571; Ibn 'Aqīl, *al-Wāḍiḥ fī uṣūl al-fiqh*, 1:279; al-Zarkashī, *al-Baḥr al-muḥīṭ*, 8:374.
109. Āl Taymiyya, *al-Musawwada*, 518–19.
110. As narrated by Ibn Taymiyya in *al-Fatāwā*, 30:79; idem, *al-Musawwada*, 401.
111. Al-Luh, *Uṣūl al-fiqh*, 479.
112. Al-Sulamī, *Ṭabaqāt*, 148.
113. Addas, *Voyage*, 124.
114. Addas, *Voyage*, 124; Ibn 'Arabī, *Futūḥāt*, 4:163.
115. Camilla Adang has produced a number of studies on Ibn Ḥazm's opinions about matters such as women's participation in public life (Adang, 'Women's Access to Public Space', 90), the punishment of homosexual intercourse (Adang, 'Ibn Ḥazm on Homosexuality', 30) and interaction with non-Muslims (Adang, 'Ibn Ḥazm's Criticism', 2, 8), all of which show him to be less restrictive than his opponents from the other schools. A major factor in this is his rejection of weak *ḥadīths* in the face of original licitness.

116. Ibn ‘Arabī, *Futūḥāt*, 2:162–65.
117. Jurisprudents discuss, as part of the principles of the law, the amount of weight that is carried by a Companion’s *fatwā*. Ibn ‘Arabī discussed one half of that problem: the scenario of a contradiction between a Qur’ānic verse or an authentic Ḥadīth, on one hand, and the *fatwā* of a Companion, on the other. The other half of the problem, however, no longer existed in his theory: in the absence of a text from the Qur’ān or *sunna*, does the *fatwā* of a single Companion carry more weight, or the opinion of a later *imām* of a school? Ibn ‘Arabī did not answer this question, but, by the principles of his jurisprudence, he did not need to because there was no need for an answer on something about which the two main sources remained silent. As for those who believed otherwise, their *ijtihād* on the weight of a Companion’s *fatwā* would be correct for themselves, and likewise would be the end result of their *ijtihād*, of course!
118. Here, Ibn ‘Arabī covers some matters relating to the states of those addressed by the value judgements or divine rules (*maḥkūm fih*) and their legal capacity (*ahliyya*), as well as the time delineated by the Lawgiver for each act (cf. Kamali, *Principles*, 445–53).
119. See Sabra, ‘Ibn Ḥazm’s Literalism’, part 1, 22; Abū Zahra, *Ibn Ḥazm*, 242. As Abū Zahra noted, the Zāhirīs did not consider themselves to be followers of a *madhhab*. This is certainly true in regard to Ibn Ḥazm whose expressions about the *ahl al-zāhir* and what they had in common and what they did not all have in common gave the sense of a group of scholars who agreed on certain basic principles.
120. Chittick, ‘Last Will and Testament’, 43–58.
121. Hirtenstein, ‘Image’, 70.

SUFIS AND *SHARĪʿA*

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Samer Dajani

EDINBURGH
University Press

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Cover image: Schools Leading to Paradise image courtesy of the author's collection.

Cover design: Andrew McColm

Edinburgh University Press Ltd
The Tun – Holyrood Road
12 (2f) Jackson's Entry
Edinburgh EH8 8PJ

Typeset in 11/15 Adobe Garamond by
IDSUK (DataConnection) Ltd, and
printed and bound in Great Britain

A CIP record for this book is available from the British Library

ISBN 978 1 3995 0856 8 (hardback)
ISBN 978 1 3995 0858 2 (webready PDF)
ISBN 978 1 3995 0859 9 (epub)

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